

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

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Elizabeth A. Brown
Clerk of Supreme Court

MARC PAUL SCHACHTER,

Plaintiff,

vs.

Sup. Ct. Case No. 87040

Case No. CR14-1044

Dept. 4

STATE OF NEVADA,

Defendant.

RECORD ON APPEAL

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APPELLANT

Marc Schachter
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RESPONDENT

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APPEAL INDEX
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DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

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******* IMPORTANT NOTICE - READ THIS INFORMATION *******

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

09-13-2016:15:46:36

Clerk Accepted:

09-13-2016:15:47:11

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Remittitur
Supreme Ct Clk's Cert & Judg
Supreme Court Order Affirming

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
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JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 MARC SCHACHTER # 91445
2 Defendant/ In Propria Person
3 Post Office Box 208
4 Indian Springs, Nevada 89070

5 IN THE 2ND JUDICIAL DISTRICT COURT OF THE STATE
6 OF NEVADA IN AND FOR THE COUNTY OF WASHOE

7
8 The State of Nevada,
9 Plaintiff,

10 VS

Case No. CR-14-1044

11 MARC PAUL SCHACHTER,
12 Defendant,

Dept NO. 4

13
14
15 MOTION TO MODIFY AND/OR CORRECT
16 ILLEGAL SENTENCE

17 Date of hearing :

18 Time of hearing :

19
20 COMES NOW, DEFENDENT, MARC PAUL SCHACHTER, proceeding
21 in proper person, hereby motion this Honorable Court
22 pursuant to N.R.S 176.555 and Edwards v. state.

23 This motion is made in based upon all papers and pleadings
24 on file, the points and authorities and exhibits attached
25 here to.

26
27 Dated; this 18 day of June, 2021.

28
Marc Schachter 91445
DEFENDENT/ 770-8 V8. 1466

POINTS AND AUTHORITIES

"Motion to modify sentence" is limited in scope to sentences based on mistaken assumptions about defendant's criminal record which work to defendant's extreme detriment, while " Motion to correct illegal sentence " addresses only facial legality of sentence. State v. District Court, 100 Nev. 90, 97, 677 p.2d 1044 1048 (1984), and Edwards v. State, 918 p.2d 321 (nev. 1996).

Further N.R.S 176.555 Motion to Modify and/or Correct a sentence, may be filed at any time.

Defendant herein alleges that his sentence should be modified and/or corrected pursuant to the following facts.

A. BACKGROUND: FOLLOWING A JURY TRIAL, DEFENDANT WAS FOUND GUILTY OF ATTEMPTED ROBBERY (COUNT #1). THE STATE FURTHER FILED A CHARGE OF BEING A HABITUAL CRIMINAL (COUNT #3). AT A SENTENCING HEARING HELD ON FEBRUARY 26, 2015, THIS COURT PRONOUNCED A SENTENCE OF TWELVE (12) TO FORTY-EIGHT MONTHS FOR COUNT #1; AND FIVE (5) TO TWENTY YEARS (20) CONCURRENT FOR COUNT #3. AS THE COURT WANTED TO MAKE SURE THE WORDING WAS CORRECT A FORMAL WRITTEN JUDGEMENT WAS NOT FILED UNTIL MARCH 5, 2015 NUNC PRO TUNC TO THE FEBRUARY 26, 2015 HEARING DATE. [SEE EXHIBIT #1] ON MARCH 31, 2015 A FAST-TRACK APPEAL WAS FILED ON MR. SCHACHTER'S BEHALF ALLEGING, AMONG OTHER ISSUES, THAT SEPARATE AND CONCURRENT SENTENCES WAS

IMPROPER ACCORDING TO N.R.S. 207.010 AND LISBY V. STATE, 82 NOV. 183 (1966). THE STATE AGREED THAT THE SENTENCE WAS ILLEGAL. THE COURT FILED A "CORRECTED" JUDGMENT ON JULY 30, 2015 [EXHIBIT #2]. THE CORRECTED JUDGMENT RENAMES COUNT #1 AS "ATTEMPTED ROBBERY BY A HABITUAL CRIMINAL" AND PRONOUNCES A SENTENCE OF FIVE(5) TO TWENTY (20) YEARS FOR COUNT #1. IT IS SIGNED NUNC PRO TUNC TO FEBRUARY 24, 2015. THE NEVADA SUPREME COURT FOUND THE ISSUE MOOT AND ISSUED A REMITTITOR ON SEPTEMBER 7, 2015. [EXHIBIT #3]. ON MARCH 21, 2019 AND AGAIN ON MARCH 22, 2021, THE PAROLE BOARD DENIED MR SCHACHTER'S PAROLE BASED SOLELY ON HIS PRIOR CRIMINAL RECORD [EXHIBIT #4].

B. ARGUMENT:

N.R.S. 176.555 STATES: "THE COURT MAY CORRECT AN ILLEGAL SENTENCE AT ANY TIME."

THE NEVADA SUPREME COURT DEFINES AN ILLEGAL SENTENCE AS:

"...ONE AT VARIANCE WITH THE CONTROLLING SENTENCING STATUTE, OR ILLEGAL IN THE SENSE THAT THE COURT GOES BEYOND ITS AUTHORITY BY ACTING WITHOUT JURISDICTION OR IMPOSING A SENTENCE IN EXCESS OF THE STATUTORY MAXIMUM PROVIDED..." [EDWARDS V. STATE, 112 N.W. 708]

AT THE ORIGINAL SENTENCING HEARING THE COURT CORRECTLY SENTENCE THE DEFENDANT TO TWELVE (12) TO FORTY-EIGHT (48) MONTHS FOR THE ATTEMPTED ROBBERY (COUNT #1) INCLUDING STATING ITS REASONS ON THE RECORD:

"I AM NOT GOING TO PUNISH YOU BECAUSE YOU WENT TO TRIAL... IT WASN'T THE MOST VIOLENT OFFENSE THAT I'VE EVER SEEN I'M NOT SURE WHAT EVERYONE'S MOTIVATION WAS, BUT I DO KNOW THE JURY FOUND YOU GUILTY BEYOND A REASONABLE DOUBT... BUT ITS NOT THE WORST ATTEMPTED ROBBERY I'VE EVER SEEN." [PAGE 46-47].

THE COURT THEN FOUND THE DEFENDANT OF BEING A LESSER (SHALL) HABITUAL CRIMINAL BASED ON TWO (2) NEVADA GRAND LARCANY CONVICTIONS. THE SEPARATE AND CONCURRENT FIVE (5) TO TWENTY (20) YEAR SENTENCE WAS INCORRECT. THE SENTENCES ARE NOT TO RUN CONCURRENT.

"THE TRIAL COURT MUST SENTENCE ON THE SUBSTANTIVE CRIME CHARGED... AND THEN INVOKE THE RECIDIVIST STATUTE TO DETERMINE THE PENALTY." HOLLANDER V. STATE, 82 N.W. 345, 353, 418 P.2d 802, 807 (1966)

WHEN THIS COURT FILED ITS CORRECTED JUDGEMENT OF CONVICTION IN JULY OF 2015 IT AGAIN INCORRECTLY SENTENCED DEFENDANT TO ~~5~~ FIVE (5) TO TWENTY (20) YEARS FOR COUNT #1 ATTEMPTED ROBBERY BY A HABITUAL CRIMINAL. A DEFENDANT CANNOT BE A HABITUAL CRIMINAL WHEN HE/SHE COMITS THE CRIME. IT IS THE CONVICTION OF THE CRIME THAT ALLOWS FOR THE ADJUDICATION OF HABITUALITY.

THE STATUS CHANGE THAT ALLOWS FOR THE ENHANCED SENTENCE DOES NOT COME INTO PLAY UNTIL AFTER A CONVICTION IN COUNT #1 - ATTEMPTED ROBBERY, A VIOLATION OF NRS 193.330 BEING AN ATTEMPT TO VIOLATE NRS 200.380. THE STATUTORY MAXIMUM SENTENCE FOR COUNT #1 IS TEN (10) YEARS. THE FINDING OF A LESSER (SMALL) HABITUALITY PURSUANT TO NRS 207.010 IS BASED ON THE GUILTY CONVICTION OF COUNT #1 AND THE FINDING OF TWO (2) VALID PRIOR CONVICTIONS FOR GRAND LARCENY. THIS FINDING OF HABITUALITY MUST BE ATTRIBUTED TO COUNT #3 IN ORDER TO SATISFY THE STATUTORY MAXIMUM SENTENCE REQUIREMENTS.

THE CORRECTED JUDGMENT SENTENCE OF FIVE (5) TO TWENTY (20) YEARS FOR COUNT #1 IS ILLEGAL PURSUANT TO THE DEFINITION FOUND IN EDWARDS, SUPRA.

THIS MISTAKEN CORRECTION WOULD

LEAD TO THE INCORRECT INPUT OF TWO(2) TWENTY YEAR SENTENCES ON THE CODIS. COMPUTER SOFTWARE WHICH WOULD LEAD TO THE PAROLE BOARD TO ACT INCORRECTLY THAT DEFENDANT WAS PAROLING FROM ONE (1) TWENTY YEAR SENTENCE OF COUNT #1 TO A SECOND TWENTY-YEAR SENTENCE IN COUNT #3. [THE PAROLE BOARD WILL NOT RELEASE THE RECORDING OF THE HEARING (3/21/19) UNLESS THE COURT MAKES THE REQUEST]

ALTHOUGH THE NEVADA DEPT. OF CORRECTIONS DID EVENTUALLY CORRECT THE CODIS SENTENCE MISTAKE, THE CORRECTED JUDGMENT STILL CONTAINS THE ILLEGAL SENTENCE OF TWENTY (20) YEARS FOR COUNT #1 AND SHOULD BE CORRECTED PER NRS 176.535.

IN ADDITION, THE CORRECTED JUDGMENT IS AT VARIANCE WITH THE FOLLOWING CONTROLLING SENTENCING STATUTES.

IN BOTHINGTON V. STATE, 110 N.W.2d 643 (1984), THE NEVADA SUPREME COURT MAKES IT CLEAR BY DECLARING:

JURISDICTION IN AN APPEAL IS VESTED SOLELY BY THE SUPREME COURT UNTIL THE REMITTITUR ISSUES TO THE DISTRICT COURT. WE CONCLUDE THAT THE DISTRICT COURT JUDGE LACKS JURISDICTION OVER A CASE UNTIL THE REMITTITUR IS RECEIVED.

THE NEVADA SUPREME COURT ISSUED ITS REMITTITUR ON SEPTEMBER 7, 2015. FROM MARCH 31, 2015 THRU SEPTEMBER 7, 2015, THE DISTRICT COURT DID NOT HAVE JURISDICTION OR LEGAL AUTHORITY TO ISSUE A CORRECTED JUDGEMENT. THEREFORE THE SENTENCE IS ILLEGAL. [THE COURT SHOULD HAVE WAITED UNTIL IT RECEIVED THE REMITTITUR; THEN FILED A CORRECTED JUDGEMENT.]

IN THE LOCALLY INFAMOUS CASE, MACK V. MACK 125 N.W.80, 200 P.3d.101, THE NEVADA SUPREME COURT DECLARED (6125 N.W.93):

AN ORDER NUNC PRO TUNC CANNOT BE MADE USE OF NOR RESORTED TO, TO SUPPLY OMITTED ACTION, POWER TO ORDER THE ENTRY OF JUDGEMENT NUNC PRO TUNC CANNOT BE USED FOR THE PURPOSE OF CORRECTING JUDICIAL ERRORS OR OMISSIONS OF THE COURT. NOR

CAN THIS PROCEDURE BE EMPLOYED TO CHANGE THE JUDGEMENT ACTUALLY RENDERED TO ONE WHICH NEITHER RENDERED NOR INTENDED TO RENDER.

IT IS ABUNDANTLY CLEAR BY BOTH DEFENDANT'S ARRAIGNMENT TRANSCRIPT (7/24/14) AND THE SENTENCING HEARING TRANSCRIPT THAT THE MISTAKES MADE IN THE MARCH 5, 2015 JUDGEMENT ARE JUDICIAL ERRORS AND NOT SIMPLY CLERICAL ERRORS. THE COURT EVEN TOOK THE EXTRAORDINARY PRECAUTION OF DELAYING THE WRITTEN ORDER OF JUDGEMENT PENDING APPROVAL OF ALL PARTIES. (SEE PAGE 54 LINES 1-7 SENTENCING TRANSCRIPT).

SO ALTHOUGH, ALL THE PARTIES AGREED TO THE WORDING FOR THE JUDGEMENT OF CONVICTION ON MARCH 5, 2015, ~~WHICH~~ WITHIN WEEKS, THE DIRECT APPEAL WOULD ARRISE THE SENTENCE WAS ILLEGAL AND IN THE STATE'S RESPONSE (7/20/15) THE STATE AGREED THE SENTENCE SCHEME WAS ILLEGAL. NINE (9) DAYS LATER, THE COURT WOULD AGAIN CORRECT THE JUDGEMENT THROUGH THE USE OF NUNC PRO TUNC. IN THE CASE OF FINLEY V. FINLEY, 65 NEV 113 @ 120 THE COURT STATED:

NEVERTHELESS, THE COURT WOULD NOT HAVE THE POWER TO MODIFY ITS

DECREE SO AS TO AFFECT THE
SUBSTANTIAL RIGHTS OF THE
PARTIES AS THEY EXISTED.
UNDER THE ORIGINAL ORDER
AND HAVE IT ENTERED NUNC
PRO TUNC.

THE USE OF NUNC PRO TUNC TO CORRECT
THE JUDGMENT PREVENTED THE DEFENDANT
FROM RAISING THESE ISSUES ALONG WITH
SEVERAL TOWNSEND AND STOCKHEIR ISSUES
THAT ARE PERTAINENT TO SENTENCING
BUT NOT THIS MOTION. [UNLESS THE COURT
WISHES THE DEFENDANT TO ELABORATE
MORE FULLY].

FOR THE REASONS CITED ABOVE, THIS
COURT SHOULD RULE THAT THE SENTENCE
RECORDED IN THE CORRECTED JUDGMENT
IS ILLEGAL.

IN A LONG LINE OF CASES, THE
FEDERAL COURTS HAVE ESTABLISHED
GUIDELINES FOR REIMPOSING A
SENTENCE AFTER A SENTENCE

HAS BEEN RULED ILLEGAL. IN U.S. V. SILVERS, 90 F.3d 95 (1996), THE COURT DISCUSSES THE "EXPECTATION OF FINALITY" OF A SENTENCE:

ALTHOUGH AN EXPECTATION OF FINALITY DOES NOT LEGITIMATELY ARISE BY THE COMMENCEMENT OF THE SENTENCE, ONCE A DEFENDANT FULLY SERVES A SENTENCE FOR A PARTICULAR CRIME, THE DOUBLE ~~JEOPARDY~~ CLAUSE'S BAR ON MULTIPLE PUNISHMENTS PREVENTS ANY ATTEMPT TO INCREASE THEREAFTER A SENTENCE FOR THAT CRIME. (SEE EX PARTE LANCE, 85 US 163 (1874) AND US V. LUNDEN 769 F.2d 981, 984-985 (4TH CIR. 1985). THE COURT CANNOT REIMPOSE SENTENCE ONCE DEFENDANT HAS FULLY SERVED A LAWFUL SENTENCE FOR HIS CRIMES. [EMPHASIS ADDED] (CERTIFICATE DENIED 414 US 1064 (1984))

— SILVERS, SUPRA @ 90 F.3d. 101

HERE MR. SCHACHTER HAS SERVED SEVEN (7) YEARS. THIS SEVEN YEARS MORE

THAN FULLY SATISFIES THE TEN (10) YEAR STATUTORY MAXIMUM SENTENCE FOR ATTEMPTED ROBBERY (WITH GOOD-TIME CREDITS) IN COUNT #1 OF THE INFORMATION. SO WHETHER THE COURT DECLARES THE ORIGINAL TWELVE (12) TO FORTY-EIGHT (48) MONTH SENTENCE OR SOME OTHER SENTENCE FOR THE ATTEMPTED ROBBERY, ANY ATTEMPT TO REIMPOSE THE ENHANCED HABITUAL SENTENCE IN COUNT #3 IS BARRED BY DOUBLE JEOPARDY.

C. DEFENDANT'S OFFER OF COMPROMISE

IN THE NAME OF JUDICIAL ECONOMY, COST OF TRANSPORTATION AND CONFORMITY OF SENTENCING, THE DEFENDANT MAKES THE FOLLOWING OFFER TO THE COURT AND STATE:

THAT THE COURT VACATE THE TWENTY (20) YEAR SENTENCE IN COUNT #1, IMPOSE A SENTENCE THAT FALLS WITHIN THE

TEN (10) YEAR STATUTORY LIMIT FOR
COUNT #1 ATTEMPTED ROBBERY. AND
THEN IMPOSE A MODIFIED FIVE (5) TO
TWELVE AND A HALF (12½) YEAR SENTENCE
FOR COUNT #3 - HABITUAL CRIMINAL (SMALL).
[THIS SIXTY (60) TO ONE-HUNDRED AND
FIFTY (150) MONTH SENTENCE IS HOW
THE VAST MAJORITY OF SMALL HABITUAL
CRIMINAL OFFENDERS ARE SENTENCED
IN CLARK COUNTY, THE EIGHTH JUDICIAL
DISTRICT OF NEVADA. THIS SENTENCE
WOULD ALSO ALLOW THE DEFENDANT
TO SERVE OUT HIS REMAINING SENTENCE
WITHOUT PAROLE SUPERVISION, WHICH
THE PAROLE BOARD SEEMS TO PREFER
(SEE REASONS FOR DENIAL OF PAROLE
IN EXHIBIT #4). DEFENDANT WOULD
ALSO WAIVE ALL APPEARANCES
IN EXCHANGE FOR THIS MODIFIED
SENTENCE.

Thereby, pursuant to the facts and the law stated herein,
Defendant, request that his sentence be modified/corrected as

follows: FOR COUNT #1 (ATTEMPTED ROBBERY) TWELVE (12)
TO FORTY-EIGHT (48) MONTHS SUPERCEDED AND
ENHANCED TO A TERM OF SIXTY (60) TO ONE
HUNDRED FIFTY (150) MONTHS FOR BEING A
LESSER (SMALL) HABITUAL CRIMINAL AS
CHARGED IN COUNT #3.

Dated; this 21 DAY OF June, 2021.

[Signature] #91445
#

Defendant/propria person

EXHIBIT 1

EXHIBIT 1

1 CODE 1850
2
3
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5

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

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.
14 _____ /

15 JUDGMENT

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

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

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

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

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

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

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

21
22 Connie J. Steinheimer
23 DISTRICT JUDGE
24
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27
28

EXHIBIT 2

EXHIBIT 2

1 CODE 1860

2
3
4
5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.
14

15 CORRECTED JUDGMENT

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

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

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

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

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

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

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

18
19 Connie J. Steinheimer
20 DISTRICT JUDGE
21
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23
24
25
26
27
28

EXHIBIT 3

EXHIBIT 3

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Supreme Court No. 67673
District Court Case No. CR141044

04

REMITTITUR

TO: Jacqueline Bryant, Washoe District Court Clerk

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

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

DATE: September 07, 2016

Tracie Lindeman, Clerk of Court

By: Amanda Ingersoll
Chief Deputy Clerk

cc (without enclosures):

Hon. Connie J. Steinheimer, District Judge
Washoe County Alternate Public Defender
Washoe County District Attorney
Attorney General/Carson City

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on September 13, 2016


District Court Clerk

EXHIBIT 4

EXHIBIT 4

WHITE - Board File
PINK - T FileCANARY - Inmate
GOLDENROD - P&P

Page 1 of 2

**STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION
ORDER DENYING PAROLE**

SCHACHTER, MARC PAUL	91445	2015-075405	SDCC-U4-A-30-A	03/21/2019
Inmate Name	NDOC Number	Booking #	Location	Date

It is the Order of the Board that further consideration of parole is **denied** until 06/01/2021.

THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):

Controlling sentence denoted by *, Case #: Count: Offense Description:
CR14 1044, 1; HABITUAL CRIMINAL (LESSER)

Reason(s) for action:

Denial Reason: Prior prison term did not deter future criminal activity.

Denial Reason: Prior conviction for a violent offense.

Denial Reason: Repetitive criminal conduct.

Denial Reason: Significant prior criminal history.

Specific Recommendation: Do not engage in disciplinary misconduct during denial period.

Specific Recommendation: Participate or continue to participate in programs that address the behaviors that led to your incarceration.

Recommendation of the panel who conducted the hearing: Deny Parole

Commissioner Susan Jackson; Deny Parole

Commissioner Tony Corda; Deny Parole

Commissioner Adam Endel; Deny Parole

The final action was ratified by the following Members of the Board of Parole Commissioners:

Commissioner Susan Jackson; Deny Parole

Commissioner Adam Endel; Deny Parole

Commissioner Tony Corda; Deny Parole

Commissioner Michael Keeler; Deny Parole


FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

This document was prepared by JMEADOR at 1/26/2019 2:35 PM

RECEIVED APR 04 2019

**STATE OF NEVADA
CERTIFICATION OF
BOARD OF PAROLE COMMISSIONERS ACTION
ORDER DENYING PAROLE**

SCHACHTER, MARC PAUL	91445	2015-075405	SDCC-UB-B-16-B	03/22/2021
Inmate Name	NDOC Number	Booking #	Location	Date

It is the Order of the Board that further consideration of parole is denied until 06/01/2023.

THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):

*Controlling sentence denoted by *, Case #: Count: Offense Description:*
CR14 1044;1; HABITUAL CRIMINAL (LESSEE)

Reason(s) for action:

Denial Reason: Prior prison term did not deter future criminal activity.

Denial Reason: Prior conviction for a violent offense.

Denial Reason: Repetitive criminal conduct.

Denial Reason: Significant prior criminal history.

Specific Recommendation: Participate or continue to participate in programs that address the behaviors that led to your incarceration.

Recommendation of the panel who conducted the hearing: Deny Parole

Commissioner Eric Christiansen; Deny Parole

Commissioner Lancia Bailey; Deny Parole

Commissioner Donna Verchio; Deny Parole

The final action was ratified by the following Members of the Board of Parole Commissioners:

Commissioner Eric Christiansen; Deny Parole

Commissioner Lancia Bailey; Deny Parole

Commissioner Donna Verchio; Deny Parole

Commissioner Susan Jackson; Deny Parole

RECEIVED APR 09 2021


FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

This document was prepared by KRAKER at 3/30/2021 11:42 AM

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NICKOLAS GRAHAM, ESQ. - Notification received on 2021-06-11 15:31:54.076.
ADAM CATE, ESQ. - Notification received on 2021-06-11 15:31:53.969.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

06-11-2021:15:30:50

Clerk Accepted:

06-11-2021:15:31:20

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Mtn to Modify/Correct Sentence

- **Continuation
- **Continuation
- **Continuation
- **Continuation

Filed By:

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

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ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

CODE No. 2526
CHRISTOPHER J. HICKS
#7747
One South Sierra Street
Reno, Nevada 89501
(775) 328-3200
districtattorney@da.washoecounty.us
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No. CR14-1044

v.

Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

_____ /

NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY

COMES NOW, Plaintiff, by and through Kevin Naughton, Appellate Deputy, and hereby provides notice to the Court, all parties, and their respective counsel that Kevin Naughton, Appellate Deputy, has replaced Jennifer P. Noble, Chief Appellate Deputy, as the responsible attorney for Plaintiff in all future matters related hereto.

Plaintiff herein requests that the Court and all parties herein update their service list with Kevin Naughton's name and address in order to facilitate timely service of all documents in the matter.

///

///

///

///

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 17, 2021.

CHRISTOPHER J. HICKS
District Attorney

By /s/ Kevin Naughton
KEVIN NAUGHTON
Appellate Deputy
Nevada Bar No. 12834

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on June 17, 2021, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Marc Schachter #91445
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070

/s/ Tatyana Kazantseva
TATYANA KAZANTSEVA

CODE No. 2645
CHRISTOPHER J. HICKS
#7747
One South Sierra Street
Reno, Nevada 89501
(775) 328-3200
districtattorney@da.washoecounty.us
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

Case No. CR14-1044

v.

Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

_____ /

**OPPOSITION TO MOTION TO MODIFY AND/OR
CORRECT ILLEGAL SENTENCE**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney, and Kevin Naughton, Appellate Deputy, and hereby opposes the Motion to Modify and/or Correct Illegal Sentence filed by Marc Paul Schachter (hereinafter, "Defendant") on June 11, 2021. This Opposition is based on the pleadings and papers on file with this Court, and the following points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Statement of the Case

The Defendant was convicted by a jury of Attempted Robbery. At sentencing, the Court found the Defendant to be a habitual criminal. See Judgment filed March 5, 2015.

In the Judgment, the Court sentenced the Defendant to 12 to 48 months imprisonment for the Attempted Robbery conviction and a concurrent term of 5 to 20 years for being a habitual criminal. *Id.* The Court later entered a Corrected Judgment on July 30, 2015, wherein it sentenced the Defendant solely to a term of 5 to 20 years on Count I, which the Court titled “Attempted Robbery by a habitual criminal.”

On June 11, 2021, the Defendant filed his Motion to Modify and/or Correct Illegal Sentence (“Motion”). This Opposition follows.

Argument

i. Motion to Modify

A district court has jurisdiction to modify a sentence only if “(1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant’s extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level of a violation of due process.” Passanisi v. State, 108 Nev. 318, 323, 831 P.2d 1371, 1374 (1992).

The Motion does not allege that the Court sentenced Defendant under any misunderstanding or misapprehension of fact. Thus, it fails as a Motion to Modify and should be denied on that ground.

ii. Motion to Correct

The Motion argues, *inter alia*, that: 1) The Court erred in the first Judgment when it sentenced Defendant on both the Attempted Robbery conviction and separately but concurrently as a habitual criminal, 2) The Court lacked jurisdiction to enter the Corrected Judgment because the case was then on appeal before the Nevada Supreme Court, 3) That the Defendant has now served enough time to satisfy even a maximum sentence on a conviction for Attempted Robbery, and 4) That the Defendant should be

sentenced to a modified and reduced term on the habitual criminal adjudication such that he would essentially immediately be released from custody without parole supervision.

The Defendant is correct, and both the State and the Court agreed, that the first Judgment erroneously imposed a separate sentence for his adjudication as a habitual criminal. “[T]he purpose of the habitual criminal statute is not to charge a separate substantive crime, but to allege a fact which may enhance the punishment. Only one sentence may be imposed.” Cohen v. State, 97 Nev. 166, 169, 625 P.2d 1170, 1172 (1981) (citations omitted). This error was remedied when the Court entered its Corrected Judgment and imposed a single sentence based upon the Defendant’s habitual criminal adjudication.

Because the Defendant has now been properly sentenced to a single sentence for his crime, and that sentence was properly enhanced based upon the Court’s finding that the Defendant is a habitual criminal, the Defendant’s sentence is not illegal in the sense that it is facially invalid. The Court correctly sentenced the Defendant to an enhanced term of imprisonment as reflected in the Corrected Judgment. To the extent that the Defendant argues that the Corrected Judgment was entered at a time that the Court was divested of jurisdiction as a result of his appeal, the issue is moot. The Defendant has been correctly sentenced. The remedy at this point would be the Court re-entering its Corrected Judgment which would be a mere formality.

Conclusion

The Motion should be denied. The error in the Judgment was fixed by the Court in its Corrected Judgment and the Defendant is now serving his enhanced sentence after being adjudged a habitual criminal. The Defendant apparently does not like that the

parole board has elected to consider his prior criminal history in denying his requests for parole, but that is not a basis to deem his sentence illegal. The Corrected Judgment correctly and appropriately imposed a single enhanced sentence based on the Defendant's status as a habitual criminal. The sentence as imposed is not illegal and the Motion must be denied.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 17, 2021.

CHRISTOPHER J. HICKS
District Attorney

By /s/ Kevin Naughton
KEVIN NAUGHTON
Appellate Deputy

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on June 17, 2021, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Marc Schachter #91445
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, NV 89070

/s/ Tatyana Kazantseva
TATYANA KAZANTSEVA

Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2021-06-17 11:31:58.777.

JARROD HICKMAN, ESQ. - Notification received on 2021-06-17 11:31:58.753.

KELLY KOSSOW, ESQ. - Notification received on 2021-06-17 11:31:58.679.

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NICKOLAS GRAHAM, ESQ. - Notification received on 2021-06-17 11:31:58.801.

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******* IMPORTANT NOTICE - READ THIS INFORMATION *******

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

06-17-2021:11:06:22

Clerk Accepted:

06-17-2021:11:31:22

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice of Change of Attorney
Opposition to Mtn

Filed By:

Kevin Naughton

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JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

MARC SCHACHTER
#91443
SDCC
P.O. BOX 208
INDIAN SPRINGS, NV 89070

FILED
Electronically
CR14-1044
2021-07-06 04:26:21 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8528984 : khudson

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

THE STATE OF NEVADA,

PLAINTIFF,

VS.

CASE # CR-14-1044

MARC PAUL SCHACHTER,

DEPT. # 4

DEFENDANT.

REPLY TO STATE'S OPPOSITION TO MOTION TO MODIFY
AND/OR CORRECT AN ILLEGAL SENTENCE

DEFENDANT, MARC SCHACHTER, IN PRO SE, COMES
NOW AND REPLIES TO THE STATE OPPOSITION BASED
ON THE PLEADINGS AND PAPERS FILED IN THE COURT
AND THE FOLLOWING POINTS AND AUTHORITIES.

INTRODUCTION

THE STATE'S OPPOSITION CONTAINS ADMISSIONS
THAT THE COURT LACKED JURISDICTION TO
CORRECT THE JUDGMENT, HALF-TRUTHS AS
TO WHAT IS AN ILLEGAL SENTENCE, INCORRECT
INFORMATION ON THE SENTENCING OF HABITUAL
CRIMINALS AND FALSE ASSUMPTIONS AS TO THE
BASIS OF THE MOTION.

ARGUMENT

THE STATE'S FAILURE TO OPPOSE THE DEFENDANT'S CLAIM THAT THE COURT'S USE OF NUNC PROTUNC TO CORRECT A JUDICIAL ERROR (PAGES 8-10 OF THE MOTION) ARE A DEFACTO ADMISSION THAT FACTS ARE TRUE AND THE ARGUMENT IS VALID. THE STATE ARGUES THAT ALTHOUGH THE COURT WAS DIVESTED OF JURISDICTION DURING DIRECT APPEAL, THE ISSUE IS moot BECAUSE THE OUTCOME WOULD BE THE SAME. (PAGE 3, LINE 16-18) THE STATE CONTRADICTS THAT VERY SAME ARGUMENT WHEN IT STATES:

THE DEFENDANT IS CORRECT, AND BOTH THE STATE AND COURT AGREED, THAT THE FIRST JUDGMENT ERRONEOUSLY IMPOSED A SEPARATE SENTENCE FOR HIS ADJUDICATION AS A HABITUAL CRIMINAL [PAGE 3 LINE 4-6].

THE OUTCOME OF THE CORRECTED JUDGMENT IS THE SAME AS THE ORIGINAL JUDGMENT (FIVE TO TWENTY YEARS). ILLEGAL SENTENCES ARE CORRECTED BECAUSE THEY ARE ILLEGAL NOT BECAUSE OF THEIR OUTCOME.

THE STATE ARGUES INCORRECTLY THAT ONLY A SINGLE SENTENCE IS REQUIRED WHEN A

DEFENDANT IS ADJUDICATED AS A HABITUALLY. THE COURT IS STILL REQUIRED TO PRONOUNCE SENTENCE OF THE PRIMARY FELONY. UPON A FINDING OF HABITUALLY, THE COURT MUST IMPOSE THE ENHANCEMENT ONLY WHEN THE ENHANCEMENT IS LARGER THAN THE PRIMARY. SEE HOLLANDER V. STATE, 82 N.W.345, 353, 418 P.2d 802, 807 (1966) "THE TRIAL COURT MUST SENTENCE ON THE SUBSTANTIVE CRIME CHARGED... AND THEN INVOKE THE RECIDIVIST STATUTE TO DETERMINE THE PENALTY." THE COURT FAILED TO SENTENCE DEFENDANT ON THE ATTEMPTED ROBBERY (COUNT #1) IN THE CORRECTED JUDGMENT.

THIS IS A SIGNIFICANT ISSUE BECAUSE THE STATUTORY MAXIMUM SENTENCE FOR THE ATTEMPTED ROBBERY IS TEN (10) YEARS. THE DEFENDANT HAVING SERVED MORE THAN SEVEN (7) YEARS WITH HIS GOOD-TIME CREDITS HAS FULLY SATISFIED ANY TEN (10) YEAR SENTENCE THAT THE COURT COULD IMPOSE. AS STATED IN DEFENDANT'S MOTION, "ONCE A DEFENDANT HAS FULLY SERVED A SENTENCE FOR A PARTICULAR CRIME, THE DOUBLE JEOPARDY CLAUSE'S BAR ON MULTIPLE PUNISHMENTS PRESENTS ANY ATTEMPT TO INCREASE THEREAFTER A SENTENCE FOR THAT CRIME, AND, "THE COURT CANNOT REIMPOSE SENTENCE ONCE

DEFENDANT HAS FULLY SERVED A LAWFUL SENTENCE FOR HIS CRIMES." [US V. SILVER, 90 F.3d 95, 101 (1996)]
 THE COURT'S ABILITY TO REIMPOSE THE HABITUAL ENHANCEMENT IN COUNT #3 ENDED WITH THE EXPIRATION OF THE ATTEMPTED ROBBERY IN COUNT #1.

CONTRARY TO THE STATE'S OPPOSITION, THE DEFENDANT'S PROFFER FOR A COMPROMISE SENTENCE OF ~~SIX~~ FIVE(5) TO 12 1/2 YEARS WOULD NOT RESULT IN DEFENDANT'S IMMEDIATE RELEASE.

THE OFFER TO MODIFY IS MEANT AS A COMPROMISE WHICH WOULD KEEP THE DEFENDANT INCARCERATED IN EXCHANGE FOR THE STATE NOT OPPOSING THE MOTION, WHICH IF THE COURT FINDS IN FAVOR FOR WOULD RESULT IN DEFENDANT'S RELEASE.

IF THE COURT WISHES TO CONSIDER A MODIFICATION BASED ON "MATERIALLY FALSE ASSUMPTION OF FACT" IT NEEDS TO LOOK NO FURTHER THAN PAGE 2 LINE #1 OF THE CORRECTED JUDGMENT WHERE THE COURT CITES NUMEROUS PAROLE VIOLATIONS AS A REASON TO DECLARE THE DEFENDANT A HABITUAL CRIMINAL. THESE PAROLE CHANCES/VIOLATIONS ARISE FROM AN INFIRMED CALIFORNIA CONVICTION THAT WAS NOT EVEN SUBMITTED AS A PRIOR CONVICTION BY THE STATE AT SENTENCING. IT WAS NOT PLED OR PROVEN DURING THE

HABITUAL ADJUDICATION, THE DEFENDANT WOULD ARGUE THAT IF THE CONVICTION IS NOT VALID THEN ANY PAROLE VIOLATIONS STEERING FROM THAT CONVICTION ARE ALSO NOT VALID; AND TO USE THEM IN THIS MANNER VIOLATES DEFENDANT'S "DUE PROCESS" PROTECTIONS, AS REQUIRED BY PASSANISI V. STATE, 108 N.W. 318 (1992)

FOR THE ABOVE REASONS, THE DEFENDANT PRAYS THIS HONORABLE COURT GRANT THE MOTION TO CORRECT AND/OR MODIFY AN ILLEGAL SENTENCE FILED 6-11-21.

DATED JUNE 26, 2021

RESPECTFULLY,

Marc Schachter

MARC SCHACHTER #91415

THIS DOCUMENT CONTAINS NO SOCIAL SECURITY NUMBERS AND A TRUE COPY WAS PLACED IN THE PRISON MAILBOX ADDRESSED TO: KEVIN NAUGHTON, ONE SOUTH SIERRA ST. RENO, NV 89501.

X Marc Schachter

MARC SCHACHTER
IN PRISON

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

07-06-2021:16:26:21

Clerk Accepted:

07-06-2021:16:27:53

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Reply to/in Opposition

Filed By:

Deputy Clerk KHudson

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ADAM D. CATE, ESQ. for STATE OF NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

1 CODE: 3860

2 Name: MARC SCHACHTER # 91445

3 Address: SDCC P.O. BOX 208

4 INDIAN SPRINGS, NV 89070

5 Telephone: _____

6 Acting in Proper Person

7 THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

10 STATE OF NEVADA

11 Plaintiff (Petitioner),

Case No. CR-14-1044

12 vs.

Dept. No. 4

13 MARC PAUL SCHACHTER

14 Defendant (Respondent).
15 _____

16 REQUEST FOR SUBMISSION

17 I, MARC SCHACHTER, acting in Proper Person, request that the

18 NOTION TO CORRECT ILLEGAL SENTENCE filed on 6-11-21

19 be submitted to the Court for consideration and determination.

20 I hereby certify that a copy of this Request has been mailed to all parties or their counsel.

21 DATE: 7/1/21

22 Marc
23 (Signature)

24 MARC SCHACHTER # 91445
25 (Name)

26 P.O. BOX 208
27 (Address)

28 INDIAN SPRINGS, NV 89070

(Telephone Number)

CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHACHTER, hereby certify, pursuant to NRCP 5(b), that on this
day of JULY 1, 2021, I mailed a true and correct copy of the foregoing, "LETTER TO
REQUEST FOR SUBMISSION"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

WASHOE CO. DISTRICT ATTY.
KEVIN NAUGHTON
905 SOUTH SIERRA ST
RENO, NV 89501

CC:FILE

DATED: this 1 day of July, 2021.

Marc Schachter
MARC SCHACHTER

91445

/In Propria Personam

Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

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SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

REQUEST FOR SUBMISSION

(Title of Document)

filed in case number: CR-14-1044



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 7/1/21

Marc Schacher
(Signature)

MARC SCHACHER
(Print Name)

Pro Per
(Attorney for)

Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2021-07-06 16:32:42.54.
JARROD HICKMAN, ESQ. - Notification received on 2021-07-06 16:32:42.511.
KELLY KOSSOW, ESQ. - Notification received on 2021-07-06 16:32:42.421.
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NICKOLAS GRAHAM, ESQ. - Notification received on 2021-07-06 16:32:42.571.
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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

07-06-2021:16:30:05

Clerk Accepted:

07-06-2021:16:32:02

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Request for Submission

Filed By:

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

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NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

CODE 3347

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

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. 4

ORDER

On June 11, 2021, the Defendant, in pro per, filed a Motion to Modify and/or Correct Illegal Sentence. On June 17, 2021, the State of Nevada, by and through counsel, Christopher J. Hicks, Washoe County District Attorney, and Kevin Naughton, Deputy District Attorney, filed an Opposition to Motion to Modify and/or Correct Illegal Sentence. On July 6, 2021, the Defendant filed a Reply to State's Opposition to Motion to Modify and/or Correct Illegal Sentence and formally submitted the matter to the Court for decision.

The Court having reviewed the pleadings filed herein, finds that oral argument on the Motion to Modify and/or Correct Illegal Sentence would assist the Court in deciding the Motion.

///

///

///

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

IT IS HEREBY ORDERED that the State of Nevada shall contact Department Four's Court Clerk within twenty (20) days of the date of this Order to set oral arguments on the Motion to Modify and/or Correct Illegal Sentence. Once oral arguments on the Motion are set with the State and confirmed with the Nevada Department of Corrections, the Defendant will be notified of the hearing date by Order of the Court.

Dated this 9 day of SEPTEMBER, 2021.


DISTRICT JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of September, 2021, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

 Personal delivery to the following: [NONE]

 X **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.
Deputy District Attorney

 X **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter
Inmate no. 91445
Southern Desert Correction Center
P.O. Box 208
Indian Springs, NV 89070

 Placed a true copy in a sealed envelope for service via:

 Reno/Carson Messenger Service – **[NONE]**

 Federal Express or other overnight delivery service – **[NONE]**

 Via E-Mail – **[NONE]**

DATED this 10th day of September, 2021.



Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2021-09-10 08:30:34.447.

JARROD HICKMAN, ESQ. - Notification received on 2021-09-10 08:30:34.418.

KELLY KOSSOW, ESQ. - Notification received on 2021-09-10 08:30:34.333.

DIV. OF PAROLE & PROBATION - Notification received on 2021-09-10 08:30:34.361.

NICKOLAS GRAHAM, ESQ. - Notification received on 2021-09-10 08:30:34.475.

ADAM CATE, ESQ. - Notification received on 2021-09-10 08:30:34.389.

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

09-10-2021:08:29:27

Clerk Accepted:

09-10-2021:08:30:01

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord to Set

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

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

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. 4

ORDER

On June 11, 2021, the Defendant, in pro per, filed a Motion to Modify and/or Correct Illegal Sentence. On June 17, 2021, the State of Nevada, by and through counsel, Christopher J. Hicks, Washoe County District Attorney, and Kevin Naughton, Deputy District Attorney, filed an Opposition to Motion to Modify and/or Correct Illegal Sentence. On July 6, 2021, the Defendant filed a Reply to State's Opposition to Motion to Modify and/or Correct Illegal Sentence and formally submitted the matter to the Court for decision. On September 10, 2021, the Court entered an Order to set oral arguments on the Motion to Modify and/or Correct Illegal Sentence.

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

IT IS HEREBY ORDERED that oral argument on the Defendant's Motion to Modify and/or Correct Illegal Sentence is set for March 25, 2022 at 10:00 a.m. This hearing shall be by audiovisual means.

Dated this 6 day of DECEMBER, 2021.


DISTRICT JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 7th day of December, 2021, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

 Personal delivery to the following: [NONE]

 X **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.
Deputy District Attorney

 X **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter
Inmate no. 91445
Southern Desert Correction Center
P.O. Box 208
Indian Springs, NV 89070

 Placed a true copy in a sealed envelope for service via:

 Reno/Carson Messenger Service – **[NONE]**

 Federal Express or other overnight delivery service – **[NONE]**

 Via E-Mail – **[NONE]**

DATED this 7th day of December, 2021.



Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2021-12-07 10:46:30.359.

KELLY KOSSOW, ESQ. - Notification received on 2021-12-07 10:46:30.275.

DIV. OF PAROLE & PROBATION - Notification received on 2021-12-07 10:46:30.302.

NICKOLAS GRAHAM, ESQ. - Notification received on 2021-12-07 10:46:30.386.

ADAM CATE, ESQ. - Notification received on 2021-12-07 10:46:30.331.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-07-2021:10:45:11

Clerk Accepted:

12-07-2021:10:45:45

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Setting Hearing

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

DIV. OF PAROLE & PROBATION
ADAM D. CATE, ESQ. for STATE OF NEVADA
KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA
NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA
KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

CODE #1260
CHRISTOPHER J. HICKS
#7747
One South Sierra Street
Reno, Nevada 89501
(775) 328-3200
districtattorney@da.washoecounty.us
Attorney for Respondent

IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

vs.

Dept. No. 4

THE STATE OF NEVADA,

Respondent.

_____ /

APPLICATION FOR ORDER TO PRODUCE PRISONER

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS,
District Attorney of Washoe County, by KEVIN NAUGHTON, Appellate Deputy, and
alleges as follows:

1. That the Petitioner, MARC PAUL SCHACHTER #91445, is presently incarcerated at the Southern Desert Correctional Center, Indian Springs, Nevada.
2. That the above MARC PAUL SCHACHTER #91445 is scheduled for an audio/visual post-conviction hearing before the Second Judicial District Court on March 25, 2022, at 10:00 a.m.
3. Zoom Meeting Information: <https://www.washoecourts.com/OnlineHearings>

WHEREFORE, Applicant prays that an Order be made ordering the audio/visual appearance of the said MARC PAUL SCHACHTER #91445 before the Second Judicial District Court, and from time to time thereafter at such times and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises and directing the execution of said Order by the Warden of Southern Desert Correctional Center, Indian Springs, Nevada.

AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: December 8, 2021.

CHRISTOPHER J. HICKS
District Attorney

By /s/KEVIN NAUGHTON
KEVIN NAUGHTON
Appellate Deputy

Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2021-12-08 16:37:49.152.

KELLY KOSSOW, ESQ. - Notification received on 2021-12-08 16:37:49.072.

DIV. OF PAROLE & PROBATION - Notification received on 2021-12-08 16:37:49.098.

NICKOLAS GRAHAM, ESQ. - Notification received on 2021-12-08 16:37:49.178.

ADAM CATE, ESQ. - Notification received on 2021-12-08 16:37:49.125.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-08-2021:16:31:20

Clerk Accepted:

12-08-2021:16:37:18

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Application Produce Prisoner

Filed By:

Kevin Naughton

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

CODE #3340
CHRISTOPHER J. HICKS
#7747
One South Sierra Street
Reno, Nevada 89501
(775) 328-3200
districtattorney@da.washoecounty.us
Attorney for Respondent

IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

vs.

Dept. No. 4

THE STATE OF NEVADA,

Respondent.

_____ /

ORDER TO PRODUCE PRISONER VIA SIMULTANEOUS AUDIO/VISUAL
TRANSMISSION

IT APPEARING to the satisfaction of the above-entitled Court that it is necessary that the Petitioner above named, MARC PAUL SCHACHTER #91445, presently incarcerated in the Southern Desert Correctional Center, Indian Springs, Nevada, be brought before the Second Judicial District Court for a post-conviction hearing in the above-entitled action.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Southern Desert Correctional Center, Indian Springs, Nevada, with cooperative assistance from the Nevada System of Higher Education bring the said MARC PAUL SCHACHTER #91445 before the Second Judicial District Court via simultaneous audio/visual transmission

means on March 25, 2022, at 10:00 a.m. for a post-conviction hearing in the above-entitled action.

IT IS FURTHER ORDERED that it is not necessary for said MARC PAUL SCHACHTER #91445 to be physically located in Washoe County, Nevada, during the post-conviction hearing.

DATED this 10 day of DECEMBER, 2021.


DISTRICT JUDGE

Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2021-12-10 12:09:33.813.

KELLY KOSSOW, ESQ. - Notification received on 2021-12-10 12:09:33.714.

DIV. OF PAROLE & PROBATION - Notification received on 2021-12-10 12:09:33.758.

NICKOLAS GRAHAM, ESQ. - Notification received on 2021-12-10 12:09:33.841.

ADAM CATE, ESQ. - Notification received on 2021-12-10 12:09:33.785.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-10-2021:12:08:27

Clerk Accepted:

12-10-2021:12:09:00

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord to Produce Prisoner

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):


JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

MARC SCHACHTER #91445
 S.D.C.C.
 P.O. BOX 208
 INDIAN SPRINGS, NV 89870

FILED

DEC 13 PM 2:22

ALICIA L. LEE
 CLERK OF DISTRICT COURT
 BY  DUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE
 OF NEVADA; IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
 PLAINTIFF,

v.

CASE No. CR-14-1044

MARC PAUL SCHACHTER,
 DEFENDANT.

DEPT. 4

ADDENDUM TO MOTION TO MODIFY AND/OR CORRECT
ILLEGAL SENTENCE

COMES NOW, DEFENDANT, MARC SCHACHTER, IN PRO PER,
 AND REQUESTS THAT THIS HONORABLE COURT SET
 A HEARING DATE FOR A NEW SENTENCE AND/OR
 ORDER DEFENDANT'S RELEASE FROM CUSTODY
 PENDING SUCH A HEARING.

THE STATE HAS FAILED TO COMPLY WITH THIS
 COURT'S ORDER OF SEPTEMBER 9, 2021 TO SET
 A HEARING DATE. THE DEFENDANT HAS NOW

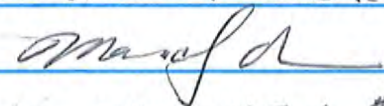
SERVED ONE HUNDRED AND FIFTY MONTHS (150)
OF A HUNDRED AND TWENTY (120) MONTH MAXIMUM
SENTENCE FOR THE ATTEMPTED ROBBERY (COUNT 1)
FOR WHICH HE WAS FOUND GUILTY BY A
JURY. HE, FURTHER, NO LONGER MEETS THE
MINIMUM REQUIREMENTS TO BE ADJUDICATED
A HABITUALLY CRIMINAL PURSUANT TO NRS 207.010.
(COUNT 3)

BECAUSE THE DEFENDANT IS NOW OVERDUE FOR
RELEASE, HE REQUESTS THAT THIS COURT
HOLD AN EXPEDITED HEARING OR RELEASE
THE DEFENDANT FROM CUSTODY PENDING A
FULL SENTENCING HEARING.

THE STATE'S FAILURE TO COMPLY WITH THE COURT'S
ORDER SHOULD BE CONSIDERED AN ABANDONMENT
OF ITS OPPOSITION TO THE MOTION; AND THE
DEFENDANT SHOULD BE GIVEN NINETY (90) MONTHS
OF ACTUAL CUSTODY CREDITS AND SIXTY (60)
MONTHS OF GOOD-TIME/MERIT CREDITS FOR A
TOTAL OF ONE-HUNDRED FIFTY (150) MONTHS CREDIT
FOR TIME-SERVED.

THE DEFENDANT PRAYS THAT THIS HONORABLE
COURT GRANT THE ABOVE REQUEST
WITHOUT DELAY.

DATED: DECEMBER 6, 2021

RESPECTFULLY SUBMITTED,

MARC SCHACHTER #91465
IN PRO PER.

CODE: 3860

Name: MARC SCHACHTERAddress: SDCC PO BOX 208INDIAN SPRINGS, NV 89070

Telephone: _____

Acting in Proper Person

FILED

DEC 13 PM 2:22

ALICIA L. LEBRON
CLERK OF THE COURT
BY _____

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

STATE OF NEVADA

Plaintiff (Petitioner),

Case No. CR-14-1044

vs.

Dept. No. 4MARC PAUL SCHACHTER

Defendant (Respondent).

REQUEST FOR SUBMISSIONI, MARC SCHACHTER, acting in Proper Person, request that theADDENDUM TO MOTIONfiled on 6-11-21

be submitted to the Court for consideration and determination.

I hereby certify that a copy of this Request has been mailed to all parties or their counsel.

DATE: 12/6/21Marc Schachter

(Signature)

MARC SCHACHTER

(Name)

SDCC PO BOX 208

(Address)

INDIAN SPRINGS, NV 89070

(Telephone Number)

CERTIFICATE OF SERVICE BY MAILING

I, Marc Schaefer, hereby certify, pursuant to NRCP 5(b), that on this _____ day of 12/15, 2021, I mailed a true and correct copy of the foregoing, "ADDENDUM TO MOTION TO MODIFY AND/OR CORRECT JUDICIAL SENTENCE" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

CLERK OF THE COURT
75 COURT ST
RENO, NV
89501

CC:FILE

DATED: this 16 day of December, 2021.

Marc Schaefer
MARC SCHAEFER # 912/15
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

ADDEDUM TO MOTION TO MODIFY AND/OR CORRECT
ILLEGAL SENTENCE.

(Title of Document)

filed in case number: CR-14-1044

☒ Document does not contain the social security number of any person

-OR-

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

☐ A specific state or federal law, to wit:

(State specific state or federal law)

-or-

☐ For the administration of a public program

-or-

☐ For an application for a federal or state grant

-or-

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 12/6/21

Marc Schepert
(Signature)

MARC SCHEPERT
(Print Name)

IN PROPER
(Attorney for)

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR14-1044

Dept. No.: 4

MARC PAUL SCHACHTER,

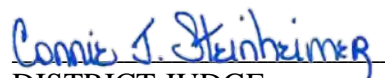
Defendant.

**NOTICE OF FAMILIAL EMPLOYMENT IN THE WASHOE COUNTY DISTRICT
ATTORNEY'S OFFICE**

The Court hereby notices counsel and the parties in the above- entitled matter the Court's adult child commenced employment with the Washoe County District Attorney on January 10, 2022 ("employed family member"). The employed family member will not appear before this Judge or perform work on or discuss any case assigned to this Judge, on which the Washoe County District Attorney, personally or through a Deputy District Attorney, is counsel for any party ("Wall of Separation"). This Wall of Separation resolves any potential or perceived conflict with this Court presiding over a proceeding in which the Washoe County District Attorney is counsel for the State of Nevada. Code of Judicial Conduct, Rule 2.4(B).

NOTICE is given in this case of the relationship with the employed family member to ensure there is no perceived appearance of impropriety.

Dated this 12th day of January, 2022.


DISTRICT JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 12th day of January, 2021, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

 Personal delivery to the following: [NONE]

 X **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.
Deputy District Attorney

 X **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter
Inmate no. 91445
Southern Desert Correction Center
P.O. Box 208
Indian Springs, NV 89070

 Placed a true copy in a sealed envelope for service via:

 Reno/Carson Messenger Service – **[NONE]**

 Federal Express or other overnight delivery service – **[NONE]**

 Via E-Mail – **[NONE]**

DATED this 12th day of January, 2021.



Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2022-01-12 10:32:31.257.

KELLY KOSSOW, ESQ. - Notification received on 2022-01-12 10:32:30.763.

DIV. OF PAROLE & PROBATION - Notification received on 2022-01-12 10:32:31.191.

NICKOLAS GRAHAM, ESQ. - Notification received on 2022-01-12 10:32:31.292.

ADAM CATE, ESQ. - Notification received on 2022-01-12 10:32:31.226.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-12-2022:10:25:21

Clerk Accepted:

01-12-2022:10:31:45

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

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The following people were served electronically:

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

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

STATE OF NEVADA,
Plaintiff,

v.

MARC PAUL SCHACHTER,
Defendant.

Case No.: CR14-1044

Dept. No.: 4

NOTICE OF AND ORDER FOR AUDIO/VISUAL HEARING
AN ORAL ARGUMENTS HEARING ON MOTION TO MODIFY AND/OR CORRECT
ILLEGAL SENTENCE IN THIS MATTER IS SET FOR
MARCH 25, 2022 AT 1:30 P.M.

Consistent with the Declaration of Emergency in Nevada and to effectuate resulting Directives issued by Governor Steve Sisolak, as renewed and extended¹, and Second Judicial District Court Administrative Orders ("AOs"), as amended and extended, and to support the Washoe County Health Districts efforts to decrease the opportunity for transmission of COVID-19, the hearing in this matter shall be held by audio/visual platform. The hearing will be conducted pursuant to the Nevada Supreme Court Rules Governing Appearance by Simultaneous Audiovisual Transmission Equipment, Part IX.

Details for the Zoom Webinar/Zoom Meeting hearing are attached as Exhibit 1 to this Notice/Order. Counsel, parties, and the public (unless the hearing is closed to the public by rule, statute, or order) may utilize the Zoom link by accessing www.washoecourts.com,

¹ The Declaration of Emergency for COVID-19 and all Directives issued are available at: <https://nvhealthresponse.nv.gov/state-information/governor-directives-and-declarations> (last visited 2/10/2022). The AOs are available at: washoecourts.com/Main/AdminOrders (last visited 2/18/2022).

1 clicking on “Online-Hearings-Click here to select the department”, scrolling down to
2 Department 4, and clicking on the link for this matter to view and hear the proceedings. The
3 hearing may also be accessed by accessing Zoom.com and typing the webinar/meeting
4 number.

5 Pursuant to issued AOs, the parties are reminded that although conducted on an audio/visual
6 platform, a hearing is a formal proceeding and shall be conducted with proper decorum.
7 Appropriate attire is required.

8 If any party intends to introduce exhibits during the hearing, the exhibits shall be E-filed
9 with the Court **twenty-four (24) hours** prior to the hearing. The exhibits will include a cover sheet
10 with the case caption and document title, “PROPOSED EXHIBIT[S] SUBMITTED BY [PARTY]
11 FOR [DATE] HEARING.” The proposed exhibits shall be sequentially numbered. E-filing
12 documents for the hearing does not operate to admit the evidence nor does it preclude objections by
13 any party, both of which will be addressed during the hearing.

14 Any party who objects to this hearing proceeding by audio/visual means, must E-file an
15 objection entitled “[PARTY]’s OBJECTION TO CONDUCTING HEARING BY
16 AUDIO/VISUAL PLATFORM,” with a contemporaneously E-filed Request for Submission of the
17 objection not later than **twenty-four (24) hours** prior to the hearing. The Court may or may not
18 vacate the hearing based on the objection. Unless and until an order is entered vacating or
19 continuing this hearing, the matter will proceed as noticed and ordered.

20 IT IS SO ORDERED.

21 DATED this 15 day of March, 2022.

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24 DISTRICT JUDGE
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EXHIBIT 1

ZOOM WEBINAR/ZOOM MEETING INFORMATION:

<https://washoecourts.zoom.us/j/96064197675?pwd=YXora3dsbzJDd2p6cERqbStDdzBzQT09>

Passcode: 322186

Webinar ID: 960 6419 7675

CERTIFICATE OF SERVICE

CASE NO. CR14-1044

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 15 day of March, 2022, I filed the **NOTICE OF AND ORDER FOR AUDIO/VISUAL HEARING** with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

_____ **Personal delivery to the following: [NONE]**

15 I electronically filed with the Clerk of the Court, using the ECF which sends an immediate notice of the electronic filing to the following registered e-filers for their review of the document in the ECF system:

ADAM CATE, ESQ. for STATE OF NEVADA

KELLY KOSSOW, ESQ. for STATE OF NEVADA

KEVIN NAUGHTON, ESQ. for STATE OF NEVADA

DIV. OF PAROLE & PROBATION

NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA

_____ **Deposited in the Washoe County mailing system in a sealed envelope for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]**

_____ **Placing a true copy thereof in a sealed envelope for service via:**

_____ Reno/Carson Messenger Service – [NONE]

_____ Federal Express or other overnight delivery service [NONE]

DATED this 15 day of March, 2022.



Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2022-03-15 16:19:10.674.

KELLY KOSSOW, ESQ. - Notification received on 2022-03-15 16:19:09.502.

DIV. OF PAROLE & PROBATION - Notification received on 2022-03-15 16:19:09.909.

NICKOLAS GRAHAM, ESQ. - Notification received on 2022-03-15 16:19:10.909.

ADAM CATE, ESQ. - Notification received on 2022-03-15 16:19:10.284.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

03-15-2022:16:18:32

Clerk Accepted:

03-15-2022:16:18:50

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Re: Hearing Procedure

Filed By:

Judicial Asst. AAustin

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

ADAM D. CATE, ESQ. for STATE OF NEVADA
KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA
KEVIN P. NAUGHTON, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION
NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.
P.O. Box 11130
Reno, NV 89520

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

Address: JARROD T. HICKMAN,
ESQ.
DEPT INDEGENT
DEFENSE SVCS
896 W. NYE ST, STE.
202
CARSON CITY, NV
89703

CASE NO. CR14-1044

**TITLE: THE STATE OF NEVADA VS. MARC PAUL
SCHACHTER**

**DATE, JUDGE
OFFICERS OF**

COURT PRESENT**APPEARANCES-HEARING****CONT'D TO**

3/25/2022

ORAL ARGUMENTS ON MOTION TO MODIFY AND/OR CORRECT

HONORABLE

ILLEGAL SENTENCE

CONNIE

Deputy District Attorney Kevin Naughton, appearing from Washoe County,

STEINHEIMER

Nevada, represented the State. Defendant present, appearing from

DEPT. NO.4

Southern Desert Correctional Center, Clark County, Nevada, representing

M. Stone

himself.

(Clerk)

J. Schonlau

This hearing was held remotely based on the Administrative Orders entered in this District. The Court and all the participants appeared via simultaneous audiovisual transmission. The Court was physically located in Reno, Washoe County, Nevada which was the site of the court session. Counsel and the Defendant acknowledged receipt of Notice that the hearing was taking place pursuant to Nevada Supreme Court Rules- Part 9 relating to simultaneous audiovisual transmissions and all stated they had no objection to going forward in this manner.

(Reporter)

Appearances made for the record.

Court noted receipt of the pleadings filed in this matter.

The Defendant deferred argument on the Motion to Modify and/or Correct

Sentencing until after the State presents its argument against the motion.

State's counsel presented objection and argument against the motion; reply argument by Defendant.

At the direction of the Court, State's counsel addressed the changes in the habitual criminal statute since the conviction in this matter.

The Court found that the changes to the habitual criminal statute were not retro-active and do not apply in this case, that the Court had jurisdiction to correct the Judgment of conviction as the correction was structural in nature, not modifying the actual sentence, and that the Supreme Court upheld the Corrected Judgment of Conviction in its Order of Affirmance. Therefore, **COURT ENTERED ORDER** adopting the argument of the State in its opposition to the Motion and denied the Motion to Modify and/or Correct Illegal Sentence.

State's counsel to prepare order in accordance with the above ruling.

Defendant was advised that he has 30 days to file an appeal once the written order is entered.

Court recessed.

Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2022-03-25 11:37:23.041.

KELLY KOSSOW, ESQ. - Notification received on 2022-03-25 11:37:22.432.

DIV. OF PAROLE & PROBATION - Notification received on 2022-03-25 11:37:22.635.

NICKOLAS GRAHAM, ESQ. - Notification received on 2022-03-25 11:37:23.244.

ADAM CATE, ESQ. - Notification received on 2022-03-25 11:37:22.869.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

03-25-2022:11:36:45

Clerk Accepted:

03-25-2022:11:37:01

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

***Minutes

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

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89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.
P.O. Box 11130
Reno, NV 89520

CODE No. 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR14-1044

MARC PAUL SCHACHTER,

Dept. No. 4

Defendant.

_____ /

**ORDER DENYING MOTION TO MODIFY AND/OR CORRECT ILLEGAL
SENTENCE**

Statement of Proceedings

Defendant MARC PAUL SCHACHTER was convicted by a jury of Attempted Robbery. At sentencing, the Court adjudicated the Defendant as a habitual criminal. See Judgment filed March 5, 2015. In the Judgment, the Court erroneously sentenced the Defendant to a term of 12 to 48 months imprisonment for the Attempted Robbery conviction and a concurrent term of 5 to 20 years imprisonment for being a habitual criminal. The Court corrected this error in a Corrected Judgment filed on July 30, 2015, sentencing the Defendant to a single sentence of 5 to 20 years.

The Defendant appealed from the Judgment of Conviction. The Nevada Supreme Court affirmed the Judgment of Conviction. Schachter v. State, Docket No. 67673 (Order of

Affirmance, August 10, 2016). In its Order of Affirmance, the Nevada Supreme Court noted that the Corrected Judgment of Conviction “properly impos[ed] a single sentence.” *Id.* at fn. 1.

On July 11, 2021, the Defendant filed a Motion to Modify and/or Correct Illegal Sentence (“Motion”). The State filed an Opposition on June 17, 2021. The Defendant filed a Reply on July 6, 2021, and formally submitted the matter for the Court’s consideration. On September 10, 2021, the Court entered an Order for the parties to set oral arguments on the Motion.

On March 25, 2022, the Court conducted oral arguments on the Defendant’s Motion via audiovisual means. The State was represented by Deputy District Attorney Kevin Naughton. The Defendant appeared in pro per from the custody of the Nevada Department of Corrections. Both parties presented argument in support of their positions.

Having considered the papers and pleadings on file herein, the applicable legal authority, and the oral arguments of the parties, the Court orally pronounced that the Defendant’s Motion was denied. This written Order follows.

Findings of Fact and Conclusions of Law

First, the Court finds that the Defendant’s Motion fails as a motion to modify a sentence. A district court has jurisdiction to modify a sentence only if “(1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant’s extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level of a violation of due process.” *Passanisi v. State*, 108 Nev. 318, 323, 831 P.2d 1371, 1374 (1992). The Motion does not allege that the Court sentenced him under any misunderstanding or misapprehension of fact.

The Court further finds that it had jurisdiction to enter the Corrected Judgment in this case. The Corrected Judgment addressed a structural error in the Judgment of Conviction and did not impose a new sentence. As a result, the Court finds that its use of *nunc pro tunc* to

///

relate the Corrected Judgment back to the date the Judgment of Conviction was entered was also appropriate.

Moreover, even if this Court lacked jurisdiction, the Court finds that the issue is moot. As noted by the Nevada Supreme Court, “[f]ailure to properly sentence does not render the entire trial and proceeding a nullity....” Hollander v. State, 82 Nev. 345, 354, 418 P.3d 802, 807 (1966) *quoting* Lisby v. State, 82 Nev. 183, 414 P.2d 592 (1966). Even if this Court lacked jurisdiction to enter the Corrected Judgment because the matter was on appeal at the time, the remedy would not render the Defendant’s conviction and sentencing invalid. The Court would simply re-enter its Corrected Judgment imposing the same sentence. Therefore, the issue is moot.¹

Finally, the Defendant asserts that he is entitled to retroactive application of the changes recently made to Nevada’s habitual criminal statutes. The Defendant’s position is contrary to the applicable caselaw. Absent a clear legislative intent to apply a law retroactively, “the proper penalty is the penalty in effect at the time of the commission of the offense.” State v. Second Judicial Dist. Court (Pullin), 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008). The Defendant has failed to provide any evidence in support of his position and there is no indication that the Legislature intended that the amended provisions of NRS 207.010 *et seq.* should apply retroactively. See 2019 Nev. Stat., ch. 633, § 86, at 4441-42; Nev. Stat., ch. 633, § 137, at 4488 (effective date July 1, 2020).

For all of those reasons, the Defendant’s Motion is DENIED.

DATED this 25 day of MARCH, 2021.


DISTRICT JUDGE

¹ The Court also notes that the Nevada Supreme Court found that this Court’s Corrected Judgment properly sentenced the Defendant to a single sentence and that any issue with the Judgment of Conviction was moot at the time the Order of Affirmance was entered.

CERTIFICATE OF SERVICE

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 28th day of March, 2022, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

 Personal delivery to the following: [NONE]

 X **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.
Deputy District Attorney

 X **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter
Inmate no. 91445
Southern Desert Correction Center
P.O. Box 208
Indian Springs, NV 89070

 Placed a true copy in a sealed envelope for service via:

 Reno/Carson Messenger Service – **[NONE]**

 Federal Express or other overnight delivery service – **[NONE]**

 Via E-Mail – **[NONE]**

DATED this 28th day of March, 2022.



Return Of NEF**Recipients**

KEVIN NAUGHTON, ESQ. - Notification received on 2022-03-28 11:28:22.777.

KELLY KOSSOW, ESQ. - Notification received on 2022-03-28 11:28:20.965.

DIV. OF PAROLE & PROBATION - Notification received on 2022-03-28 11:28:21.793.

NICKOLAS GRAHAM, ESQ. - Notification received on 2022-03-28 11:28:23.246.

ADAM CATE, ESQ. - Notification received on 2022-03-28 11:28:22.277.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

03-28-2022:11:26:36

Clerk Accepted:

03-28-2022:11:27:45

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Denying Motion

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

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KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

Address: JARROD T. HICKMAN,
ESQ.
DEPT INDEGENT
DEFENSE SVCS
896 W. NYE ST, STE.
202
CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.
P.O. Box 11130
Reno, NV 89520

FILED

MARC SCHACHTER

#91445 In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018

2022 APR -8 PM 12: 20

ALICIA L. RUD
CLERK OF THE COURT

BY [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADAIN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA
Plaintiff,

vs.

MARC PAUL SCHACHTER
Defendant.

Case No. CR-14-1044Dept. No. 4

Docket _____

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,

MARC PAUL SCHACHTER, in and through his proper person, hereby
appeals to the Supreme Court of Nevada from the ORDER denying and/or
dismissing the MOTION TO MODIFY/CORRECT ILLEGAL
SENTENCE

ruled on the 28 day of MARCH, 2021.

Dated this 2 day of APRIL, 2022

Respectfully Submitted,

[Signature]

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOTICE OF APPEAL

(Title of Document)

filed in District Court Case number CD-14-1044



Does not contain the social security number of any person.

-OR-



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

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

(State specific law)

-or-

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

Marc Schachter

Signature

4/2/22

Date

MARC SCHACHTER

Print Name

DEFENDANT

Title

MARC SCHACHTER, 91445
 Petitioner/In Propria Persona
 Post Office Box 208, SDCC
 Indian Springs, Nevada 89070-0208

FILED

2022 APR -8 PM 12: 20

IN THE 2ND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
 IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA

Plaintiff,

vs.

MARC PAUL SCHACHTER

Defendant.

CASE No. CR-14-1041
 DEPT. No. 4

DESIGNATION OF RECORD ON APPEAL

TO: MARC SCHACHTER
#91445
SDCC
P.O. BOX 208
INDIAN SPRINGS, NV 89070

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 2ND day of APRIL, 2022.

RESPECTFULLY SUBMITTED BY:

Marc Schachter
MARC SCHACHTER # 91445
 Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHAEFER, hereby certify, pursuant to NRCP 5(b), that on this
day of 4TH APRIL 2022, I mailed a true and correct copy of the foregoing, "

NOTICE OF APPEAL

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

WASHOE CO. DISTRICT ATTORNEY
KEVIN NAUGHTON, ADA
602 SIEKLA ST.
RENO, NV 89521

CC: FILE

DATED: this 4TH day of April, 2022.

Marc Schaefer
Attorney

91428

/In Propria Personam

Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOTICE OF APPEAL

(Title of Document)

filed in District Court Case number CD-14-1044



Does not contain the social security number of any person.

-OR-



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

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

(State specific law)

-or-

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

Marc Schachter

Signature

4/2/22

Date

MARC SCHACHTER

Print Name

DEFENDANT

Title

Code 1310

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

THE STATE OF NEVADA,

Plaintiff,

vs.

Case No. CR14-1044

Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

CASE APPEAL STATEMENT

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Marc Schachter.
2. This appeal is from an order entered by the Honorable Judge Connie J. Steinheimer.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:

Marc Schachter #91445
S.D.C.C. PO Box 208
Indian Springs, NV 89018
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:

Jennifer P. Noble, Esq., SBN: 9446
P.O. Box 11130
Reno, Nevada 89520

5. Respondent's attorney is not licensed to practice law in Nevada: NA
6. Appellant is represented by appointed counsel in District Court.
7. Appellant is not represented by appointed counsel on appeal.
8. Appellant was not granted leave to proceed in forma pauperis in the District Court.
9. Proceeding commenced by the filing of an Information on July 10th, 2014.
10. This is a criminal proceeding and the Appellant is appealing the Order Denying Motion to Modify and/or Correct Illegal Sentence filed March 28th, 2022.
11. The case has been the subject of a previous appeal to the Supreme Court.
Supreme Court No.: 67673
12. This case does not involve child custody or visitation.
13. This is not a civil case involving the possibility of a settlement.

Dated this 8th day of April, 2022.

Alicia L. Lerud
Clerk of the Court
By: /s/ Y.Viloria
Y.Viloria
Deputy Clerk

Code 1350

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

THE STATE OF NEVADA,

Plaintiff,

vs.

Case No. CR14-1044

MARC PAUL SCHACHTER,

Dept. No. 4

Defendant.

_____ /

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 8th day of April, 2022, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 8th day of April, 2022.

Alicia L. Lerud
Clerk of the Court
By /s/Y.Viloria
Y.Viloria
Deputy Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-04-08 16:09:09.686.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-04-08 16:09:09.92.
KELLY KOSSOW, ESQ. - Notification received on 2022-04-08 16:09:09.076.
DIV. OF PAROLE & PROBATION - Notification received on 2022-04-08 16:09:09.279.
ADAM CATE, ESQ. - Notification received on 2022-04-08 16:09:10.154.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-04-08 16:09:09.467.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

04-08-2022:16:08:23

Clerk Accepted:

04-08-2022:16:08:48

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Case Appeal Statement
Certificate of Clerk

Filed By:

Deputy Clerk YViloria

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NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

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DEPT INDEGENT
DEFENSE SVCS

896 W. NYE ST, STE.
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CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.

P.O. Box 11130

Reno, NV 89520

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

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

Supreme Court No. 84547
District Court Case No. CR141044

RECEIPT FOR DOCUMENTS

TO: Marc Paul Schachter
Washoe County District Attorney \ Jennifer P. Noble
Alicia L. Lerud, Washoe District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

04/13/2022 Appeal Filing Fee waived. Criminal. (SC)

04/13/2022 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day. (SC)

DATE: April 13, 2022

Elizabeth A. Brown, Clerk of Court
lh

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-04-15 13:44:06.715.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-04-15 13:44:07.23.
KELLY KOSSOW, ESQ. - Notification received on 2022-04-15 13:44:04.558.
DIV. OF PAROLE & PROBATION - Notification received on 2022-04-15 13:44:05.152.
ADAM CATE, ESQ. - Notification received on 2022-04-15 13:44:07.808.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-04-15 13:44:05.808.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

04-15-2022:13:43:13

Clerk Accepted:

04-15-2022:13:43:40

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Receipt for Doc

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

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SCHACHTER

Address: JARROD T. HICKMAN,
ESQ.

DEPT INDEGENT
DEFENSE SVCS

896 W. NYE ST, STE.
202

CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.

P.O. Box 11130

Reno, NV 89520

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 84547

FILED

APR 19 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

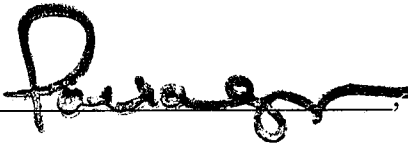
*ORDER DIRECTING TRANSMISSION OF RECORD
AND REGARDING BRIEFING*

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP

46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

 C.J.

cc: Marc Paul Schachter
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-04-21 12:39:43.235.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-04-21 12:39:43.438.
KELLY KOSSOW, ESQ. - Notification received on 2022-04-21 12:39:42.517.
DIV. OF PAROLE & PROBATION - Notification received on 2022-04-21 12:39:42.735.
ADAM CATE, ESQ. - Notification received on 2022-04-21 12:39:43.642.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-04-21 12:39:42.97.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

04-21-2022:12:38:41

Clerk Accepted:

04-21-2022:12:39:11

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Ct Order Directing

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

Address: JARROD T. HICKMAN,
ESQ.

DEPT INDEGENT
DEFENSE SVCS

896 W. NYE ST, STE.
202

CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.

P.O. Box 11130

Reno, NV 89520

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. 4

SCN. No. 84547

CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 28th day of April, 2022, I electronically filed Volumes 1 through 9 of the Record on Appeal in the above entitled matter to the Nevada Supreme Court and deposited Volume 10 containing sealed documents addressed to the Nevada Supreme Court 201 S. Carson Street, Suite 201, Carson City, Nevada 89701 in the Washoe County mailing system for postage and mailing in the United States Postal Service in Reno, Nevada.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court in accordance NRAP 11(2)(b).

Dated this 28th day of April, 2022.

Alicia L. Lerud
Clerk of the Court
By /s/Y.Viloria
Y.Viloria
Deputy Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-04-28 10:59:05.273.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-04-28 10:59:05.523.
KELLY KOSSOW, ESQ. - Notification received on 2022-04-28 10:59:04.57.
DIV. OF PAROLE & PROBATION - Notification received on 2022-04-28 10:59:04.805.
ADAM CATE, ESQ. - Notification received on 2022-04-28 10:59:05.789.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-04-28 10:59:05.023.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

04-28-2022:10:58:06

Clerk Accepted:

04-28-2022:10:58:34

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

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NEVADA

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NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

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ESQ.

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DEFENSE SVCS

896 W. NYE ST, STE.
202

CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.

P.O. Box 11130

Reno, NV 89520

IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

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

Supreme Court No. 84547
District Court Case No. CR141044

NOTICE OF TRANSFER TO COURT OF APPEALS

Pursuant to NRAP 17(b), the Supreme Court has decided to transfer this matter to the Court of Appeals. Accordingly, any filings in this matter from this date forward shall be entitled "In the Court of Appeals of the State of Nevada." NRAP 17(e).

DATE: August 03, 2022

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

Notification List

Electronic
Washoe County District Attorney \ Jennifer P. Noble

Paper
Hon. Connie J. Steinheimer, District Judge
Marc Paul Schachter
Alicia L. Lerud, Washoe District Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-08-04 14:47:59.128.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-08-04 14:48:00.988.
KELLY KOSSOW, ESQ. - Notification received on 2022-08-04 14:47:53.377.
DIV. OF PAROLE & PROBATION - Notification received on 2022-08-04 14:47:55.223.
ADAM CATE, ESQ. - Notification received on 2022-08-04 14:48:02.003.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-08-04 14:47:57.222.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

08-04-2022:14:45:19

Clerk Accepted:

08-04-2022:14:47:07

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Notice

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

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JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

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SCHACHTER

Address: JARROD T. HICKMAN,
ESQ.

DEPT INDEGENT
DEFENSE SVCS

896 W. NYE ST, STE.
202

CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.

P.O. Box 11130

Reno, NV 89520


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 84547-COA

FILED

SEP 09 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

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

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

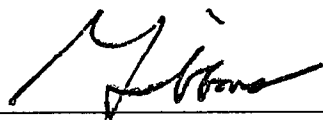
Schachter first claimed the sentencing court did not have jurisdiction to issue a corrected judgment of conviction on July 30, 2015, because at that time, Schachter's appeal from his judgment of conviction was pending before the Nevada Supreme Court. A sentence is facially illegal where either the district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


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


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

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

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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

cc: Hon. Connie J. Steinheimer, District Judge
Marc Paul Schachter
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-09-13 14:44:43.735.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-09-13 14:44:43.032.
KELLY KOSSOW, ESQ. - Notification received on 2022-09-13 14:44:41.86.
DIV. OF PAROLE & PROBATION - Notification received on 2022-09-13 14:44:42.688.
ADAM CATE, ESQ. - Notification received on 2022-09-13 14:44:43.375.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-09-13 14:44:42.266.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

09-13-2022:14:43:54

Clerk Accepted:

09-13-2022:14:44:14

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Ord Remanding

Filed By:

Deputy Clerk YViloria

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DIV. OF PAROLE & PROBATION

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NEVADA

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DEFENSE SVCS

896 W. NYE ST, STE.
202

CARSON CITY, NV
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

Address: JENNIFER L. LUNT,
ESQ.

P.O. Box 11130

Reno, NV 89520

MARC SCHACHTER, 91445

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

FILED

OCT 04 2022

ALICIA LERUD, CLERK
 By: *[Signature]*
 DEPUTY CLERK

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

MARC SCHACHTER:

Petitioner,

vs.

STATE OF NEVADA
CABRIELA NATELA
WARDEN

Respondent(s).

Case No. CR-14-1044Dept. No. 4

Docket _____

PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

INSTRUCTIONS:

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

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

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

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

10 PETITION

11 1. Name of institution and county in which you are presently imprisoned or where and who you
12 are presently restrained of your liberty: THREE LAKES CAMP, CLARK CO.

13 2. Name the location of court which entered the judgment of conviction under attack: 2ND
14 JUDICIAL DISTRICT, WASHOE COUNTY, NV

15 3. Date of judgment of conviction: 2/24/15

16 4. Case number: CR-14-1044

17 5. (a) Length of sentence: 12-48 MOS. / 5-20 YEARS

18 (b) If sentence is death, state any date upon which execution is scheduled: _____

19 6. Are you presently serving a sentence for a conviction other than the conviction under attack in
20 this motion:

21 Yes _____ No X If "Yes", list crime, case number and sentence being served at this time: _____

22
23 7. Nature of offense involved in conviction being challenged: ATTEMPTED

24 ROBBERY, SMALL HABITUAL

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

2 (a) Not guilty X

3 (b) Guilty _____

4 (c) Nolo contendere _____

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

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

10 (a) Jury X

11 (b) Judge without a jury _____

12 11. Did you testify at trial? Yes _____ No X

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

14 Yes X No _____

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

16 (a) Name of court: NV. SUPREME COURT

17 (b) Case number or citation: 67673

18 (c) Result: CONVICTION AFFIRMED

19 (d) Date of appeal: 4/2015

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

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

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

result: NO. 84341-COA 9/9/22

information as above, list them on a separate sheet and attach.

result: No. 84547-COA 9/9/22

information as above, list them on a separate sheet and attach.

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

(1) First petition, application or motion?

Yes ☒ No ☐

Citation or date of decision: _____

(2) Second petition, application or motion?

Yes ☒ No ☐

Citation or date of decision: 84547-COA 9/9/22

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You may relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length).

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

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

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

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ x 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length).

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

CONVICTION WAS JUST VACATED
BY COURT OF APPEALS ON 9/22/22

19. Are you filing this petition more than one (1) year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length).

SAME AS ABOVE
#18. CONVICTION VACATED 9/22/22

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

Yes ___ No X

If "Yes", state what court and the case number: _____

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: WASHOE CO. PUBLIC DEFENDER
AND ALTERNATE PUBLIC DEFENDER.

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

Yes ___ No X If "Yes", specify where and when it is to be served, if you know: _____

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

23. (a) GROUND ONE: I AM CURRENTLY BEING HELD IN EXCESS OF THE MAXIMUM SENTENCE FOR WHICH I WAS CONVICED. IN VIOLATION OF MY 8TH AND 14TH AMENDMENT RIGHT.

23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
I WAS ORIGINALLY SENTENCED TO TWELVE (12) TO FORTY-EIGHT (48) MOS. FOR ATTEMPTED ROBBERY AND A CONCURRENT FIVE (5) TO TWENTY (20) YEARS FOR A SMALL HABITUAL ADJUDICATION. WHILE MY CONVICTION WAS ON DIRECT APPEAL, THE DISTRICT COURT FILED A "CORRECTED JUDGMENT" ON 9/22/22, THE NV. STATE COURT OF APPEALS RULED THE "CORRECTED JUDGMENT" ILLEGAL AND REMANDED THE CASE BACK TO THE DISTRICT COURT. I HAVE SERVED IN EXCESS OF EIGHT (8) YEARS. FULLY SATISFING ANY SENTENCE FOR THE ATTEMPTED ROBBERY. THIS COURT CANNOT IMPOSE THE HABITUAL ENHANCEMENT ON A EXPIRED SENTENCE. I AM THEREFORE ENTITLED TO CREDIT FOR TIME SERVED ON THE ATTEMPTED ROBBERY AND BE RELEASED.

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

3 EXECUTED at EDGE TVCC

4 on the 28 day of SEPTEMBER, 2022

5
6 
7 Signature of Petitioner

8 VERIFICATION

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

13
14 
15 Signature of Petitioner

16
17 IN PRO SE
18 Attorney for Petitioner

CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHAEFER, hereby certify, pursuant to NRCP 5(b), that on this
day of 9/28, 2022, I mailed a true and correct copy of the foregoing, "

PETITION FOR WRIT OF HABEAS CORPUS

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

CLERK OF THE COURT
75 COURT ST.
RENO, NV 89501

WASHOE CO. DIST. ATT.
ONE S. SIERRA ST
RENO, NV 89501

CC:FILE

DATED: this 28 day of SEPTEMBER, 2022.



MARC SCHAEFER

91445

/In Propria Personam

Post Office Box 208, S.D.C.C.

Indian Springs, Nevada 89018

IN FORMA PAUPERIS:

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Supreme Court No. 84547
District Court Case No. CR141044

REMITTITUR

TO: Alicia L. Lerud, Washoe District Court Clerk

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

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.
DATE: October 04, 2022

Elizabeth A. Brown, Clerk of Court

By: Sandy Young
Deputy Clerk

cc (without enclosures):

Hon. Connie J. Steinheimer, District Judge
Washoe County District Attorney \ Jennifer P. Noble
Marc Paul Schachter

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on 10-10-2022

J. Viloria
District Court Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Supreme Court No. 84547
District Court Case No. CR141044

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

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

Judgment, as quoted above, entered this 9th day of September, 2022.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
October 04, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Sandy Young
Deputy Clerk



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 84547-COA

FILED

SEP 09 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK*ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING*

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


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


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

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

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

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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

cc: Hon. Connie J. Steinheimer, District Judge
Marc Paul Schachter
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk



CERTIFIED COPY

This document is a full, true and correct copy of
the original on file, and of record in my office.

DATE: 10/4/22

Supreme Court Clerk, State of Nevada

By S. Young Deputy

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KEVIN NAUGHTON, ESQ. - Notification received on 2022-10-06 13:53:35.32.
KELLY KOSSOW, ESQ. - Notification received on 2022-10-06 13:53:34.383.
DIV. OF PAROLE & PROBATION - Notification received on 2022-10-06 13:53:35.008.
ADAM CATE, ESQ. - Notification received on 2022-10-06 13:53:35.726.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-10-06 13:53:34.648.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******

PROOF OF SERVICE OF ELECTRONIC FILING

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

10-06-2022:13:52:41

Clerk Accepted:

10-06-2022:13:53:03

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Remittitur
Supreme Ct Clk's Cert & Judg
Supreme Court Ord Remanding

Filed By:

Deputy Clerk YViloria

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ESQ.

P.O. Box 11130

Reno, NV 89520

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

Address: JARROD T. HICKMAN,
ESQ.

DEPT INDEGENT
DEFENSE SVCS

896 W. NYE ST, STE.
202

CARSON CITY, NV
89703

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

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR14-1044

12 MARC SCHACHTER,

Dept. No. 4

13 Defendant.
14 _____/

15 ORDER

16 On September 9, 2022, the Supreme Court of Nevada entered an Order Affirming in
17 Part, Reversing in Part and Remanding and remittitur issued on October 6, 2022.

18 In the Order Affirming in Part, Reversing in Part and Remanding, the Supreme Court of
19 Nevada found that when the District Court entered the Corrected Judgment of Conviction on
20 July 30, 2015, the District Court did not have jurisdiction to enter such order as the matter was
21 on appeal and directed the District Court to vacate the Corrected Judgment of Conviction
22 entered on July 30, 2015 and reissue a Corrected Judgment of Conviction.

23 Therefore, with good cause appearing and in the interest of justice,

24 IT IS HEREBY ORDERED that the Corrected Judgment of Conviction filed on July 30,
25 2015 is vacated.

26 ///

1 IT IS HEREBY FURTHER ORDERED that the Clerk of the District Court issue the
2 Corrected Judgment of Conviction.

3 DATED this 13 day of October, 2022.

4
5 Connie J. Steinheimer
6 DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the
STATE OF NEVADA, COUNTY OF WASHOE; that on the 13th day of
October, 2022, I filed the attached document with
the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

_____ Personal delivery to the following: [NONE]

X Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:

Kevin Naughton, Esq.
Deputy District Attorney

X Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:

Marc Schachter
Inmate no. 91445
Southern Desert Correction Center
P.O. Box 208
Indian Springs, NV 89070

_____ Placed a true copy in a sealed envelope for service via:

_____ Reno/Carson Messenger Service – [NONE]

_____ Federal Express or other overnight delivery service – **[NONE]**

Via E-Mail – [NONE]

DATED this 13th day of October, 2022.

marble

1 **CODE 1860**
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56 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
89 **STATE OF NEVADA,**10 **Plaintiff,****Case No. CR14-1044**11 **vs.****Dept. No. 4**12 **MARC PAUL SCHACHTER,**13 **Defendant.**
14 _____ /15 **CORRECTED JUDGMENT**

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

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

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

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

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

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

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

18
19 
20 DISTRICT JUDGE
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Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-10-13 17:00:55.579.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-10-13 17:00:54.845.
KELLY KOSSOW, ESQ. - Notification received on 2022-10-13 17:00:53.735.
DIV. OF PAROLE & PROBATION - Notification received on 2022-10-13 17:00:54.47.
ADAM CATE, ESQ. - Notification received on 2022-10-13 17:00:55.251.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-10-13 17:00:54.11.

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

10-13-2022:17:00:16

Clerk Accepted:

10-13-2022:17:00:33

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Order...

Filed By:

Court Clerk MTrabert

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NICKOLAS J. GRAHAM, ESQ. for STATE OF
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ESQ.
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89703

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KELLY KOSSOW, ESQ. - Notification received on 2022-10-13 17:01:37.757.
DIV. OF PAROLE & PROBATION - Notification received on 2022-10-13 17:01:38.914.
ADAM CATE, ESQ. - Notification received on 2022-10-13 17:01:39.914.
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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

10-13-2022:17:00:53

Clerk Accepted:

10-13-2022:17:01:17

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Judgment Conviction-Corrected

Filed By:

Court Clerk MTrabert

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89703

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

MARC SCHACHTER,

Petitioner,

v.

Case No. CR14-1044

THE STATE OF NEVADA

Dept. No. 4

Respondent.

_____/

ORDER

On October 4, 2022, the Petitioner, MARC SCHACHTER, in pro per filed a *Petition for Writ of Habeas Corpus (Post-Conviction)*. The matter was at that time pending before the Nevada Supreme Court. However, Remittitur has since issued on October 6, 2022, returning jurisdiction over this matter to this Court.

This Court having reviewed the pleadings filed herein, finds that a response from the State would assist the Court in deciding the *Petition for Writ of Habeas Corpus (Post-Conviction)* filed on October 4, 2022.

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1 Therefore, with good cause appearing and in the interest of justice,

2 IT IS HEREBY ORDERED that the State of Nevada shall file a response to the *Petition*
3 *for Writ of Habeas Corpus (Post-Conviction)* filed on October 4, 2022 within forty-five (45) days
4 of the date of this Order.

5 DATED this 13 day of October, 2022.

6
7 Connie J. Steinheimer
8 DISTRICT JUDGE
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CERTIFICATE OF SERVICE

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 Via E-Mail – [NONE]

DATED this 13th day of October, 2022.

maurice stone

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JENNIFER NOBLE, ESQ. - Notification received on 2022-10-13 17:03:41.181.
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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

10-13-2022:17:02:55

Clerk Accepted:

10-13-2022:17:03:16

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Order...

Filed By:

Court Clerk MTrabert

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CARSON CITY, NV
89703

V8. 1638

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

FILED

2022 OCT 18 AM 9:18

ALICIA L LERUD
CLERK OF THE COURT

THE SECOND JUDICIAL COURT OF THE STATE
OF NEVADA IN THE COUNTY OF WASHOE

MARC PAUL SCHACHTER,
PETITIONER,

v

GABRIELA NASEKA,
WARDEN
STATE OF NEVADA,
RESPONDENT

CASE NO. CR-14-1044
DEPT. NO. 04

MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF A HABEAS CORPUS

PETITIONER, MARC SCHACHTER, IN PRO SE,
COMES NOW AND INCLUDES THE FOLLOWING
MEMORANDUM TO SUPPORT THE GROUND
RAISED IN HIS PETITION.

V8. 1638

GROUND #1

I AM CURRENTLY BEING HELD IN EXCESS OF THE STATUTORY MAXIMUM FOR THE CRIME I WAS CONVICTED.

IN ITS SEPTEMBER 9, 2022 ORDER, THE NEVADA COURT OF APPEALS ORDERED THIS COURT TO VACATE THE "CORRECTED JUDGMENT" FILED ON 7/30/15. HOWEVER, THE DISTRICT MAY NOT RE-IMPOSE THE SMALL HABITUAL ENHANCEMENT (NRS 207.010) THE STATUTORY MAXIMUM SENTENCE FOR THE ATTEMPTED ROBBERY (COUNT #1) IS TEN (10) YEARS.

THE PETITIONER HAS SERVED IN EXCESS OF EIGHT (8) YEARS; WITH HIS ACCRUED GOOD TIME/WORK TIME CREDITS, HE HAS FULLY SATISFIED ANY AVAILABLE SENTENCE FOR THE ATTEMPTED ROBBERY.

"THE COURT CANNOT REIMPOSE SENTENCE ONCE THE DEFENDANT HAS FULLY SERVED A LAWFUL SENTENCE FOR HIS CRIMES."

[SEE U.S. V. SILVERS, 90 F3d 95 (1996, 4TH CIR.)]

IN A LONG LINE OF CASES, STARTING

WITH EX PARTE CANE, 85 US 163 (1874)
AND U.S. V. LUNDEN, 769 F2d 981 (1985), THE
FEDERAL COURTS HAVE ESTABLISHED GUIDELINES
FOR REIMPOSING A SENTENCE AFTER A
SENTENCE HAS BEEN RULED ILLEGAL. THE
SILVERS COURT STATED:

· ALTHOUGH AN EXPECTATION OF FINALITY
DOES NOT LEGITIMATELY ACCRUE BY THE
COMMENCEMENT OF THE SENTENCE, ONCE
A DEFENDANT FULLY SERVES A SENTENCE
FOR A PARTICULAR CRIME, THE DOUBLE
JEOPARDY CLAUSE'S BAR ON MULTIPLE
PUNISHMENTS PREVENTS ANY ATTEMPT
TO INCREASE THEREAFTER A SENTENCE
FOR THAT CRIME. THE COURT CANNOT
REIMPOSE SENTENCE ONCE DEFENDANT
HAS FULLY SERVED A LAWFUL SENTENCE
FOR HIS CRIMES [U.S. V. SILVERS, SUPRA
@ 90 F3d 101]

THE COURT CANNOT USE THE EXTENTION
OF TIME PROVIDED BY THE ENHANCEMENT
TO NOW REIMPOSE THAT ENHANCEMENT.

