

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

VOLUME 9 OF 10

DOCUMENTS

APPELLANT

Marc Schachter
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RESPONDENT

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APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
ADDENDUM TO DEMAND FOR LEGAL MATERIALS AND LEGAL SUPPLIES	08-21-14	2	131-134
ADDENDUM TO MOTION FOR ROUGH DRAFT TRANSCRIPT AT PUBLIC EXPENSE	01-06-15	4	680-682
ADDENDUM TO MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	12-13-21	8	1539-1541
ADDENDUM TO TRIAL STATEMENT	09-22-14	3	360-361
AFFIDAVIT OF SERVICE	08-26-14	2	193-194
AMENDED INFORMATION	07-14-14	2	29-33
AMENDED SUPPLEMENTAL TO PRESENTENCE INVESTIGATION REPORT – DATED DEC 31, 2014	02-23-15	10	28-47
ANSWER TO MOTION IN LIMINE RE: PRIOR BAD ACTS OF THE STATES WITNESSES	08-26-14	2	174-176
ANSWER TO STATE’S MOTION IN LIMINE AS DEFENDANT’S EXAMINATION OF WITNESSES	08-26-14	2	177-179
APPLICATION FOR ELECTRONIC FILING AND SERVICE EXEMPTION	07-25-23	9	1769-1771
APPLICATION FOR ORDER TO PRODUCE PRISONER	12-08-21	8	1529-1530
APPLICATION FOR ORDER TO PRODUCE PRISONER	02-22-23	9	1698-1700
APPLICATION FOR SETTING	08-14-14	2	86
APPLICATION FOR SETTING	10-28-14	3	440
APPLICATION FOR SETTING	12-08-14	4	534-535
APPLICATION FOR SETTING	12-09-14	4	617-618
APPLICATION FOR SETTING	02-22-23	9	1693-1694
CASE APPEAL STATEMENT	03-26-15	7	1284-1286
CASE APPEAL STATEMENT	04-08-22	8	1573-1574
CASE APPEAL STATEMENT	07-26-23	9	1787-1788
CERTIFICATE OF CLERK AND TRANSMITTAL	07-21-15	7	1414
CERTIFICATE OF CLERK AND TRANSMITTAL	08-03-15	7	1427
CERTIFICATE OF CLERK AND TRANSMITTAL	08-03-15	7	1428
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	03-27-15	7	1298

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	04-08-22	8	1575
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	07-26-23	9	1789
CERTIFICATE OF CLERK AND TRANSMITTAL – ORIGINAL EXHIBITS	05-02-16	7	1436
CERTIFICATE OF CLERK AND TRANSMITTAL – ORIGINAL EXHIBITS	05-02-16	7	1437-1439
CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL	04-28-22	8	1588
CERTIFICATE OF SERVICE	07-17-23	9	1761-1762
CHANGE OF ADDRESS	09-15-23	9	1807-1808
CORRECTED JUDGMENT	07-30-15	7	1418-1419
CORRECTED JUDGMENT	10-13-22	8	1624-1625
COURT SERVICES REPORT	07-03-14	2	16-18
DECLARATION OF A PRO PER DEFENDANT	07-24-14	10	3-5
DEMAND FOR LEGAL MATERIALS AND LEGAL SUPPLIES	08-21-14	2	126-130
DESIGNATION OF RECORD ON APPEAL	04-08-22	8	1570-1572
DESIGNATION OF RECORD ON APPEAL	07-25-23	9	1772-1774
INFORMATION	07-10-14	2	21-25
JOINT MOTION TO UNSEAL EX PARTE MOTION FILE WITH THE COURT	06-11-15	7	1393-1396
JUDGMENT	03-05-15	7	1266-1267
JURY INSTRUCTIONS	09-24-14	3	367-394
JURY INSTRUCTIONS READ TO THE JURY PRIOR TO COMMENCEMENT OF TRIAL	09-22-14	3	353-354
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF A HABEAS CORPUS	10-18-22	8	1638-1641
MINUTES – ARRAIGNMENT	07-17-14	2	37
MINUTES – CONTINUED ARRAIGNMENT – 07-24-14	08-18-14	2	90
MINUTES – ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE – 2-26-15	03-23-15	7	1271-1277
MINUTES – IN-CHAMBERS CONFERENCE REGARDING JUDGMENT OF CONVICTION – 3-5-15	03-30-15	7	1302
MINUTES – JURY TRIAL – DAY ONE 9-22-14	10-22-14	3	412-416

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
MINUTES – JURY TRIAL – DAY THREE – 9-24-14	10-23-14	3	427-432
MINUTES – JURY TRIAL – DAY TWO – 9-23-14	10-23-14	3	420-423
MINUTES – MOTION TO SET TRIAL – 7-31-14	08-19-14	2	94
MINUTES – ONGOING PRE-TRIAL MOTIONS/MOTION TO CONFIRM TRIAL DATE – 9-11-14	05-12-15	7	1376-1379
MINUTES – ORAL ARGUMENTS ON MOTON TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	03-25-22	8	1557
MINUTES – PRE-TRIAL MOTIONS 9-3-14	09-10-14	2	242-245
MINUTES – STATUS HEARING – 11-20-14	12-09-14	4	622
MINUTES – STATUS HEARING – 12-11-14	02-06-15	5	969
MINUTES – STATUS HEARING REGARDING DISCOVERY 08-21-14	09-09-14	2	238
MINUTES – STATUS HEARING REGARDING SELF-REPRESENTATION – 10-2-14	10-24-14	3	436
MINUTES – STATUS HEARING REGARDING SELF-REPRESENTATION 11-13-14	12-11-14	4	626
MOTION AND ORDER TO OBTAIN MATERIAL AND EXCULPATORY VIDEO RECORDING	08-21-14	2	113-117
MOTION FOR CLARIFICATION OF PRE-TRIAL ORDER	11-18-14	3	447-449
MOTION FOR PRELIMINARY HEARING TRANSCRIPTS	08-21-14	2	107-109
MOTION FOR ROUGH DRAFT TRANSCRIPT AT PUBLIC EXPENSE	12-23-14	4	630-632
MOTION FOR THE PRODUCTION OF REPLACEMENT AND/OR SUBSTITUTE LOST / DESTROYED EVIDENCE	08-21-14	2	118-120
MOTION FOR TRIAL TRANSCRIPTS AT PUBLIC EXPENSE	11-18-14	3	454-456
MOTION IN COMPEL RE: SURVEILLANCE VIDEO EVIDENCE	08-21-14	2	121-125
MOTION IN LIMINE REGARDING DEFENDANT’S EXAMINATION OF WITNESSES	08-22-14	2	160-163
MOTION IN LIMINE REGARDING PRIOR BAD ACTS, IF ANY, OF THE STATE’S WITNESSES	08-22-14	2	164-167
MOTION TO ADVISE WITNESSES FOR THE STATE OF THEIR PRIVILEGE AGAINST SELF-INCRIMINATION	08-21-14	2	104-106
MOTION TO APPOINT INVESTIGATOR FOR A PR PER DEFENDANT AT THE EXPENSE OF THE STATE	07-24-14	10	1-2
MOTION TO COMPEL PRODUCTION OF CLIENT FILE	01-02-15	4	648-656

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
MOTION TO COMPEL THE STATE TO PROVIDE EXCULPATORY MATERIAL (BRADY) IN ITS POSSESSION	08-21-14	2	110-112
MOTION TO CONTINUE ORAL ARGUMENTS	05-30-23	9	1722-1727
MOTION TO DISMISS CASE FOR PREJUDICIAL DELAY CAUSING LOSS OF EXCULPATORY MATERIAL EVIDENCE	08-22-14	2	147-153
MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE	08-21-14	2	98-103
MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE	08-21-14	2	135-140
MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	11-28-22	9	1642-1647
MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	06-11-21	8	1466-1490
MOTION TO SUBMIT REQUEST FOR CASE FILE FOR JUDICIAL DECISION	05-11-15	7	1368-1374
NOTICE 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 PM	03-15-22	8	1550-1553
NOTICE OF APPEAL	03-26-15	7	1287-1288
NOTICE OF APPEAL	04-08-22	8	1568-1569
NOTICE OF APPEAL	07-25-23	9	1766-1768
NOTICE OF APPEARANCE	09-17-14	3	336
NOTICE OF APPEARANCE OF STAND-BY COUNSEL	11-26-14	4	505
NOTICE OF CHANGE OF ADDRESS	05-11-15	7	1375
NOTICE OF CHANGE OF ADDRESS	07-17-23	9	1756-1757
NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY	06-17-21	8	1494-1495
NOTICE OF ENTRY OF ORDER	01-14-15	4	708-709
NOTICE OF ENTRY OF ORDER	07-17-23	9	1748-1752
NOTICE OF FAMILIAL EMPLOYMENT IN THE WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE	01-12-22	8	1545-1546
NOTICE OF STATE'S INTENT TO IMPEACH DEFENDANT'S CREDIBILITY WITH HIS PRIOR FELONY CONVICTIONS IF HE DECIDES TO TESTIFY	08-22-14	2	157-159
NOTICE OF WITHDRAWAL OF MOTION TO COMPEL PRODUCTION OF CLIENT FILE	01-15-15	4	713-715

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
NOTICE OF WITNESS PURSUANT TO NRS 174.234	09-17-14	3	337-340
NOTICE OF WITNESSES PURSUANT TO NRS 174.234	09-18-14	3	347-349
OBJECTION TO PRESENTENCE REPORT	11-20-14	10	15-17
OMNIBUS OPPOSITION TO DEFENDANT'S POST-TRIAL FILINGS	12-02-14	4	515-520
OMNIBUS OPPOSITION TO DEFENDANT'S PRETRIAL MOTIONS	08-28-14	2	205-221
OPPOSITION TO MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	06-17-21	8	1496-1499
ORDER	07-30-15	7	1420
ORDER	09-10-21	8	1517-1519
ORDER	12-07-21	8	1523-1525
ORDER	10-13-22	8	1621-1623
ORDER	10-13-22	8	1632-1634
ORDER CONTINUING SENTENCING	12-08-14	4	529-530
ORDER DENYING DEFENDANT'S MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE	09-16-14	3	327-332
ORDER DENYING MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	03-28-22	8	1561-1564
ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POSTCONVICTION)	07-17-23	9	1742-1744
ORDER FOR ROUGH DRAFT TRANSCRIPTS AT PUBLIC EXPENSE	01-13-15	4	704
ORDER GRANTING APPLICATION FOR ELECTRONIC FILING AND SERVICE EXEMPTION	07-27-23	9	1793-1794
ORDER GRANTING MOTION TO CONTINUE	06-09-23	9	1735-1738
ORDER GRANTING WITHDRAWAL OF COUNSEL	11-26-14	4	506-508
ORDER OF SELF-REPRESENTATION AND APPOINTMENT OF STAND-BY COUNSEL	07-31-14	2	41-43
ORDER TO PRODUCE PRISONER	02-27-23	9	1704-1705
ORDER TO PRODUCE PRISONER VIA SIMULTANEOUS AUDIO/VISUAL TRANSMISSION	12-10-21	8	1534-1535
ORDER TO SET	02-14-23	9	1687-1689

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
ORDER TO UNSEAL EX PARTE MOTION FILE WITH THE COURT	07-02-15	7	1406
PETITION FOR WRIT OF HABEAS CORPUS	11-18-14	3	457-484
PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	10-04-22	8	1602-1611
PRESENTENCE INVESTIGATION REPORT	11-12-14	10	6-14
PRETRIAL ORDER	08-05-14	2	47-51
PROCEEDINGS	07-03-14	2	1-15
REPLY TO STATE'S OPPOSITION TO MOTION TO MODIFY AND/OR CORRECT AN ILLEGAL SENTENCE	07-06-21	8	1503-1507
REQUEST FOR CASE FILE OF STAND-BY COUNSEL INCLUDING ALL WORK-PRODUCT	11-18-14	3	450-453
REQUEST FOR EXPEDITED HEARING OF PETITIONER'S WRIT OF HABEAS CORPUS	01-31-23	9	1682-1686
REQUEST FOR ROUGH DRAFT TRANSCRIPT	03-26-15	7	1281-1283
REQUEST FOR SUBMISSION	06-11-15	7	1400-1402
REQUEST FOR SUBMISSION	07-06-21	8	1511-1513
REQUEST FOR SUBMISSION	12-13-21	8	1542-1544
REQUEST FOR SUBMISSION	12-19-22	9	1679-1681
REQUEST FOR SUBMISSIONS	01-13-15	4	698-700
REQUEST, STIPULATION AND ORDER RE PRE-PRELIMINARY HEARING AND PRE-TRIAL RECIPROCAL DISCOVERY (FELONY AND GROSS MISDEMEANOR CASES)	08-26-14	2	186-189
RESPONSE TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	12-19-22	9	1671-1678
RETURN OF NEF	07-03-14	2	19-20
RETURN OF NEF	07-10-14	2	26-28
RETURN OF NEF	07-14-14	2	34-36
RETURN OF NEF	07-17-14	2	38-40
RETURN OF NEF	07-31-14	2	44-46
RETURN OF NEF	08-05-14	2	52-54
RETURN OF NEF	08-11-14	2	83-85

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	08-14-14	2	87-89
RETURN OF NEF	08-18-14	2	91-93
RETURN OF NEF	08-19-14	2	95-97
RETURN OF NEF	08-21-14	2	141-143
RETURN OF NEF	08-22-14	2	144-146
RETURN OF NEF	08-22-14	2	154-156
RETURN OF NEF	08-22-14	2	168-170
RETURN OF NEF	08-22-14	2	171-173
RETURN OF NEF	08-26-14	2	180-182
RETURN OF NEF	08-26-14	2	183-185
RETURN OF NEF	08-26-14	2	190-192
RETURN OF NEF	08-26-14	2	195-197
RETURN OF NEF	08-28-14	2	222-224
RETURN OF NEF	09-02-14	2	235-237
RETURN OF NEF	09-09-14	2	239-241
RETURN OF NEF	09-10-14	2	246-248
RETURN OF NEF	09-15-14	3	324-326
RETURN OF NEF	09-16-14	3	333-335
RETURN OF NEF	09-17-14	3	341-343
RETURN OF NEF	09-17-14	3	344-346
RETURN OF NEF	09-18-14	3	350-352
RETURN OF NEF	09-29-14	3	409-411
RETURN OF NEF	10-22-14	3	417-419
RETURN OF NEF	10-23-14	3	424-426
RETURN OF NEF	10-23-14	3	433-435
RETURN OF NEF	10-24-14	3	437-439

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	11-12-14	3	441-443
RETURN OF NEF	11-12-14	3	444-446
RETURN OF NEF	11-18-14	3	485-487
RETURN OF NEF	11-19-14	4	502-504
RETURN OF NEF	11-26-14	4	509-511
RETURN OF NEF	11-26-14	4	512-514
RETURN OF NEF	12-02-14	4	521-523
RETURN OF NEF	12-03-14	4	526-528
RETURN OF NEF	12-08-14	4	531-533
RETURN OF NEF	12-08-14	4	536-538
RETURN OF NEF	12-08-14	4	614-616
RETURN OF NEF	12-09-14	4	619-621
RETURN OF NEF	12-09-14	4	623-625
RETURN OF NEF	12-11-14	4	627-629
RETURN OF NEF	12-23-14	4	633-635
RETURN OF NEF	12-30-14	4	645-647
RETURN OF NEF	01-02-15	4	657-659
RETURN OF NEF	02-04-15	4	677-679
RETURN OF NEF	01-06-15	4	683-685
RETURN OF NEF	01-11-15	4	695-697
RETURN OF NEF	01-13-15	4	701-703
RETURN OF NEF	01-13-15	4	705-707
RETURN OF NEF	01-14-15	4	710-712
RETURN OF NEF	01-15-15	4	716-718
RETURN OF NEF	01-26-15	4	719-721
RETURN OF NEF	02-03-15	5	822-824

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	02-03-15	5	932-934
RETURN OF NEF	02-03-15	5	966-968
RETURN OF NEF	02-06-15	6	970-972
RETURN OF NEF	02-11-15	7	1250-1252
RETURN OF NEF	02-20-15	7	1260-1262
RETURN OF NEF	02-23-15	7	1263-1265
RETURN OF NEF	03-05-15	7	1268-1270
RETURN OF NEF	03-23-15	7	1278-1280
RETURN OF NEF	03-26-15	7	1289-1291
RETURN OF NEF	03-27-15	7	1292-1294
RETURN OF NEF	03-27-15	7	1295-1297
RETURN OF NEF	03-27-15	7	1299-1301
RETURN OF NEF	03-30-15	7	1303-1305
RETURN OF NEF	04-16-15	7	1361-1363
RETURN OF NEF	04-24-15	7	1365-1367
RETURN OF NEF	05-12-15	7	1380-1382
RETURN OF NEF	06-02-15	7	1390-1392
RETURN OF NEF	06-11-15	7	1397-1399
RETURN OF NEF	06-12-15	7	1403-1405
RETURN OF NEF	07-02-15	7	1407-1409
RETURN OF NEF	07-15-15	7	1411-1413
RETURN OF NEF	07-21-15	7	1415-1417
RETURN OF NEF	07-30-15	7	1421-1423
RETURN OF NEF	07-30-15	7	1424-1426
RETURN OF NEF	08-03-15	7	1429-1431
RETURN OF NEF	04-27-16	7	1433-1435

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	05-02-16	7	1440-1442
RETURN OF NEF	08-18-16	7	1448-1450
RETURN OF NEF	09-13-16	7	1452-1454
RETURN OF NEF	09-13-16	8	1463-1465
RETURN OF NEF	06-11-21	8	1491-1493
RETURN OF NEF	06-17-21	8	1500-1502
RETURN OF NEF	07-06-21	8	1508-1510
RETURN OF NEF	07-06-21	8	1514-1516
RETURN OF NEF	09-10-21	8	1520-1522
RETURN OF NEF	12-07-21	8	1526-1528
RETURN OF NEF	12-08-21	8	1531-1533
RETURN OF NEF	12-10-21	8	1536-1538
RETURN OF NEF	01-12-22	8	1547-1549
RETURN OF NEF	03-15-22	8	1554-1556
RETURN OF NEF	03-25-22	8	1558-1560
RETURN OF NEF	03-28-22	8	1565-1567
RETURN OF NEF	04-08-22	8	1576-1578
RETURN OF NEF	04-15-22	8	1580-1582
RETURN OF NEF	04-21-22	8	1585-1587
RETURN OF NEF	04-28-22	8	1589-1591
RETURN OF NEF	08-04-22	8	1593-1595
RETURN OF NEF	09-13-22	8	1599-1601
RETURN OF NEF	10-06-22	8	1618-1620
RETURN OF NEF	10-13-22	8	1626-1628
RETURN OF NEF	10-13-22	8	1629-1631
RETURN OF NEF	10-13-22	8	1635-1637

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	11-28-22	9	1648-1650
RETURN OF NEF	12-11-22	9	1668-1670
RETURN OF NEF	02-14-23	9	1690-1692
RETURN OF NEF	02-22-23	9	1695-1697
RETURN OF NEF	02-22-23	9	1701-1703
RETURN OF NEF	02-27-23	9	1706-1708
RETURN OF NEF	04-10-23	9	1710-1712
RETURN OF NEF	04-19-23	9	1715-1717
RETURN OF NEF	05-10-23	9	1719-1721
RETURN OF NEF	05-30-23	9	1728-1730
RETURN OF NEF	06-05-23	9	1732-1734
RETURN OF NEF	06-09-23	9	1739-1741
RETURN OF NEF	07-17-23	9	1745-1747
RETURN OF NEF	07-17-23	9	1753-1755
RETURN OF NEF	07-17-23	9	1758-1760
RETURN OF NEF	07-17-23	9	1763-1765
RETURN OF NEF	07-25-23	9	1784-1786
RETURN OF NEF	07-26-23	9	1790-1792
RETURN OF NEF	07-27-23	9	1795-1797
RETURN OF NEF	07-31-23	9	1799-1801
RETURN OF NEF	09-15-23	9	1804-1806
RETURN OF NEF	09-15-23	9	1809-1811
ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS – JURY TRIAL – SEPT 22, 2014	02-11-15	6	973-1107
ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS – JURY TRIAL – SEPT 23, 2014	02-11-15	6, 7	1108-1249
SENTENCING MEMORANDUM	02-20-15	7	1253-1259

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
STIPULATION TO CONTINUE	12-03-14	4	524-525
SUPPLEMENTAL PROCEEDINGS	08-27-14	2	198-204
SUPPLEMENTAL TO PRESENTENCE INVESTIGATION REPORT – DATED OCT 29, 2014	01-26-15	10	18-27
SUPREME COURT	04-10-23	9	1709
SUPREME COURT CLERK’S CERTIFICATE & JUDGMENT	09-13-16	7	1456
SUPREME COURT CLERK’S CERTIFICATE & JUDGMENT	10-06-22	8	1613
SUPREME COURT NOTICE IN LIEU OF REMITTITUR	06-05-23	9	1731
SUPREME COURT NOTICE OF RETURN OF RECORD	09-13-16	7	1451
SUPREME COURT NOTICE OF TRANSFER TO COURT OF APPEALS	08-04-22	8	1592
SUPREME COURT ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING	09-13-22	8	1596-1598
SUPREME COURT ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING	10-06-22	8	1614-1617
SUPREME COURT ORDER DENYING PETITION	04-19-23	9	1713-1714
SUPREME COURT ORDER DENYING REHEARING	05-10-23	9	1718
SUPREME COURT ORDER DIRECTING TRANSMISSION OF EXHIBIT	04-27-16	7	1432
SUPREME COURT ORDER DIRECTING TRANSMISSION OF EXHIBITS	07-15-15	7	1410
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD AND REGARDING BRIEFING	04-21-22	8	1583-1584
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD AND REGARDING BRIEFING	09-15-23	9	1802-1803
SUPREME COURT ORDER OF AFFIRMANCE	08-18-16	7	1443-1447
SUPREME COURT ORDER OF AFFIRMANCE	09-13-16	7	1457-1462
SUPREME COURT RECEIPT FOR DOCUMENTS	04-24-15	7	1364
SUPREME COURT RECEIPT FOR DOCUMENTS	04-15-22	8	1579
SUPREME COURT RECEIPT FOR DOCUMENTS	07-31-23	9	1798
SUPREME COURT REMITTITUR	09-13-16	7	1455
SUPREME COURT REMITTITUR	10-06-22	8	1612

APPEAL INDEX
SUPREME COURT NO: 87040
DISTRICT CASE NO: CR14-1044
MARC PAUL SCHACHTER VS STATE OF NEVADA
DATE: OCTOBER 3, 2023

PLEADING	DATE FILED	VOL.	PAGE NO.
TRANSCRIPT OF PROCEEDINGS – ARRAIGNMENT – JULY 17, 2014	06-02-15	7	1383-1389
TRANSCRIPT OF PROCEEDINGS - ARRAIGNMENT – JULY 24, 2014	08-11-14	2	55-82
TRANSCRIPT OF PROCEEDINGS – MOTION TO SET TRIAL – JULY 31, 2014	09-02-14	2	225-234
TRANSCRIPT OF PROCEEDINGS – ORAL ARGUMENTS – 3/25/22	12-11-22	9	1651-1667
TRANSCRIPT OF PROCEEDINGS – ORAL ARGUMENTS – 7/13/23	07-25-23	9	1775-1783
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS – SEPT 13, 2014	02-03-15	5	825-931
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS – 9/3/14	02-03-15	5	722-771
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS – 9/3/14	02-03-15	5	772-821
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS PARTIAL TRANSCRIPT – SEPT 11, 2014	09-15-14	3	249-323
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS PARTIAL TRANSCRIPT – SEPT 11, 2014	12-08-14	4	539-613
TRANSCRIPT OF PROCEEDINGS – SENTENCING – FEB 26, 2015	04-16-15	7	1306-1360
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – NOV. 13, 2014	12-30-14	4	636-644
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – 11-20-14	01-04-15	4	660-676
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – DEC. 11, 2014	01-11-15	4	686-694
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – OCT 2, 2014	11-19-14	4	488-501
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – SEPT 23, 2014	09-29-14	3	399-408
TRANSCRIPT OF PROCEEDINGS – TRIAL – SEPT 24, 2014	02-03-15	5	935-965
TRIAL STATEMENT	09-22-14	3	355-359
TRIAL STATEMENT	09-22-14	3	362-366
UNUSED VERDICT FORMS	09-24-14	3	396
UNUSED VERDICT FORMS	09-24-14	3	397
UNUSED VERDICT FORMS	09-24-14	3	398
VERDICT	09-24-14	3	395

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Attorney for Respondent

IN THE SECOND JUDICIAL DISTRICT COURT 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.

_____ /

**MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)**

COMES NOW, Respondent, by and through Kevin Naughton, Appellate Deputy, and moves to dismiss Petitioner Marc Schachter's (hereinafter "Petitioner") Petition for Writ of Habeas Corpus (Post-Conviction) filed on October 4, 2022. This Motion is based upon the records of this Court and the following points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Statement of the Case

The Petitioner was convicted by a jury of Attempted Robbery. At sentencing, the Court declared the Defendant a habitual criminal. See Judgment filed March 5, 2015. In the Judgment, the Court sentenced the Petitioner 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 Petitioner 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 Petitioner filed a Motion to Modify and/or Correct Illegal Sentence. The State opposed on June 17, 2021. The Petitioner filed a reply on July 6, 2021, and formally submitted the matter for the Court’s review. The Court conducted a hearing on the motion on March 25, 2022, and subsequently entered an order denying the Petitioner’s motion on March 28, 2022. The Petitioner appealed.

On September 9, 2022, the Nevada Court of Appeals entered an Order Affirming in Part, Reversing in Part and Remanding. Schachter v. State, Docket No. 84547-COA. In that Order, the Court of Appeals held that because the Nevada Supreme Court had not yet issued its remittitur on the Petitioner’s direct appeal, the district court was without jurisdiction to issue its corrected judgment of conviction. As a result, it directed “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.” *Id.*

On October 13, 2022, following the Court of Appeals’ order, this Court entered an Order vacating the Corrected Judgment of Conviction filed on July 30, 2015, and directing the clerk to issue the Corrected Judgment of Conviction. On that same day, the Court issued its Corrected Judgment.

Before the Court of Appeals had issued its remittitur, the Petitioner filed a Petition for a Writ of Habeas Corpus (Post-Conviction) (“Petition”) on October 4, 2022. On October 13, 2022, the Court entered an Order directing the State to respond within

45 days. On October 18, 2022, the Petitioner filed a Memorandum of Points and Authorities in support of his Petition. This Motion to Dismiss follows.

Argument

The Petition seeks to exploit an alleged loophole in the timing of the various judgments of conviction that have been entered in this case. According to the Petition, the Petitioner was originally sentenced to a term of 12 to 48 months imprisonment on an Attempted Robbery conviction with a concurrent term of 5 to 20 years for being adjudicated pursuant to the small habitual criminal statutes. While the Petitioner's direct appeal was pending, the district court entered its first Corrected Judgment, clarifying that the sentence for the habitual criminal adjudication superseded and took the place of the sentence for the Attempted Robbery conviction. The Petition claims that the recent Court of Appeals Order "ruled the 'corrected judgment' illegal." Petition, p. 7. It also claims that the "conviction was just vacated by Court of Appeals on 9/22/22." Petition, p. 6. Apparently, the Petitioner believes that because the Corrected Judgment was originally entered when this Court lacked jurisdiction as a result of the Nevada Supreme Court not yet having issued its remittitur on the Petitioner's direct appeal, then he was only legally sentenced to a term of 12 to 48 months for Attempted Robbery, and that because the Nevada Court of Appeals directed this Court to vacate its Corrected Judgment, that 12 to 48 months sentence was the only sentence imposed, and because he had already served sufficient time to satisfy that sentence, he must be released from prison.

The Petitioner's chain of logical conclusions is shaky at best and misstates the Court of Appeals' ruling. In its Order, the Court of Appeals directed this Court to vacate its Corrected Judgment and then reissue it. This Court did exactly that on October 13,

2022. Moreover, the Petitioner has never been sentenced only to a term of 12 to 48 months imprisonment for the Attempted Robbery conviction. Rather, as demonstrated by the sentencing transcript and the various judgments that have issued since the sentencing hearing, it was the Court's intention to sentence the Petitioner as a habitual criminal with that sentence superseding and taking the place of the sentence that would otherwise have been imposed for the Petitioner's underlying conviction. See Cohen v. State, 97 Nev. 166, 169, 625 P.2d 1170, 1172 (1981) (holding that "the purpose of the habitual criminal statute is not to charge a separate substantive crime, but to allege a fact which may enhance the punishment" and, therefore, "[o]nly one sentence may be imposed.") (citations omitted).

Because a court can correct an illegal sentence at any time, and because the Court has now issued its Corrected Judgment when it was vested with jurisdiction as a result of the Court of Appeals' remittitur, the Corrected Judgment issued on October 13, 2022, properly set forth the Petitioner's sentence as a habitual criminal. NRS 176.555. And because it was issued nunc pro tunc to February 26, 2015, it was correctly issued to make the "record speak the truth concerning acts done." Finley v. Finley, 65 Nev. 113, 118, 189 P.2d 334, 337 (1948) *overruled on other grounds by* Day v. Day, 80 Nev. 386, 395 P.2d 321 (1964).

An evidentiary hearing on a habeas petition is mandated only if a petitioner asserts specific factual allegations that, if true, would warrant relief and are not belied or repelled by the record. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984); Nika v. State, 124 Nev. 1272, 198 P.3d 839 (2008). The Petition asserts facts that are belied by the record – the Petitioner's claim that he was only sentenced to a term of 12 to 48 months on the Attempted Robbery conviction is clearly dispelled by consultation with

the Court's records concerning his sentencing hearing and the Petitioner's claim that the Court of Appeals vacated his conviction or ruled that the Corrected Judgment was illegal is clearly contradictory to the plain language of that Order. As a result, the Petitioner has failed to allege facts that, if true, would warrant the relief he requests, *i.e.*, immediate release from prison because he has served more than the maximum potential penalty imposed for the Attempted Robbery conviction, and thus, his Petition should be dismissed.

Conclusion

The Petition sets forth a carefully crafted recitation of the procedural history of the Petitioner's sentence. Unfortunately, that version of events is not supported by the record or by the clear intention of this Court to sentence the Petitioner as a habitual criminal. As a result, the Petitioner has been correctly sentenced pursuant to the Corrected Judgment entered on October 13, 2022, nunc pro tunc to February 26, 2015, to accurately reflect the sentence imposed. Because the Corrected Judgment has now been entered when this Court was vested with jurisdiction, the Petitioner is properly sentenced, and the Petition seeks relief which cannot be granted. The Petition should be denied without an evidentiary hearing.

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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: November 28, 2022.

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 November 28, 2022, 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
Three Lakes Conservation Center
P.O. Box 208
Indian Springs, NV 89070

/s/ Tatyana Ducummon
TATYANA DUCUMMON

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-11-28 10:51:56.115.
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KELLY KOSSOW, ESQ. - Notification received on 2022-11-28 10:51:52.506.
DIV. OF PAROLE & PROBATION - Notification received on 2022-11-28 10:51:54.162.
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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:

11-28-2022:10:50:14

Clerk Accepted:

11-28-2022:10:51:36

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Mtn to Dismiss Pet

Filed By:

Kevin Naughton

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

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, 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.):

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1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

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

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

)

12 Plaintiff,)

)

13 vs.)

CASE NO. CR14-1044

)

DEPARTMENT NO. 4

14 MARC PAUL SCHACHTER,)

)

15 Defendant.)

)

17 TRANSCRIPT OF PROCEEDINGS

18 ORAL ARGUMENTS

19 FRIDAY, MARCH 25, 2022, 10:00 A.M.

20 Reno, Nevada

23 Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
24 Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: NATHAN MAC

 DEPUTY DISTRICT ATTORNEY

 1 S. SIERRA STREET

 RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER

 BY: ^ THERESA RISTENPART,

 ESQ. ^ SEAN SULLIVAN, ESQ. ^

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

1 RENO, NEVADA; FRIDAY, MARCH 25, 2022; 10:00 A.M.

2 -oOo-

3 THE COURT: Thank you. Please be seated. Good
4 morning.

5 THE DEFENDANT: Good morning, Your Honor.

6 THE COURT: Good morning. Let the record reflect
7 that this session of the court is taking place on March 25,
8 2022, at approximately 10:00 a.m. It is being held remotely
9 because of the closure of the courthouse based on the
10 administrative orders entered in the District Court and all
11 the participants are appearing through simultaneous
12 audiovisual transmission. I am physically located in Reno,
13 Washoe County, Nevada, which is the site of today's court
14 session.

15 I would ask the Court personnel to identify
16 themselves and where they are appearing from at this time. We
17 will begin with the court clerk.

18 THE CLERK: Good morning. My name is Marci Stone,
19 court clerk.

20 COURT REPORTER: Judy Schonlau, court reporter,
21 Washoe County, Nevada.

22 THE COURT: Further, the record should also reflect
23 this session of the Court is open to the public for viewing
24 and listening to the proceedings through the video-audio link

1 found at the washoecourts.us website. If anyone cannot see
2 and hear the other participants in their argument while it is
3 progressing, you must notify me.

4 I ask all participants state their name and their
5 physical location and whether or not they received notice this
6 hearing is taking place pursuant to Nevada Supreme Court Rules
7 Part IX relating to simultaneous audiovisual transmission
8 hearings. We'll begin with the State identifying himself.

9 This is CR14-1044, and it is a hearing on a motion
10 to modify or correct illegal sentence.

11 MR. NAUGHTON: Good morning, Kevin Naughton for the
12 State. I am physically located in Reno, Washoe County,
13 Nevada. I received all the appropriate notices and have no
14 objection to proceeding in this manner.

15 THE COURT: Thank you. Mr. Schachter.

16 THE DEFENDANT: My name is Mr. Marc Schachter,
17 defendant. I am presently located in Indian Springs, Clark
18 County, Nevada, and I have no objection to the conference.

19 THE COURT: Okay. Thank you. So today is a motion
20 to modify or correct sentence. I am in receipt of the original
21 motion as well as the addendum that was filed to that motion.
22 Mr. Schachter, it is your time to tell me what you think I
23 need to know. I have read all the pleadings, so you can just
24 tell me the high points.

1 THE DEFENDANT: Okay, Your Honor. Is there anything
2 in particular? It don't seem like the State is arguing the
3 jurisdictional issues. Is there something in particular that
4 you would like to know to save time?

5 THE COURT: There really isn't, but did you want me
6 to have the State argue why I should deny your request and
7 then you can respond to that? Would that be a little easier?

8 THE DEFENDANT: I think it would, Your Honor.

9 THE COURT: Okay. Mr. Naughton.

10 THE DEFENDANT: Please.

11 MR. NAUGHTON: Thank you, Your Honor. In addition to
12 the written Opposition that we provided, I would just like to
13 point out two things of note. First in the Order of
14 Affirmance by the Supreme Court in Mr. Schachter's direct
15 appeal at Footnote 1, the Nevada Supreme Court noted that this
16 Court's Corrected Judgment of Conviction appropriately
17 sentenced the defendant to a single sentence rather than the
18 double sentence that was run concurrently originally, and that
19 is the appropriate method of sentencing the habitual criminal
20 as the Court recognized. Additionally, Mr. Schachter's Reply
21 cited to the Hollander v. State at 82 Nev. 345. In that case,
22 the Nevada Supreme Court citing back to an earlier decision in
23 Lisbee pointed out failure to properly sentence does not
24 render the entire trial and proceeding in nullity. The case

1 cited immediately above supports the Court ability to modify
2 the sentence.

3 Even if this Court agrees that the defendant's
4 sentence is illegal or subject to modification, which we
5 obviously oppose, the appropriate resolution is not to impose
6 a sentence for the robbery charge and let the defendant out at
7 this point in time based upon the time he's already served. It
8 is the corrected Judgment property imposing the sentence being
9 adjudicated habitual criminal as this defendant was at the
10 time of sentencing. For those reasons, in addition to the
11 fact that this is not appropriately a motion to correct an
12 illegal sentence as it doesn't challenge the legal
13 jurisdiction of this Court to oppose that sentence, I don't
14 believe that the sentence is subject to modification. I think
15 the corrected judgment took care of the issue that was present
16 in the original Judgment of Conviction. The defendant is under
17 the appropriate sentence at this point in time. Any issue as
18 to the jurisdictional issue on appeal is moot as the corrected
19 Judgment of Correction appropriately reflects the imposed
20 subpoena and the motion should be denied.

21 THE COURT: Okay. Thank you. Mr. Schachter.

22 THE DEFENDANT: I would refer back to the motion, my
23 original motion that the Supreme Court has stated that the
24 definition of an illegal sentence is one at variance with the

1 controlling sentencing statute or illegal in the sense that
2 the court goes beyond the authority by acting without
3 jurisdiction or imposing a sentence in excess of the statutory
4 maximum provided. That is Edward versus State 112 Nev. 708.
5 So the State is arguing that jurisdiction doesn't matter. I
6 don't know that is a regular legal theory in any court
7 proceeding. If you look at the Order of Affirmation from the
8 Supreme Court on the direct appeal, it doesn't say it is
9 correct. It says the issue is moot because a corrected
10 judgment was issued. But that is not -- the jurisdictional
11 issue is just one of the issues why the sentence is illegal.
12 The others are that you used the nunc pro tunc as a way of
13 correcting the illegal sentence to the new corrected judgment.
14 Excuse me. Case law also states that the use of the nunc pro
15 tunc for jurisdictional error is not appropriate. That is
16 one.

17 Second, that is also in the original motion. Nunc
18 pro tunc cannot be made use of nor is it ordered to apply to
19 omitted actions. Power to order the entry of a Judgment nunc
20 pro tunc cannot be used for the purpose of correcting judicial
21 errors or admissions of the Court nor can it properly be
22 employed to change the judgment actually rendered. So that is
23 a second issue.

24 And the third issue is you sentenced the 5 to 20 on

1 Count I. Obviously, Count I in the Amended Information was
2 simply the attempted robbery and not the adjudication of the
3 habitual criminal. If you reversed it and found that I was not
4 a habitual, we would not say the sentence was corrective. You
5 gave me four years on Count III, so I would argue that the 5
6 to 20 has to be corrected to apply to Count II of the Amended
7 Information and not to Count I. Count I is not a habitual
8 criminal at the time of the crime. It is not until you
9 adjudicated post conviction. So I would argue that that part
10 of the corrected judgment is also incorrect.

11 The State also argues in it is Opposition that it
12 doesn't matter, the issue is moot because the sentence would
13 just be reinstated. As you know, the legislature changed the
14 requirement for habitual criminal in 2019. So under that law,
15 if you do rule that the sentence is illegal, I would no longer
16 be a habitual criminal under current 207 habitual criminal
17 requirements. So I would argue that the new habitual criminal
18 law would apply if the sentence is incorrect. And so for that
19 reason, I think the sentence should be -- the sentence is
20 illegal based on the other issues, and I should be reinstated.

21 THE COURT: Okay. Thank you, Mr. Schachter.

22 THE DEFENDANT: That is basically it.

23 THE COURT: Mr. Naughton, you did not address the
24 change in the habitual criminal statute.

1 MR. NAUGHTON: I am happy to do that, Your Honor. The
2 change that Mr. Schachter is referring to comes from Assembly
3 Bill 236 that passed by the 2019 Nevada Legislature. Those
4 changes are not retroactive. The long-standing case law in
5 Nevada is the law that is in place on the date of the offense
6 is the law that controls absent some clear legislative intent
7 to provide that retroactivity. In AB236 there is no intent to
8 provide retroactive application of the changes to the Nevada
9 habitual criminal statutes. The case that I have provided that
10 information comes from State versus Second Judicial District
11 Court vs. Pullin, P-U-L-L-I-N. Even if this Court did find
12 there was some issue with the habitual criminal sentence that
13 Mr. Schachter received in this case, he would not receive the
14 benefit of the amended provisions of the habitual criminal
15 statutes. The statutes as they existed at the time
16 Mr. Schachter committed his crime would still apply, and those
17 sentences-- that sentence is properly imposed given the number
18 of prior felony convictions Mr. Schachter had at the time he
19 was sentenced.

20 THE COURT: Mr. Schachter, did you want to respond
21 to that?

22 THE DEFENDANT: Yea. That would be, the State is
23 arguing if one of my convictions was overturned, I wouldn't be
24 entitled to a new sentence. That's not correct. 207 can apply

1 to the -- to the date of the crime, because it don't kick in
2 until a conviction is established. So it is a status. It is
3 not an enhancement tied to a particular crime. It is an
4 enhance for the recidivist which is fluid. By definition, the
5 status changes. So right now, if the sentence is illegal, I
6 would be entitled to relief under the new statute.

7 THE WITNESS: Okay. Let's start there. I think that
8 it is the Court's opinion that the modification to the
9 habitual criminal statutes that were passed in AB236 were not
10 retroactive and would not apply in Mr. Schachter's case. The
11 Supreme Court has addressed this directly in an Opinion, and
12 so the Court would not be able to apply the new statute.

13 Further, I do find that I did have jurisdiction to
14 correct the judgment. The judgment was corrected not because
15 the Court gave a different sentence other than what the Court
16 intended to do, but to correct the problem with putting the
17 two sentence concurrent rather just one sentence. So it was
18 really a structural issue with regard to the judgment.

19 The Supreme Court did find that it was proper as it
20 now stood. The supreme Court could have done something
21 different in their Order of Affirmance. They could have said
22 that the corrected judgment does not satisfy the problem.
23 Instead, they said it made the whole issue moot because one
24 had been filed.

1 So I do find that I had jurisdiction to correct the
2 judgment.

3 I further find that using nunc pro tunc was
4 appropriate rather than creating a whole new sentence. That
5 wasn't what happened. This was a correction of the written
6 judgment. And as I indicated, the Supreme Court's Affirmance
7 in Footnote 1 notes that the corrected judgment was correct as
8 it was prepared. And then I do, as I have indicated
9 previously, find that it is moot anyway. Even if for some
10 reason I am wrong about my analysis of this, the statute, the
11 old statute would still apply and Mr. Schachter would just
12 receive a new sentence which would be the same sentence as he
13 received previously.

14 For all those reasons and those stated by the State
15 in their Opposition, I am going to deny the motion to modify
16 or correct the illegal sentence. I ask Mr. Naughton to prepare
17 a an Order for me in accordance with my finding that adopts
18 his argument with regard to the motion to deny.

19 MR. NAUGHTON: Yes, Your Honor.

20 THE COURT: The request to deny the motion. So,
21 Mr. Schachter, it will be a little while before I get that
22 entered, that written order, but then you will have 30 days to
23 appeal as soon as the written order hits, and we'll get it to
24 you as soon as I enter it.

1 THE DEFENDANT: Thank you.

2 THE COURT: Okay. Thank you, Schachter. Thank you
3 everyone. Court's in recess.

4 (Whereupon, the proceedings were concluded.)

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I, Judith Ann Schonlau, Official Reporter of the
Second Judicial District Court of the State of Nevada, in and
for the County of Washoe, DO HEREBY CERTIFY:

That as such reporter I was present in Department No. 10 of the above-entitled court on Friday, March 25, 2022, at the hour of 10:00 a.m. of said day and that I then and there took verbatim stenotype notes of the proceedings had in the matter of THE STATE OF NEVADA vs. Marc Paul Schachter, Case Number CR14-1044.

That the foregoing transcript, consisting of pages numbered 1-17 inclusive, is a full, true and correct transcription of my said stenotypy notes, so taken as aforesaid, and is a full, true and correct statement of the proceedings had and testimony given upon the trial of the above-entitled action to the best of my knowledge, skill and ability.

DATED: At Reno, Nevada this 26th day of April, 2022.

/s/ Judith Ann Schonlau
JUDITH ANN SCHONLAU CSR #18

1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE BRENT ADAMS, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

12 Plaintiff,)

13 vs.)

14 DEFENDANTNAME,)

15 Defendant.)

CASE NO. CASENO
DEPARTMENT NO. 6

16
17 TRANSCRIPT OF PROCEEDINGS

18 ^ ARRAIGNMENT ^ SENTENCING ^ PROBATION REVOCATION ^ MOTION TO
19 CONFIRM

20 FRIDAY, MARCH 25, 2022, [!BEGIN TIME] A.M.

21 Reno, Nevada

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24 Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER

1 Computer-aided Transcription

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A P P E A R A N C E S

For the Plaintiff: OFFICE OF THE DISTRICT ATTORNEY
BY: ^ ELLIOTT SATTLER,
ESQ. ^ KELLI ANNE VILORIA, ESQ. ^
DEPUTY DISTRICT ATTORNEY
WASHOE COUNTY COURTHOUSE
RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER
BY: SEAN SULLIVAN, ESQ. DEPUTY
PUBLIC DEFENDER
350 S. CENTER STREET
RENO, NEVADA

PAROLE AND PROBATION: ERIN LUKL

1 RENO, NEVADA; FRIDAY, ^ DATE ^ ; [!BEGIN TIME] ^ A.M. ^ P.M.

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Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2022-12-11 17:30:06.888.
KEVIN NAUGHTON, ESQ. - Notification received on 2022-12-11 17:30:06.123.
KELLY KOSSOW, ESQ. - Notification received on 2022-12-11 17:30:04.684.
DIV. OF PAROLE & PROBATION - Notification received on 2022-12-11 17:30:05.607.
ADAM CATE, ESQ. - Notification received on 2022-12-11 17:30:06.466.
NICKOLAS GRAHAM, ESQ. - Notification received on 2022-12-11 17:30:05.122.

******* 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:

12-11-2022:17:29:34

Clerk Accepted:

12-11-2022:17:29:44

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Transcript

Filed By:

Judith Schonlau

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

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, 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

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

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

FILED

2022 DEC 19 PM 3:39

ALICIA L. VEDD
CLERK OF THE COURT
BY *[Signature]*

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

MARC PAUL SCHACHTER,
PETITIONER.

VS.

CASE NO. CR-14-1044

STATE OF NEVADA, ETAL,
RESPONDENTS.

DEPT. NO. 4

RESPONSE TO MOTION TO DISMISS PETITION FOR WRIT
OF HABEAS CORPUS (POST CONVICTION)

COMES NOW, PETITIONER, MARC PAUL
SCHACHTER, IN PRO PER, IN RESPONSE TO
THE STATE'S UNTIMELY ANSWER TO
PETITION FILED OCTOBER 4, 2022. THIS
RESPONSE IS BASED ON THE FOLLOWING
POINTS AND AUTHORITIES AND THE FACTS
CONTAINED IN THE RECORD FOR THE ABOVE
CITED CASE.

//

//

THE STATE LABELS THE PETITION AS AN ATTEMPT TO EXPLOIT AN "ALLEGED LOOPHOLE" (PAGE 3 LINE 4). THIS "LOOPHOLE" IS COMMONLY KNOWN AS THE DOUBLE JEOPARDY CLAUSE IN THE 8TH AMENDMENT OF THE U.S. CONSTITUTION; AND IT CANNOT BE BELIED BY THE RECORD. THE FACTS OF THE PETITION ARE NOT IN DISPUTE.

THE PETITION SIMPLY STATES THE COURT MAY NOT IMPOSE THE VACATED ENHANCEMENT ONCE THE PRIMARY SENTENCE HAS EXPIRED. ["THE COURT CANNOT REIMPOSE SENTENCE ONCE DEFENDANT HAS FULLY SERVED A LAWFUL SENTENCE FOR HIS CRIMES" - SILVER 90 F.3d. 95 (1996).]. THE DOUBLE JEOPARDY CLAUSE MAKES NO EXCEPTION FOR THE COURTS "INTENTION" (PAGE 5 LINE 11). THE STATE FAILS TO CITE ANY CASE LAW OR AUTHORITIES AS TO WHY THE DOUBLE JEOPARDY CLAUSE DOES NOT APPLY IN THE INSTANT CASE.

THE COURT NEED ONLY TO LOOK AT THE OPENING PARAGRAPH OF THE NEWLY CORRECTED JUDGMENT WHICH STATES:

... AND NO SUFFICIENT CAUSE BEING SHOWN BY THE DEFENDANT AS TO WHY JUDGMENT SHOULD NOT BE PRONOUNCED AGAINST HIM, THE COURT RENDERS JUDGMENT AS FOLLOWS: "

TO UNDERSTAND WHY THE RECORD SUPPORTS THE PETITION. IN THIS COURT'S ORDER DATED 10/13/22 THE COURT STATED IT HAD "REVIEWED THE PLEADINGS FILED HEREIN, FINDS THAT A RESPONSE ~~A RESPONSE~~ FROM THE STATE WOULD ASSIST THE COURT IN DECIDING THE PETITION FOR WRIT OF HABEAS CORPUS FILED ON OCTOBER 4, 2022 THEREFORE, WITH GOOD CAUSE APPEARING AND IN THE INTEREST OF JUSTICE, ..." THE COURT'S OWN ORDER CONTRADICTS THE NEWLY CORRECTED JUDGMENT.

AS IT DID IN PETITIONER'S MOTION TO CORRECT ILLEGAL SENTENCE, THE STATE MISINTERPRETS THE HIGH COURT'S RULING. THE COURT OF APPEALS REVERSED THE TRIAL COURT'S DENIAL OF AN ILLEGAL SENTENCE - NOT AN ILLEGAL DATE

ON THE ~~THE~~ CORRECTED JUDGMENT OF CONVICTION. THE COURT OF APPEALS ORDERS THE DISTRICT COURT TO: "VACATE THE JUDGMENT OF CONVICTION FILED ON JULY 30, 2015, AND TO REISSUE THE JUDGMENT..." IT DOES NOT SAY TO SIMPLY CHANGE THE DATE AND REFILE. IT SPECIFICALLY STATES IT MAKES NO FINDING AS TO THE MERITS OF OTHER ISSUES RELATED TO THE JUDGMENT ITSELF.

THE CORRECTED JUDGMENT ORDERED BY THE COURT OF APPEALS IS THE WRITTEN RECORD OF THE CONVICTION AND THE SENTENCE IMPOSED. IN THE INSTANT CASE, THE DISTRICT COURT IS CORRECTING THE CONCURRENT SENTENCE 5-20 YEARS TO A SUPERBEDDING SENTENCE OF 5-20 YEARS. WHILE THE LENGTH OF THE SENTENCE MAYBE THE SAME, IT IS STILL A NEW SENTENCE. BECAUSE IT IS A NEW SENTENCE, ALL "DUE PROCESS" SENTENCING RIGHTS SHOULD BE AFFORDED TO THE DEFENDANT. DURING DIRECT APPEAL PETITIONER'S ATTORNEY

MR HICKMAN ADVISED MR. SCHACHTER THE COURT WOULD TRANSPORT HIM BACK TO THE DISTRICT COURT FOR A NEW SENTENCING HEARING. IN N.D.O.P. V. BOWEN, 103 NEV. 477 (1987), THE NEVADA SUPREME COURT RULED THAT SENTENCES IMPOSED FOR A PRIMARY OFFENSE AND FOR AN ENHANCEMENT PENALTY MUST BE TREATED AS SEPARATE SENTENCES FOR ALL PURPOSES. [SEE ALSO NRS 34.360]

DOUBLE JEOPARDY PROHIBITS THE STATE FROM RESENTENCING ONCE THE SENTENCE IS EXPIRED. HERE, THE ATTEMPTED ROBBERY SENTENCE IS EXPIRED AND CANNOT BE ENHANCED BY THE HABITUAL STATUTE. NRS 176.535 ALLOWS THE COURT TO CORRECT AN ILLEGAL SENTENCE AT ANY TIME THE 12-48 MONTH SENTENCE FOR THE ATTEMPTED ROBBERY WAS NEVER VACATED AND LEGALLY IMPOSED; IT CANNOT NOW BE CHANGED. THE COURT CANNOT USE THE EXTENDED TIME OF THE ENHANCEMENT TO IMPOSE THE VERY SAME ENHANCEMENT.

IN THE INSTANT CASE, THE STATE HAS A LONG HISTORY OF MISINFORMING THE COURT AS TO THE LAW.

(1) ON 7/24/2014, THE STATE FAILED TO ADVISE COURT ON THE MAXIMUM PENALTY ALLOWED BY LAW. [WHILE NOT A PART OF THIS PETITION, IT IS HIGHLY UNLIKELY ANY REVIEW OF THE RECORD) WOULD SURVIVE A "KNOWINGLY" TEST].

(2) ON 2/26/15, THE STATE RECOMMENDED THE ILLEGAL CONCURRENT SENTENCES FOR THE ATTEMPTED ROBBERY AND THE HABITUAL CRIMINAL.

(3) ON 3/5/15, THE STATE REQUESTED ADDITIONAL LANGUAGE WHICH IT LATER ADMITTED ILLEGAL TO THE JUDGMENT.

(4) ON 7/30/15, THE STATE FAILED TO ADVISE COURT IT LACKED JURISDICTION TO FILE A CORRECTED JUDGMENT.

(5) ON 6/17/21, THE STATE FILED A WRITTEN OPPOSITION IN WHICH IT ARGUED INCORRECTLY THAT THIS COURT HAD JURISDICTION TO FILE THE CORRECTED JUDGMENT


(6) ON 3/25/22, THE STATE AGAIN ALLOWED INCORRECTLY THAT THE DISTRICT COURT HAD JURISDICTION WHILE THE CASE WAS ON DIRECT APPEAL.

THE STATE HAS SHOWN OVER AND OVER (HABITUALLY??) ITS LACK OF UNDERSTANDING AS IT PERTAINS TO HABITUAL SENTENCE (NRS 207.010.) LAW. THE ALLEGATION CONTAINED IN THE PETITION IS NOT BELIED BY THE RECORD — THE RECORD IS THE ALLEGATION! THE HABITUAL ENHANCEMENT WAS NEVER PROPERLY IMPOSED AND THE TIME TO DO SO HAS PASSED.

FOR THE FOREGOING REASONS THE PETITIONER PRAYS THAT THIS HONORABLE COURT GRANTS THIS PETITION AND ORDERS HIS RELEASE WITHOUT DELAY.

DATED: 12/7/22

RESPECTFULLY SUBMITTED,


MARC SCHACHTER # 91445

IN PRO SE.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding RESPONSE TO

MOTION TO DISMISS PETITION OF WRIT OF HABEAS
(Title of Document) CORPUS

filed in District Court Case number CR-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)



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

Signature

12/1/22
Date

MARC SCHAEFER
Print Name

PETITIONER, IN PRO SE
The

CODE: 3860

Name: MARC SCHACHTER #91445Address: TLVCC P.O. Box 208INDIAN SPRINGS, NV 89070Telephone: Acting in Proper Person

FILED

2022 DEC 19 PM 3:39

ALICIA LERUD
CLERK OF THE COURT

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

MARC PAUL SCHACHTER

Plaintiff (Petitioner),

Case No. CR-14-1044

vs.

Dept. No. 04STATE OF NEVADA, ETAL

Defendant (Respondent).

REQUEST FOR SUBMISSION

I, MARC SCHACHTER, acting in Proper Person, request that the
PETITION FOR WRIT of HABEAS CORPUS filed on 10/4/22
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: 12/7/22Marc Schachter

(Signature)

MARC SCHACHTER

(Name)

TLVCC P.O. Box 208

(Address)

INDIAN SPRINGS, NV 89070

(Telephone Number)

CERTIFICATE OF SERVICE BY MAILING

I, MALE SCHAEFFER, hereby certify, pursuant to NRCP 5(b), that on this _____ day of 12/7, 2022, I mailed a true and correct copy of the foregoing, "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:

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

WASHOE CO. DIST. ATTORNEY
404 S. SIERRA ST.
RENO, NV 89501

CC:FILE

DATED: this 7 day of Dec, 2022.



MALE SCHAEFFER #91445

/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, _____

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: 12/7/22

Marc Schachter

(Signature)

MARC SCHACHTER # 91445

(Print Name)

in pro se

(Attorney for)

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

FILED

2023 JAN 31 AM 8:53

ALICIA L. LERUD
 CLERK OF THE COURT
 DEPUTY

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

MARC PAUL SCHACHTER,
 PETITIONER.

VS.

STATE OF NEVADA, ETAL
 RESPONDENTS

CASE NO. CR-14-1044

DEPT. 04

REQUEST FOR EXPEDITED HEARING OF
PETITIONER'S WRIT OF HABEAS CORPUS

THE PETITIONER, MARC SCHACHTER, IN PRO SE,
 REQUESTS THAT THIS HONORABLE COURT ACTS
 WITHOUT DELAY TO GRANT THE INSTANT
PETITION AND DISCHARGE PETITIONER FROM
 CUSTODY PURSUANT TO N.R.S. 34.500(2)
 AND 34.500(9). THIS REQUEST IS MADE
 ACCORDING TO THE PLEADINGS ALREADY
 ON FILE AND THE FOLLOWING.

THIS PETITION CONCERNS THE OVERDUE
 RELEASE OF PETITIONER FROM A
 LAWFUL SENTENCE. DISPIETE THE

STATE'S ARGUMENT TO THE CONTRARY, THIS COURT IS WELL-AWARE OF SENTENCING ISSUES ASSOCIATED WITH THE HABITUAL ENHANCEMENT IN THIS CASE. MOST RECENTLY, THIS COURT VACATED THE CORRECTED JUDGMENT FILED ON JULY 30, 2015 AND FILED A NEW CORRECTED JUDGMENT ON OCTOBER 13, 2022. THIS NEWLY FILED CORRECTED JUDGMENT SOME EIGHT AND A HALF ($8\frac{1}{2}$) YEARS AFTER THE ORIGINAL CRIME IS WELL-BEYOND ANY STATUTORY MAXIMUM SENTENCE AND PETITIONER IS ENTITLED TO BE RELEASED. ACCORDING TO NRS 34.500(2):

WHEN THE IMPRISONMENT WAS AT FIRST LAWFUL, YET BY SOME ACT, OMISSION OR EVENT, WHICH HAS TAKEN PLACE AFTERWARDS, THE PETITIONER HAS BECOME ENTITLED TO BE DISCHARGED

THE EIGHTH AMENDMENT'S DOUBLE JEOPARDY CLAUSE BARS MULTIPLE PUNISHMENTS OR ANY ATTEMPT TO INCREASE A SENTENCE ONCE A LAWFUL SENTENCE HAS BEEN SERVED THE COURT CANNOT REIMPOSE

A SENTENCE INCLUDING ENHANCEMENTS
 AFTER THE STATUTORY MAXIMUM TIME
 FOR THE PRIMARY CRIME HAS ELAPSED.
 PETITIONER IS ENTITLED TO BE DISCHARGED
 AS PER NRS 34.500(9)

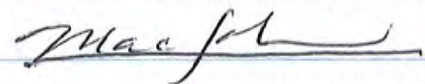
WHEN THE COURT FINDS THAT THERE HAS
 BEEN A SPECIFIC DENIAL OF PETITIONER'S
 CONSTITUTIONAL RIGHTS WITH RESPECT TO
 HIS SENTENCE IN A CRIMINAL CASE,

CONCLUSION

BECAUSE THE FOREGOING IS WELL-
 DOCUMENTED AND THE LAW IS CLEAR,
 PETITIONER MAKES THIS REQUEST OR
 IN THE ALTERNATIVE ORDERS PETITIONER
 RELEASED PENDING THE OUTCOME OF
 THE PETITION.

DATED 1/20/23

RESPECTFULLY SUBMITTED,



MARC SCHACHTER
 #91445 IN PROSE

CERTIFICATE OF SERVICE BY MAILING

I, Marc Schaeffer, hereby certify, pursuant to NRCP 5(b), that on this 22
day of JANUARY, 2023, I mailed a true and correct copy of the foregoing, "REQUEST
FOR EXPEDITED HEARING"

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 22 day of January, 2023.

Marc Schaeffer
MARC SCHAEFFER # 91445
/In Propria Personam
Post Office Box 208, S.D.C. TLCC
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION PURSUANT TO NRS 239B.030

I, MARC SCHACHTER, IN PRO SE, HEREBY
AFFIRMS THAT THE ENCLOSED DOCUMENT
TITLED "REQUEST FOR EXPEDITED HEARING
OF HABEAS CORPUS" FILED IN CASE #
CR-14-1044 DOES NOT CONTAIN ANY
SOCIAL SECURITY NUMBER.

DATED 1/22/23

Marc Schachter #91445
MARC SCHACHTER
IN PRO SE

1 **CODE 3347**
2
3
4
56 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
89 **MARC PAUL SCHACHTER,**10 **Petitioner,****Case No. CR14-1044**11 **vs.****Dept. No. 4**12 **THE STATE OF NEVADA,**13 **Respondent.**
14 _____/15 **ORDER TO SET**16 On September 13, 2022, the Nevada Supreme Court's Order Affirming in Part,
17 Reversing in Part and Remanding entered in Case No. 84547, was filed into the above
18 entitled matter.19 On October 4, 2022, Petitioner Marc Paul Schachter (hereinafter "SCHACHTER"),
20 in pro per, filed a *Petition for Writ of Habeas Corpus (Post-Conviction)*.21 On October 6, 2022, the Remittitur for Nevada Supreme Court Case 84547 was
22 issued on October 4, 2022, and entered into the above-entitled matter on October 6, 2022.23 On October 13, 2022, the Court entered an *Order Vacating Corrected Judgment of*
24 *Conviction filed on July 30, 2015, and Re-Issuing the Corrected Judgment of Conviction*
25 *Pursuant to Order by Nevada Supreme Court, and a Corrected Judgment*. Also, on
26 October 13, 2022, the Court entered an *Order* directing the State of Nevada to Respond to
27 *Petition for Writ of Habeas Corpus (Post-Conviction)* filed on October 6, 2022 within forty-
28 five (45) days of the date of the Order.

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

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

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

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

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

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

20 Dated this 14 day of February, 2023.

21
22
23 
24 DISTRICT JUDGE
25
26
27
28

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 14 day of February, 2023, I filed the **ORDER TO SET** 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]

XX **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.**

ADAM CATE, ESQ. for STATE OF NEVADA
NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION
KELLY KOSSOW, ESQ. for STATE OF NEVADA
JENNIFER NOBLE, ESQ. for STATE OF NEVADA
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA

XX **Transmitted document to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

Marc Schachter, #91445
TLVCC
P.O. Box 208
Indian Springs, NV 89070

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

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

DATED this 14 day of February, 2023.



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JENNIFER NOBLE, ESQ. - Notification received on 2023-02-14 13:06:03.983.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-02-14 13:06:00.795.
KELLY KOSSOW, ESQ. - Notification received on 2023-02-14 13:05:57.78.
DIV. OF PAROLE & PROBATION - Notification received on 2023-02-14 13:05:59.686.
ADAM CATE, ESQ. - Notification received on 2023-02-14 13:06:02.358.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-02-14 13:05:58.764.

******* 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:

02-14-2023:13:05:14

Clerk Accepted:

02-14-2023:13:05:33

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:

Judicial Asst. AAustin

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.

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NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, 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.):

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

1250

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

MARC PAUL SCHACHTER,

Petitioner,

v.

THE STATE OF NEVADA,

Respondent.

CASE NO.: CR14-1044

DEPT. NO.: 4

APPLICATION FOR SETTING

TYPE OF ACTION: CRIMINAL
MATTER TO BE HEARD: ORAL ARGUMENTS ON MOTION TO DISMISS
DATE OF APPLICATION: February 22, 2023
COUNSEL FOR PETITIONER: MARK PAUL SCHACHTER, PRO PER
COUNSEL FOR RESPONDENT: KEVIN NAUGHTON, DEPUTY DISTRICT ATTORNEY

Setting at **2:00 p.m.** on the **28TH** day of **June, 2023. (1 HOUR)**
IN-PERSON HEARING

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 22ND day of February, 2023, I filed the **APPLICATION FOR SETTING** 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]

 xx **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.**

ADAM CATE, ESQ. for STATE OF NEVADA
NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION
KELLY KOSSOW, ESQ. for STATE OF NEVADA
JENNIFER NOBLE, ESQ. for STATE OF NEVADA
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA

 xx **Transmitted document to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

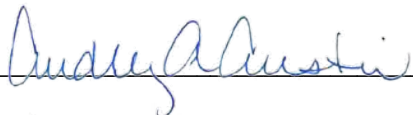
Marc Schachter, #91445
TLVCC
P.O. Box 208
Indian Springs, NV 89070

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

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

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

DATED this 22nd day of February, 2023.



Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-02-22 08:47:04.489.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-02-22 08:47:03.582.
KELLY KOSSOW, ESQ. - Notification received on 2023-02-22 08:47:02.051.
DIV. OF PAROLE & PROBATION - Notification received on 2023-02-22 08:47:03.176.
ADAM CATE, ESQ. - Notification received on 2023-02-22 08:47:04.004.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-02-22 08:47:02.645.

******* 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:

02-22-2023:08:46:23

Clerk Accepted:

02-22-2023:08:46:40

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Application for Setting - eFile

Filed By:

Judicial Asst. AAustin

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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NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

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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

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

v.

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 above Petitioner, MARC PAUL SCHACHTER #91445, presently
incarcerated in the Three Lakes Valley Conservation Camp.

2. That the above MARC PAUL SCHACHTER #91445, is scheduled for a post-
conviction hearing before the Second Judicial District Court on June 28, 2023, at 2:00
p.m.

///

WHEREFORE, Applicant prays that an Order be made ordering the 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 the Three Lakes Valley Conservation Camp, Indian Springs, Nevada.

AFFIRMATION

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

DATED: February 22, 2023.

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 February 23, 2023, 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
Three Lakes Conservation Center
P.O. Box 208
Indian Springs, NV 89070

/s/ Kaitlin Snyder
KAITLIN SNYDER

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-02-22 15:36:02.279.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-02-22 15:35:58.139.
KELLY KOSSOW, ESQ. - Notification received on 2023-02-22 15:35:51.076.
DIV. OF PAROLE & PROBATION - Notification received on 2023-02-22 15:35:55.654.
ADAM CATE, ESQ. - Notification received on 2023-02-22 15:36:00.545.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-02-22 15:35:53.045.

******* 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:

02-22-2023:15:32:43

Clerk Accepted:

02-22-2023:15:33:09

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.

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DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

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Reno, NV 89520

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SCHACHTER

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

CODE #3340

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

v.

Dept. No. 4

THE STATE OF NEVADA,

Respondent.

_____ /

ORDER TO PRODUCE PRISONER

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 Three Lakes Valley Conservation Camp, Indian Springs, Nevada, be brought before the Second Judicial District Court for an in-person post-conviction hearing in the above-entitled action.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Warden of the Three Lakes Valley Conservation Camp, Indian Springs, Nevada, bring the said MARC PAUL SCHACHTER #91445, before the Second Judicial District Court on June 28, 2023, at 2:00 p.m. for an in-person post-conviction hearing in the above-entitled action, and

from time to time thereafter at such time and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises.

DATED this 26 day of February, 2023.

Connie J. Steinheimer
DISTRICT JUDGE

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-02-27 12:19:55.138.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-02-27 12:19:54.388.
KELLY KOSSOW, ESQ. - Notification received on 2023-02-27 12:19:53.326.
DIV. OF PAROLE & PROBATION - Notification received on 2023-02-27 12:19:53.998.
ADAM CATE, ESQ. - Notification received on 2023-02-27 12:19:54.748.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-02-27 12:19:53.654.

******* 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:

02-27-2023:12:19:09

Clerk Accepted:

02-27-2023:12:19:31

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:

Judicial Asst. AAustin

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SCHACHTER

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

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

MARC PAUL SCHACHTER,
Petitioner,

Supreme Court No. 86361
District Court Case No. CR141044

vs.

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

Respondent,

and

THE STATE OF NEVADA,
Real Party in Interest.

RECEIPT FOR DOCUMENTS

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

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

04/05/2023 Petition Filing Fee Waived. Criminal. (SC)

04/05/2023 Filed Proper Person Petition for Writ. (SC)

DATE: April 05, 2023

Elizabeth A. Brown, Clerk of Court
ds

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-04-10 14:09:28.829.

KEVIN NAUGHTON, ESQ. - Notification received on 2023-04-10 14:09:27.72.

KELLY KOSSOW, ESQ. - Notification received on 2023-04-10 14:09:25.907.

DIV. OF PAROLE & PROBATION - Notification received on 2023-04-10 14:09:26.876.

ADAM CATE, ESQ. - Notification received on 2023-04-10 14:09:28.298.

NICKOLAS GRAHAM, ESQ. - Notification received on 2023-04-10 14:09:26.423.

******* 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:

04-10-2023:14:08:49

Clerk Accepted:

04-10-2023:14:09:05

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

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KEVIN P. NAUGHTON, ESQ. for STATE OF
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DIV. OF PAROLE & PROBATION

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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,
Petitioner,

vs.

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

Respondent,

and


THE STATE OF NEVADA,

Real Party in Interest.

No. 86361

FILED


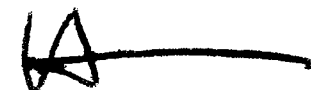
APR 17 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK*ORDER DENYING PETITION*

This is a pro se original petition for a writ of mandamus/prohibition in a criminal matter.

Having considered the petition, we are not persuaded that our extraordinary and discretionary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Specifically, we decline to intervene because petitioner failed to submit an adequate appendix for our review. See NRS 34.160; NRAP 21(a)(4). Accordingly, without deciding upon the merit of any claims raised, we

ORDER the petition DENIED.


_____, C.J.
Stiglich
_____, J.
Cadish
_____, J.
Herndon

cc: Chief Judge, Second Judicial District Court
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 2023-04-19 13:28:01.767.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-04-19 13:28:00.971.
KELLY KOSSOW, ESQ. - Notification received on 2023-04-19 13:27:59.502.
DIV. OF PAROLE & PROBATION - Notification received on 2023-04-19 13:28:00.471.
ADAM CATE, ESQ. - Notification received on 2023-04-19 13:28:01.299.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-04-19 13:27:59.986.

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

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

04-19-2023:13:27:14

Clerk Accepted:

04-19-2023:13:27:38

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Order Denying

Filed By:

Deputy Clerk YViloria

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P.O. Box 11130

Reno, NV 89520

IN THE SUPREME COURT OF THE STATE OF NEVADA

Alicia L. Lerud
Clerk of the Court
Transaction # 9660366MARC PAUL SCHACHTER,
Petitioner,

vs.

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

Respondent,

and

THE STATE OF NEVADA,

Real Party in Interest.

No. 86361

FILED

MAY 04 2023

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

Rehearing denied. NRAP 40(c).

It is so ORDERED.¹[Signature], C.J.
Stiglich[Signature], J.
Cadish[Signature], J.
Herndoncc: Chief Judge, Second Judicial District Court
Marc Paul Schachter
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹In light of this order petitioner's request to file an appendix is denied as moot.

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-05-10 14:37:02.039.

KEVIN NAUGHTON, ESQ. - Notification received on 2023-05-10 14:37:00.041.

KELLY KOSSOW, ESQ. - Notification received on 2023-05-10 14:36:58.805.

DIV. OF PAROLE & PROBATION - Notification received on 2023-05-10 14:36:59.649.

ADAM CATE, ESQ. - Notification received on 2023-05-10 14:37:01.008.

NICKOLAS GRAHAM, ESQ. - Notification received on 2023-05-10 14:36:59.164.

******* 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:

05-10-2023:14:36:18

Clerk Accepted:

05-10-2023:14:36:37

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Supreme Court Order Denying

Filed By:

Deputy Clerk YViloria

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P.O. Box 11130

Reno, NV 89520

CODE No. 2300
CHRISTOPHER J. HICKS
#7747
One South Sierra Street
Reno, Nevada 89501
(775) 328-3200
districtattorney@da.washoecounty.gov
Attorney for Respondent

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

* * *

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

v.

Dept. No. 4

THE STATE OF NEVADA,

Respondent.

_____/

MOTION TO CONTINUE ORAL ARGUMENTS

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney, and Kevin Naughton, Appellate Deputy, and hereby enters this Motion to Continue.

The State respectfully requests a brief continuance of the oral arguments currently scheduled in this case on June 28, 2023, at 2:00 p.m. As explained in the attached Declaration, the undersigned assigned attorney has recently had a personal **scheduling conflict arise. Due to the protracted nature of this case, the undersigned's** familiarity with the pleadings and arguments, and the professional obligations of the other attorneys in the Appellate Division, the State respectfully requests a continuance so that the undersigned can represent the State in this matter.

///

The State requests that the Court grant the request for a brief continuance to July 13, 2023, at 4:00 p.m.

This request is made in good faith and not for the purpose of delay.

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: May 30, 2023.

CHRISTOPHER J. HICKS
District Attorney

By /s/ Kevin Naughton
KEVIN NAUGHTON
12834
Appellate Deputy

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

MARC PAUL SCHACHTER, #91445
THREE LAKES VALLEY CONSERVATION CAMP
P.O. BOX 208
INDIAN SPRINGS, NV 89070

Dated this 30th day of May, 2023.

/s/ Cecilia Sixta
CECILIA SIXTA

DECLARATION IN SUPPORT OF MOTION TO CONTINUE ORAL ARGUMENTS

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

1. I, Kevin Naughton, do hereby declare under penalty of perjury that the assertions in this Declaration are true.

2. That your declarant is the Deputy District Attorney assigned to represent the State of Nevada in Schacter v. State, CR 14-1044.

3. That your declarant has been assigned to this case since June 2021, and has handled every pleading and argument since that time.

4. That this case is currently set for oral arguments on June 28, 2023, **at 2:00 p.m., regarding the State's Motion to Dismiss filed on November 28, 2022.**

5. That during the weekend of May 27, 2023, your declarant learned of a personal scheduling conflict on the dates of June 28 and 29, 2023.

6. That your declarant consulted the calendars of his co-workers and discovered that they have other professional obligations at the time currently set for the oral arguments.

7. That as the attorney assigned to this case, your declarant is the person most familiar with the pleadings and arguments raised in this case.

8. That your declarant seeks a brief continuance of this matter so that he can represent the State as the person most familiar with this case.

9. **That your declarant has contacted the Court's staff and learned that the hearing can be rescheduled to July 13, 2023, at 4:00 p.m.**

10. That this request is made in good faith and not for purposes of delay.

Executed on May 30, 2023
(date)

Kevin Naughton
(signature)

INDEX OF EXHIBITS

EXHIBIT 1

PROPOSED ORDER

1 PAGE

EXHIBIT 1

EXHIBIT 1

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

* * *

MARC PAUL SCHACHTER,

Petitioner,

Case No.: CR14-1044

v.

Dept. No.: 4

THE STATE OF NEVADA,

Respondent.

_____ /

ORDER GRANTING MOTION TO CONTINUE ORAL ARGUMENTS

Good cause appearing, and in the interests of justice,

IT IS HEREBY ORDERED **that the oral arguments on the State's Motion to Dismiss**, currently scheduled for June 28, 2023, at 2:00 p.m., are vacated and rescheduled to July 13, 2023, at 4:00 p.m. All previous orders to produce the Petitioner remain in effect and he shall be transported by the Nevada Department of Corrections for this hearing to occur in person.

DATED this _____ day of _____, 2023.

DISTRICT JUDGE

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-05-30 14:51:56.616.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-05-30 14:51:55.85.
KELLY KOSSOW, ESQ. - Notification received on 2023-05-30 14:51:54.491.
DIV. OF PAROLE & PROBATION - Notification received on 2023-05-30 14:51:55.538.
ADAM CATE, ESQ. - Notification received on 2023-05-30 14:51:56.21.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-05-30 14:51:55.069.

******* 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:

05-30-2023:14:51:01

Clerk Accepted:

05-30-2023:14:51:31

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Mtn to Continue

- **Continuation

Filed By:

Kevin Naughton

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DEFENSE SVCS

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CARSON CITY, NV
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IN THE SUPREME COURT OF THE STATE OF NEVADA

MARC PAUL SCHACHTER,
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vs.
THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF WASHOE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

Supreme Court No. 86361
District Court Case No. CR141044

NOTICE IN LIEU OF REMITTITUR

TO THE ABOVE-NAMED PARTIES:

The decision and Order of the court in this matter having been entered on May 4th, 2023, and the period for the filing of a petition for rehearing having expired and no petition having been filed, notice is hereby given that the Order and decision entered herein has, pursuant to the rules of this court, become effective.

DATE: May 31, 2023

Elizabeth A. Brown, Clerk of Court

By: Elyse Hooper
Administrative Assistant

cc: Washoe County District Attorney
Alicia L. Lerud, Washoe District Court Clerk
Marc Paul Schachter

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-06-05 14:51:57.5.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-06-05 14:51:56.812.
KELLY KOSSOW, ESQ. - Notification received on 2023-06-05 14:51:55.828.
DIV. OF PAROLE & PROBATION - Notification received on 2023-06-05 14:51:56.484.
ADAM CATE, ESQ. - Notification received on 2023-06-05 14:51:57.203.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-06-05 14:51:56.125.

******* 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:

06-05-2023:14:51:28

Clerk Accepted:

06-05-2023:14:51:36

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.

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:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

ADAM D. CATE, 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 3347

IN THE SECOND JUDICIAL DISTRICT COURT 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 GRANTING MOTION TO CONTINUE

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

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

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

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

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

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

On January 31, 2023, SCHACHTER filed a *Request for Expedited Hearing on Petitioner's Writ of Habeas Corpus*. On February 14, 2023, the Court entered an *Order to Set* wherein the State of Nevada was directed to contact Department 4 to set oral arguments on the State of Nevada's Motion to Dismiss filed on November 28, 2022, and notify the Petitioner of the hearing date once set. On February 22, 2023, Oral Arguments on Motion to Dismiss were set for June 28, 2023.

On May 30, 2023, the STATE OF NEVADA filed a *Motion to Continue Oral Arguments* wherein the STATE OF NEVADA requested a continuance of the oral arguments scheduled for June 28, 2023 to July 13, 2023 due to the STATE OF NEVADA's counsel's scheduling conflict.

Initially, the Court finds NRCrP 8(4) provides a basis for granting the instant Motion because no oppositions were filed. See NRCrP (4)(b) ("[f]ailure of the opposing party to serve and file his written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same"). Additionally, the Court finds it is appropriate to grant the continuance of the Oral Arguments on Motion to Dismiss.

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

IT IS HEREBY ORDERED that the State of Nevada's Motion to Continue Oral Arguments is GRANTED.

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IT IS HEREBY FURTHER ORDERED that the Oral Arguments on Motion to Dismiss hearing is continued from June 28, 2023 to July 13, 2023 at 4:00 p.m.

Dated this 9 day of June, 2023.


DISTRICT JUDGE

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 9 day of June, 2023, I filed the **ORDER GRANTING MOTION TO CONTINUE** 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]

XX **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.**

NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
JENNIFER NOBLE, ESQ. for STATE OF NEVADA
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION
KELLY KOSSOW, ESQ. for STATE OF NEVADA
ADAM CATE, ESQ. for STATE OF NEVADA

XX **Transmitted document to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

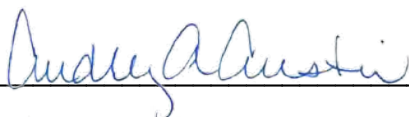
Marc Schachter, #91445
TLVCC
P.O. Box 208
Indian Springs, NV 89070

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

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

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

DATED this 9 day of June, 2023.



Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-06-09 16:23:22.644.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-06-09 16:23:17.316.
KELLY KOSSOW, ESQ. - Notification received on 2023-06-09 16:23:07.972.
DIV. OF PAROLE & PROBATION - Notification received on 2023-06-09 16:23:13.691.
ADAM CATE, ESQ. - Notification received on 2023-06-09 16:23:19.035.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-06-09 16:23:11.41.

******* 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:

06-09-2023:16:21:45

Clerk Accepted:

06-09-2023:16:22:18

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Granting Continuance

Filed By:

Judicial Asst. AAustin

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

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

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SCHACHTER

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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 No. 3370

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

* * *

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

v.

Dept No. 4

STATE OF NEVADA,

Respondent.

_____ /

**ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST-
CONVICTION)**

Statement of Proceedings

The Petitioner was convicted by a jury of Attempted Robbery. At sentencing, the Court declared the Defendant to be a habitual criminal. See Judgment filed March 5, 2015. In the Judgment, the Court sentenced the Petitioner 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 Petitioner 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 Petitioner filed a Motion to Modify and/or Correct Illegal Sentence. The State opposed on June 17, 2021. The Petitioner filed a reply on July 6, 2021, and formally submitted the matter for the Court's review. The Court conducted a hearing on the motion on March 25, 2022, and subsequently entered an order denying the Petitioner's motion on March 28, 2022. The Petitioner appealed.

On September 9, 2022, the Nevada Court of Appeals entered an Order Affirming in Part, Reversing in Part and Remanding. Schachter v. State, Docket No. 84547-COA. In that Order, the Court of Appeals held that because the Nevada Supreme Court had not yet issued its remittitur on the Petitioner's direct appeal, this Court was without jurisdiction to issue its corrected judgment of conviction. As a result, it directed "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." *Id.*

On October 13, 2022, following the Court of Appeals' order, this Court entered an Order vacating the Corrected Judgment of Conviction filed on July 30, 2015, and directing the clerk to issue the Corrected Judgment of Conviction. On that same day, the Court issued its Corrected Judgment.

Before the Court of Appeals had issued its remittitur, the Petitioner filed a Petition for a Writ of Habeas Corpus (Post-Conviction) ("Petition") on October 4, 2022. On October 13, 2022, the Court entered an Order directing the State to respond within 45 days. On October 18, 2022, the Petitioner filed a Memorandum of Points and Authorities in support of his Petition. On November 28, 2022, the State filed a Motion to Dismiss Petition For Writ of Habeas Corpus (Post-Conviction). The Petitioner filed a Response and submitted the matter on December 19, 2022. The Court entered an Order to Set on February 14, 2023, directing that a hearing be conducted on the State's Motion to Dismiss.

On July 13, 2023, the Court conducted an in-person hearing to consider oral arguments on the State's Motion to Dismiss. The State was represented by Deputy District Attorney Kevin

Naughton. The Petitioner was present and represented himself. Having considered the arguments presented at that hearing, the papers and pleadings on file, and the applicable legal standards, the Court hereby enters the following Order.

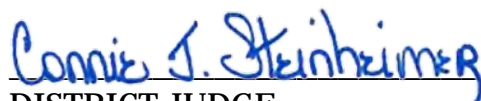
Findings of Fact and Conclusions of Law

In its Order Affirming in Part, Reversing in Part and Remanding, the Nevada Court of Appeals found that this Court acted without jurisdiction in entering its first corrected Judgment of Conviction on July 30, 2015. As a result, it ordered this Court to vacate that corrected Judgment of Conviction and reissue the judgment after remand. This Court followed that process and vacated and reissued its Corrected Judgment on July 30, 2015, after remittitur had issued and this Court was again vested with jurisdiction.

The Court rejects the Petitioner's argument that he was only ever legally sentenced on an Attempted Robbery conviction. The record has been clear since sentencing – this Court adjudicated him as a habitual criminal and sentenced him to a habitual criminal sentence. Despite the jurisdictional issues, the Court finds that the Defendant has been properly sentenced and did not expire his sentence on the Attempted Robbery conviction. This Court issued its October 13, 2022, Corrected Judgment of Conviction *nunc pro tunc* to accurately reflect the intent and specific sentence this Court imposed at the Petitioner's sentencing hearing in 2015.

For those reasons, the Court finds the Petition is without merit, the jurisdictional issues related to the Corrected Judgment of Conviction have been addressed and remedied, and the State's Motion to Dismiss is GRANTED. The Petition is DISMISSED.

DATED this 17 day of July, 2023.


DISTRICT JUDGE

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-17 11:29:42.13.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-17 11:29:38.551.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-17 11:29:35.536.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-17 11:29:37.598.
ADAM CATE, ESQ. - Notification received on 2023-07-17 11:29:40.567.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-17 11:29:36.551.

******* 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:

07-17-2023:11:26:48

Clerk Accepted:

07-17-2023:11:28:47

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Dismiss Post Conviction

Filed By:

Court Clerk KCrawford

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

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NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

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NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

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Reno, NV 89520

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SCHACHTER

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

CODE 2540

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

STATE OF NEVADA,

Plaintiff,

Case No: CR14-1044

vs.

Dept. No: 4

MARC PAUL SCHACHTER,

Defendant.

_____ /

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on July 17, 2023, the Court entered a decision or order in this matter, a true and correct copy of which is attached hereto.

Dated July 17, 2023.

ALICIA LERUD

Clerk of the Court

/s/N. Mason

N. Mason-Deputy Clerk

CERTIFICATE OF SERVICE

Case No. CR14-1044

Pursuant to NRCP 5 (b), I certify that I am an employee of the Second Judicial District Court; that on July 17, 2023, I electronically filed the Notice of Entry of Order with the Court System which will send a notice of electronic filing to the following:

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

I further certify that on July 17, 2023, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the attached document, addressed to:

Attorney General's Office
100 N. Carson Street
Carson City, NV 89701-4717

Marc P. Schachter (#91445)
Three Lakes Valley Conservation Camp
P. O. Box 208
Indian Springs, Nevada 89070

The undersigned does hereby affirm that pursuant to NRS 239B.030 and NRS 603A.040, the preceding document does not contain the personal information of any person.

Dated July 17, 2023.

/s/N. Mason
N. Mason- Deputy Clerk

CODE No. 3370

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

* * *

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

v.

Dept No. 4

STATE OF NEVADA,

Respondent.

_____ /

**ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (POST-
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On July 13, 2023, the Court conducted an in-person hearing to consider oral arguments on the State's Motion to Dismiss. The State was represented by Deputy District Attorney Kevin

Naughton. The Petitioner was present and represented himself. Having considered the arguments presented at that hearing, the papers and pleadings on file, and the applicable legal standards, the Court hereby enters the following Order.

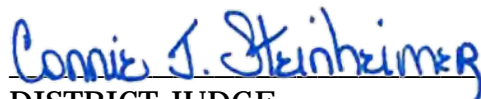
Findings of Fact and Conclusions of Law

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The Court rejects the Petitioner's argument that he was only ever legally sentenced on an Attempted Robbery conviction. The record has been clear since sentencing – this Court adjudicated him as a habitual criminal and sentenced him to a habitual criminal sentence. Despite the jurisdictional issues, the Court finds that the Defendant has been properly sentenced and did not expire his sentence on the Attempted Robbery conviction. This Court issued its October 13, 2022, Corrected Judgment of Conviction *nunc pro tunc* to accurately reflect the intent and specific sentence this Court imposed at the Petitioner's sentencing hearing in 2015.

For those reasons, the Court finds the Petition is without merit, the jurisdictional issues related to the Corrected Judgment of Conviction have been addressed and remedied, and the State's Motion to Dismiss is GRANTED. The Petition is DISMISSED.

DATED this 17 day of July, 2023.


DISTRICT JUDGE

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-17 11:39:25.182.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-17 11:39:24.526.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-17 11:39:23.526.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-17 11:39:24.151.
ADAM CATE, ESQ. - Notification received on 2023-07-17 11:39:24.823.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-17 11:39:23.823.

******* 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:

07-17-2023:11:38:46

Clerk Accepted:

07-17-2023:11:39:05

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Deputy Clerk NMason

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

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The following people were served electronically:

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NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, 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

1 **CODE: 2525**

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 **MARC PAUL SCHACHTER,**

10 **Petitioner,**

11 **vs.**

Case No. CR14-1044

12 **STATE OF NEVADA,**

Dept. No. 4

13 **Respondent.**
14 _____/

15
16 **NOTICE OF CHANGE OF ADDRESS**

17 **SEE ATTACHED**

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

MARC SCHACHTER
V9-1757
405 GRAND CANYON BLDG #7
RENO, NV 89502
PRO PER

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

MARC PAUL SCHACHTER,
PETITIONER

v.

STATE OF NEVADA

CASE # CR-14-1044
DEPT. # 4

CHANGE OF ADDRESS

PLEASE BE ADVISED THAT PETITIONER IN ABOVE
CAPTIONED CASE, MARC PAUL SCHACHTER,
HAVING BEEN GRANTED HIS PAROLE NOW
RESIDES AT: 405 GRAND CANYON BLDG. #7
RENO, NV 89502
(775)-358-1562

PLEASE DIRECT ALL MAIL TO THIS
ADDRESS.

DATE: 7-13-23

SUBMITTED,
Mac Sch
MARC SCHACHTER
IN PRO PER

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-17 11:58:17.544.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-17 11:58:13.575.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-17 11:58:09.231.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-17 11:58:12.013.
ADAM CATE, ESQ. - Notification received on 2023-07-17 11:58:15.732.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-17 11:58:10.888.

******* 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:

07-17-2023:11:57:17

Clerk Accepted:

07-17-2023:11:57:37

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice of Change of Address

Filed By:

Court Clerk KCrawford

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

JENNIFER P. NOBLE, ESQ. for STATE OF
NEVADA

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

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

CODE No. 1360

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

* * *

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

v.

Dept No. 4

STATE OF NEVADA,

Respondent.

_____ /

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 17th day of July, 2023, I filed the ***Order Dismissing Petition For Writ Of Habeas Corpus (Post-Conviction)*** with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the ***Order Dismissing Petition for Writ Of Habeas Corpus (Post-Conviction)*** and the ***Notice of Entry of Order*** also filed on July 17, 2023, 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 P. NAUGHTON, ESQ. for STATE OF NEVADA
JENNIFER P. NOBLE, ESQ. for STATE OF NEVADA
NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA
KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA
ADAM D. CATE, ESQ. for STATE OF NEVADA Attorney at Law
DIV. OF PAROLE & PROBATION

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

Marc Paul Schachter
405 Grand Canyon Blvd. #7
Reno, NV 89502

 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 –

Krista Meier, Esq.
Appointed Counsel Administrator
kristameier6@gmail.com

DATED this 17th day of July, 2023.



KATHRYN CRAWFORD
Court Clerk

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-17 12:09:40.466.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-17 12:09:39.763.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-17 12:09:38.7.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-17 12:09:39.466.
ADAM CATE, ESQ. - Notification received on 2023-07-17 12:09:40.122.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-17 12:09:39.044.

******* 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:

07-17-2023:12:08:57

Clerk Accepted:

07-17-2023:12:09:17

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Certificate of Service

Filed By:

Court Clerk KCrawford

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NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

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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

MARCSCHACHTERIn Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018405 GRAND CANYON #7
RENO, NV 89502
IN PROSE

FILED

2023 JUL 25 PM 1:56

ALICIA L. LEROY
CLERK OF THE COURT
BY [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARC PAUL SCHACHTER

Plaintiff,

vs.

STATE OF NEVADA, ETAL
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

PETITION FOR WRIT OF HABEAS CORPUSruled on the 1TH day of JULY, 2023.Dated this 25TH day of JULY, 2023.

Respectfully Submitted,

[Signature]

CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHACHTER, hereby certify, pursuant to NRCP 5(b), that on this _____
day of 25, 2023, 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:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

CC:FILE

DATED: this _____ day of _____, 20____.

/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

CR-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

7/25/23

Date

MARC SCHACHTER

Print Name

PRO SE

Title

1 Code: 1227
 2 Name: MARC SCHACHTER
 3 Address: 405 GRAND CANYON BLVD #7
RENO, NV 89502
 4 Telephone: 775-378-1562
 Email: schochtermarc@gmail.com
 Self-Represented Litigant or Bar Number

FILED
 2023 JUL 25 PM 1:56
 ALICIA L LERUD
 CLERK OF THE COURT
 BY [Signature]
 DEPUTY

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

11 MARC PAUL SCHACHTER
 Plaintiff / Petitioner / Joint Petitioner,

Case No. CR-14-1046

13 vs.

Dept. No. 4

14 STATE OF NEVADA, ET AL.
 Defendant / Respondent / Joint Petitioner.

18 APPLICATION FOR ELECTRONIC FILING AND SERVICE EXEMPTION

20 I request to be exempt from the mandatory electronic filing and service requirement on the
 21 above case for the following reason(s):

22 ☒ I do not readily have access to a computer with internet access.

23 ☐ Mandatory electronic filing would cause undue hardship or significant prejudice to me
 24 because: _____

26 ☐ I am a licensed attorney with limited resources and unable to meet the requirements for
 27 electronic filing. I am requesting a temporary relief from mandatory electronic filing.

28 I will be prepared to comply by: _____

☐ Other (please specify): JUST RELEASED FROM PRISON
ON PAROLE, FILING IN PRISON

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.*

This document does not contain the personal information of any person as defined by NRS 603A.040.

Date: 7/27/23

Signature:

Marc Schacter

Print Your Name:

MARC SCHACTER

* The penalty for willfully making a false statement under penalty of perjury is a minimum of 1 year, and a maximum of 4 years in prison, in addition to a fine of not more than \$5,000.00. N.R.S. 119.145.

DECLARATION OF SERVICE BY MAIL

I declare:

On 7 / 17 / 23, I deposited in the U.S. Postal Service the Application for Electronic Filing and Service Exemption in a sealed envelope with the correct postage, addressed to the following parties to the case:

1. Name: WASHOE COUNTY DISTIC ATTORNEY

Address: ONE SIERRA ST. RENO, NV 89501

2. Name: CLERK OF THE COURT

Address: _____

3. Name: _____

Address: _____

4. Name: _____

Address: _____

If more room is needed, attach additional pages.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.*

This document does not contain the personal information of any person as defined by NRS 603A.040.

Date: 7/17/23

Signature: Marc Schachter

Print Your Name: MARC SCHACHTER

* The penalty for willfully making a false statement under penalty of perjury is a minimum of 1 year, and a maximum of 4 years in prison, in addition to a fine of not more than \$5,000.00. N.R.S. 119.145.

MARC SCHACHTER #91445
Petitioner/In Propria Persona
Post Office Box 208, SDEC 405 GRAND CANYON #7
Indian Springs, Nevada 89070-0208 READ, NV 89502

FILED

2023 JUL 25 PM 3:19

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

ANGELA L. L. HARRIS
CLERK COURT
BY [Signature]

MARC SCHACHTER

Plaintiff,

VS.

STATE OF NEVADA

Defendant.

CASE No. CR-14-1044

DEPT. No. 04

DESIGNATION OF RECORD ON APPEAL

TO: NEVADA SUPREME COURT
COURT OF APPEALS
201 S. CARSON BLVD
SUITE 20
CARSON CITY, NV 89701

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 23 day of JUL, 2023.

RESPECTFULLY SUBMITTED BY:

[Signature]
MARC SCHACHTER # 91445
Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHACHTER, hereby certify, pursuant to NRCP 5(b), that on this _____ day of 25, 2023, 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:

_____	_____
_____	_____
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_____	_____
_____	_____

CC:FILE

DATED: this _____ day of _____, 20____.

/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

CR-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

7/25/23
Date

MARC SCHACHTER
Print Name

PRO SE
Title

1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

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

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

12 Plaintiff,)

13 vs.)

14 MARC PAUL SCHACHTER,)

15 Defendant.)

CASE NO. CR14-1044

DEPARTMENT NO. 4

17 TRANSCRIPT OF PROCEEDINGS

18 ORAL ARGUMENTS

19 THURSDAY, JULY 13, 2023, 9:00 A.M.

20 Reno, Nevada

22 Reported By: JUDITH ANN SCHONLAU, CCR #18
23 NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
24 Computer-aided Transcription
25

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: KEVIN NAUGHTON, ESQ.

 DEPUTY DISTRICT ATTORNEY

 1 S. SIERRA STREET

 RENO, NEVADA

FOR THE DEFENDANT: APPEARING PRO SE

1 RENO, NEVADA; THURSDAY, JULY 13, 2023; 9:00 A.M.

2 -oOo-

3 THE COURT: This is CR14-1044. This is a motion to
4 dismiss the Petition of Habeas Corpus of Mr. Schachter.

5 THE DEFENDANT: Good afternoon, Your Honor.

6 MR. NAUGHTON: Kevin Naughton for the State. This is
7 a hearing set on the State's Motion to Dismiss. As I pointed
8 out in the Motion to Dismiss, this Court entered its
9 corrected judgment in line with the most recent remand of the
10 Appellate Court. For the reasons set forth in our Motion to
11 Dismiss we do believe that the defendant has always properly
12 been under sentence. There was some confusion as to the
13 original criminal sentence and Judgment suggesting it run
14 concurrent rather superseding that sentence for attempted
15 robbery.

16 That being said, by this Court's, order, with that
17 corrected Judgment running nunc pro tunc, we do believe it
18 corrected the sentence as ordered. That the amended
19 corrected Judgment of Conviction most recently ordered is
20 appropriate, and at this point in time there is no relief
21 granted and all the remedies directed by the Appellate Court
22 have been taken care of via the most recent Judgment.

23 THE COURT: Mr. Schachter.

24 THE DEFENDANT: Can I just -- excuse me -- can I
25 just -- I told Mr. Naughton I never got the motion to

1 continue. I never got a copy even of your Order.

2 THE COURT: You mean the Motion to Dismiss.

3 MR. NAUGHTON: No, to continue it from last week to
4 this week.

5 THE COURT: Oh. I didn't know what we were talking
6 about.

7 THE COURT: We didn't have a hearing last week.

8 THE DEFENDANT: I know. It was not in your hearing.
9 I never got the original motion to continue while I was in
10 custody.

11 MR. NAUGHTON: This case was set for hearing I
12 believe on June 29th.

13 THE COURT: 28th.

14 MR. NAUGHTON: I apologize. Due to a scheduling
15 problem, I filed motion to continue. This Court entered and
16 Order granting that request. It is my understanding, in
17 speaking to Schachter, he never received a copy of the
18 State's motion while in custody. It is my understanding that
19 is moot, that day's hearing already has gone past.

20 THE COURT: Right. I agree.

21 THE DEFENDANT: Just for your own information, even
22 your Order granting it took over 20 days to get to me.

23 THE COURT: Where were you housed?

24 THE DEFENDANT: At Three Lakes. Like I told
25 Mr. Naughton, there was no new transportation order so they

1 brought me up here a month early.

2 THE COURT: Were you released from up here?

3 THE DEFENDANT: Yes. I also have a change of
4 address. Can I file it with the Court?

5 THE COURT: Sure. We can change your address. The
6 bailiff take that piece of paper from you and give it to
7 clerk and she will file it in.

8 THE DEFENDANT: As to the Motion to Dismiss because
9 the Court of Appeals vacated the original sentence and
10 ordered it to be legal, right, the underlying attempted
11 robbery sentence has expired. No matter whether it was one
12 to four you originally sentenced me to or the one to six that
13 I was told was the maximum at my waiver or the actual ten
14 years, that is the maximum by statute. Any sentence that the
15 Court gives me to the attempted robbery has already expired,
16 therefore this Court doesn't have jurisdiction to impose a
17 new enhancement or the habitual on top of an expired
18 sentence. Bisbee, Cohen, you know the whole range of cases
19 here. That is because you are using the extended period of
20 the enhancement to impose the enhancement now and that is
21 incorrect, right. Any sentence for the attempted robbery
22 which I was convicted of by jury has expired out, so the
23 Court doesn't have jurisdiction of an expired sentence,
24 therefore when you reissued the corrected judgment last
25 October, the Court hadn't had jurisdiction to enhance that

1 sentence. Once the sentence becomes expired, there is no more
2 enhancement or superseding. So that is my argument. My
3 position.

4 THE COURT: All right. Thank you.

5 THE DEFENDANT: Thank you.

6 THE COURT: Mr. Naughton.

7 MR. NAUGHTON: Your Honor, I think we have the
8 criminal history with Mr. Schachter what the sentence was in
9 this case. It is the State's position by reference all three
10 of the Judgments of Conviction have been filed in this case
11 as well as the sentencing transcript. He was never just
12 sentenced to the attempted robbery. The Appellate Court
13 never ruled the habitual sentence was illegal in and of
14 itself. There was issue with the original Judgment of
15 Conviction regarding superseding or opposing it in addition
16 to running it concurrent. This Court's attempt to correct
17 that with its first corrected Judgment of Conviction,
18 however, due to a jurisdictional issue as the Court of
19 Appeals pointed out in its most recent Order, this Court
20 acted without jurisdiction at that point in time because the
21 case was then removed to the Supreme Court. However, the
22 Court has always sentenced Mr. Schachter as a habitual
23 criminal. He's always been under that sentence for the
24 habitual treatment. The Court's most recent corrected
25 Judgment of Conviction which was filed at a time the court

1 had jurisdiction as a result of the order of remand is a
2 correct statement of the sentence originally imposed at the
3 time of sentencing as pointed or as reflected by the
4 transcript of sentencing proceedings. The Court use of nunc
5 pro tunc is appropriate to make the record, the corrected
6 Judgment of Conviction speak to the truth of this matter the
7 Court orally sentenced Mr. Schachter. For all those reasons.
8 We think the corrected Judgment appropriately reflects the
9 intent of the Court's most recent Petition.

10 THE COURT: Mr. Schachter, it is always interesting
11 to have you here.

12 THE DEFENDANT: Thank you.

13 THE COURT: I always enjoy your arguments. You do
14 come up with good thoughts, and I hope your parole goes very
15 well.

16 THE DEFENDANT: Thank you very much.

17 THE COURT: But I am going to grant the State's Motion
18 to Dismiss for the reasons argued in his motion, because the
19 authority cited in his motion as well today's argument. I am
20 going to ask the State to prepare a proposed order adopting
21 the analysis that you utilized in making your motion.
22 Provide it to the Court for my review then I will enter the
23 order. Good luck, Mr. Schachter.

24 THE DEFENDANT: Good luck, Your Honor.

25 THE COURT: Court's in recess.

1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)
4

5 I, Judith Ann Schonlau, Official Reporter of the Second
6 Judicial District Court of the State of Nevada, in and for
7 the County of Washoe, DO HEREBY CERTIFY:

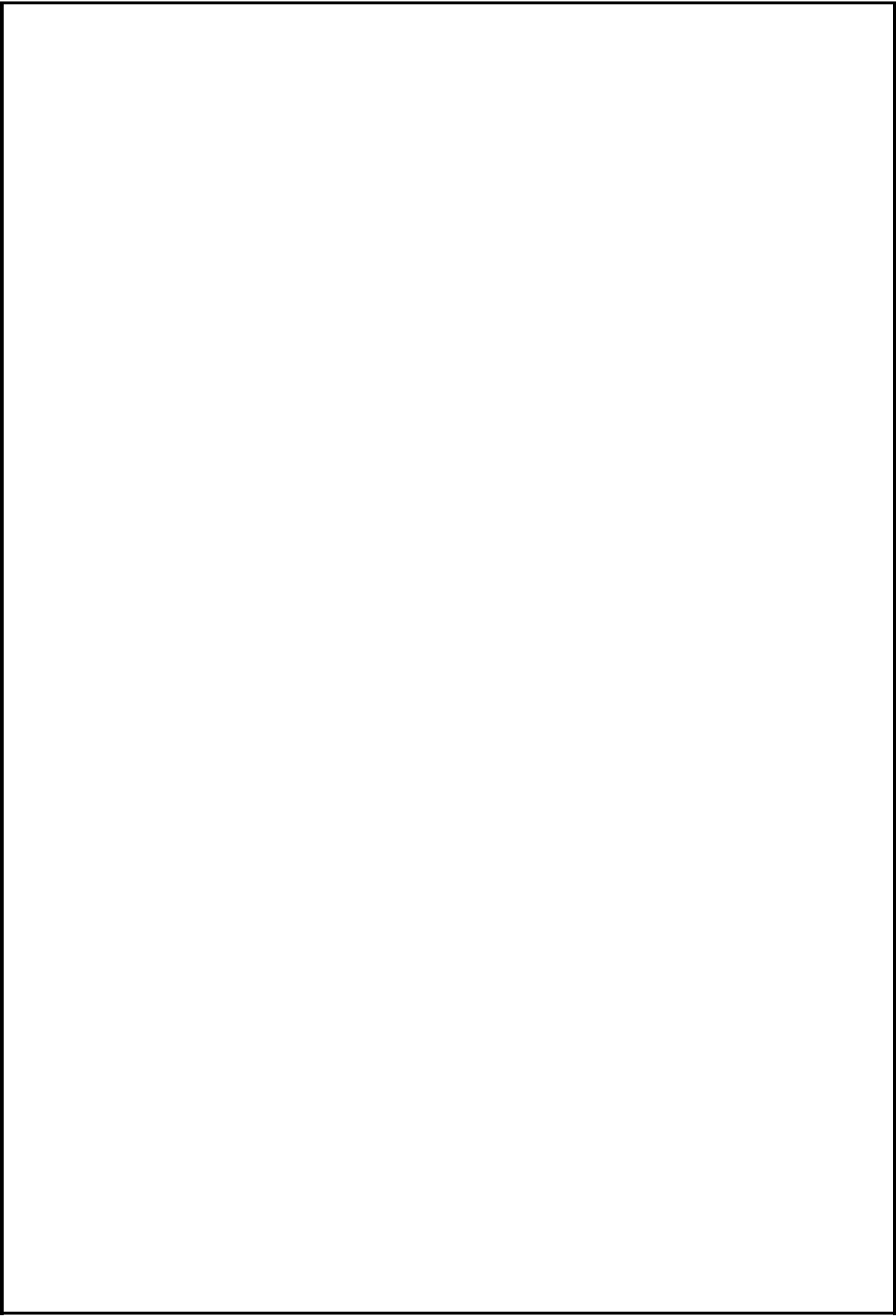
8 That as such reporter I was present in Department No. 4 of
9 the above-entitled court on THURSDAY, JULY 13, 2023 at the
10 hour of 9:00 a.m. of said day and that I then and there took
11 verbatim stenotype notes of the proceedings had in the matter
12 of THE STATE OF NEVADA vs. MARC PAUL SCHACHTER, Case Number
13 CR14-1044.

14 That the foregoing transcript, consisting of pages numbered
15 1-8 inclusive, is a full, true and correct transcription of
16 my said stenotypy notes, so taken as aforesaid, and is a
17 full, true and correct statement of the proceedings had and
18 testimony given upon the trial of the above-entitled action
19 to the best of my knowledge, skill and ability.

20 DATED: At Reno, Nevada this 15th day of July, 2023.
21
22

23 /s/ Judith Ann Schonlau
24 JUDITH ANN SCHONLAU CSR #18
25

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Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-25 15:21:42.926.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-25 15:21:41.645.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-25 15:21:39.988.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-25 15:21:41.051.
ADAM CATE, ESQ. - Notification received on 2023-07-25 15:21:42.192.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-25 15:21:40.629.

******* 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:

07-25-2023:15:21:04

Clerk Accepted:

07-25-2023:15:21:17

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Transcript

Filed By:

Judith Schonlau

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

JENNIFER P. NOBLE, ESQ. for STATE OF
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NICKOLAS J. GRAHAM, ESQ. for STATE OF
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KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

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SCHACHTER

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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

Code 1310

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

MARC PAUL SCHACHTER,

Petitioner,

vs.

Case No. CR14-1044

STATE OF NEVADA,

Dept. No. 4

Respondent.

CASE APPEAL STATEMENT

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

1. Appellant is Marc Paul 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
405 Grand Canyon #7
Reno, Nevada 89502
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 Dismissing Petition for Writ of Habeas Corpus (Post Conviction) filed July 17th, 2023.
11. The case has been the subject of a previous appeal to the Supreme Court.
Supreme Court No.: 67673, 84547 and 86361
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 26th day of July, 2023.

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

MARC PAUL SCHACHTER,

Petitioner,

vs.

Case No. CR14-1044

STATE OF NEVADA,

Dept. No. 4

Respondent.

_____ /

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 26th day of July, 2023, 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 26th day of July, 2023.

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 2023-07-26 08:39:38.582.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-26 08:39:37.332.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-26 08:39:34.144.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-26 08:39:36.613.
ADAM CATE, ESQ. - Notification received on 2023-07-26 08:39:38.051.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-26 08:39:35.082.

******* 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:

07-26-2023:08:38:45

Clerk Accepted:

07-26-2023:08:39:04

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

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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KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

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SCHACHTER

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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

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

MARC PAUL SCHACHTER,

Petitioner,

v.

THE STATE OF NEVADA,

Respondent.

CASE NO.: CR14-1044

DEPT. NO.: 4

ORDER GRANTING APPLICATION FOR ELECTRONIC FILING AND SERVICE
EXEMPTION

Before the Court is an *Application for Electronic Filing and Service Exemption*. The applicant, MARC PAUL SCHACHTER, has requested exemption from the mandatory electronic filing and service requirement¹ of the Second Judicial District Court, and has provided information in support of this Application under penalty of perjury.

Good cause having been shown, the Application is GRANTED. MARC PAUL SCHACHTER, is hereby exempt from the electronic filing of the Second Judicial District Court. He is hereby allowed to file all documents in paper form in Case No. CR14-1044. All documents must be served on the opposition in paper using traditional means. No electronic service will be permitted. All documents must be either typewritten or legible to be considered.

DATED this 27 day of July, 2023.


DISTRICT JUDGE

¹ Pursuant to Second Judicial District Court Administrative Orders 2015-08 and 2016-05.

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 27 day of July, 2023, I filed the **ORDER GRANTING APPLICATION FOR ELECTRONIC FILING AND SERVICE EXEMPTION** 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]

XX **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:**

KELLY KOSSOW, ESQ. for STATE OF NEVADA
JENNIFER NOBLE, ESQ. for STATE OF NEVADA
NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION
ADAM CATE, ESQ. for STATE OF NEVADA

XX **Transmitted document to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

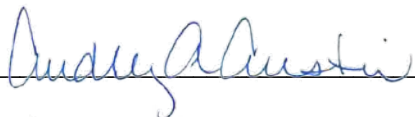
Marc Paul Schachter
405 Grand Canyon Blvd., #7
Reno, NV 89502

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

 Reno/Carson Messenger Service – [NONE]

 Federal Express or other overnight delivery service [NONE]

DATED this 27 day of July, 2023.



Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-27 09:33:25.408.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-27 09:33:23.314.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-27 09:33:18.845.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-27 09:33:22.033.
ADAM CATE, ESQ. - Notification received on 2023-07-27 09:33:24.689.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-27 09:33:20.642.

******* 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:

07-27-2023:09:29:43

Clerk Accepted:

07-27-2023:09:32:25

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Granting

Filed By:

Judicial Asst. AAustin

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

KEVIN P. NAUGHTON, ESQ. for STATE OF
NEVADA

DIV. OF PAROLE & PROBATION

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SCHACHTER

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

**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. 87040
District Court Case No. CR141044

RECEIPT FOR DOCUMENTS

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

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

07/27/2023 Appeal Filing Fee Waived. Criminal. (SC)

07/27/2023 Filed Notice of Appeal/Proper Person. Appeal docketed in the
Supreme Court this day. (CR141044). (SC)

DATE: July 27, 2023

Elizabeth A. Brown, Clerk of Court
bc

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-07-31 14:12:10.179.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-07-31 14:12:08.288.
KELLY KOSSOW, ESQ. - Notification received on 2023-07-31 14:12:05.444.
DIV. OF PAROLE & PROBATION - Notification received on 2023-07-31 14:12:07.725.
ADAM CATE, ESQ. - Notification received on 2023-07-31 14:12:09.288.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-07-31 14:12:06.6.

******* 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:

07-31-2023:14:11:01

Clerk Accepted:

07-31-2023:14:11:31

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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-

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NEVADA

DIV. OF PAROLE & PROBATION

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CARSON CITY, NV
89703

IN THE SUPREME COURT OF THE STATE OF NEVADA

CR14-1044
D4

No. 87040

FILED

SEP 13 2023

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

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

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).

Appellant filed an informal brief on August 29, 2023. Respondent may, but is not required to, file a response to the informal 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.

[Signature], 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 2023-09-15 13:40:06.212.
KEVIN NAUGHTON, ESQ. - Notification received on 2023-09-15 13:40:05.292.
KELLY KOSSOW, ESQ. - Notification received on 2023-09-15 13:40:03.759.
DIV. OF PAROLE & PROBATION - Notification received on 2023-09-15 13:40:04.759.
ADAM CATE, ESQ. - Notification received on 2023-09-15 13:40:05.806.
NICKOLAS GRAHAM, ESQ. - Notification received on 2023-09-15 13:40:04.212.

******* 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:

09-15-2023:13:39:34

Clerk Accepted:

09-15-2023:13:39:46

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

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DEFENSE SVCS
896 W. NYE ST, STE.
202
CARSON CITY, NV
89703

V9. 1807 MARC SCHACHTER
405 GRAND CANYON BLVD #1
RENO, NV 89502
IN PROPER

FILED
Electronically
CR14-1044
2023-09-27 11:26:26 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 9910544

THE SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA COUNTY OF WASHOE

MARC PAUL SCHACHTER,
PETITIONER

v.

STATE OF NEVADA, ET AL
RESPONDENT

CASE # CR-14-1044
DEPT. 04

CHANGE OF ADDRESS

PLEASE TAKE NOTICE THAT THE
ABOVE NAMED PETITIONER HAS
MOVED TO:

405 GRAND CANYON BLVD #1
RENO, NV 89502

DATE: SEPT. 20, 2023

Marc Schachter
IN PROSE

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

CHANGE OF ADDRESS
(Title of Document)

filed in District Court Case number CR-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

9/23/23
Date

MARC SCHACHTER
Print Name

DEFENDANT, PRO PER
Title

Return Of NEF**Recipients**

JENNIFER NOBLE, ESQ. - Notification received on 2023-09-27 11:27:00.92.

KEVIN NAUGHTON, ESQ. - Notification received on 2023-09-27 11:26:59.904.

MARC SCHACHTER - Notification received on 2023-09-27 11:26:59.623.

KELLY KOSSOW, ESQ. - Notification received on 2023-09-27 11:26:58.998.

DIV. OF PAROLE & PROBATION - Notification received on 2023-09-27 11:27:01.858.

ADAM CATE, ESQ. - Notification received on 2023-09-27 11:27:00.264.

NICKOLAS GRAHAM, ESQ. - Notification received on 2023-09-27 11:26:59.295.

******* 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:

09-27-2023:11:26:26

Clerk Accepted:

09-27-2023:11:26:39

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice of Change of Address

Filed By:

marc schachter

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