

Brendan Nasby  
I.D. No. 63618  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419  
(Petitioner In Pro Se)

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*Alvin L. Lindeman*

CLERK OF THE COURT

DA  
PP

DISTRICT COURT

CLARK COUNTY, NEVADA

Electronically Filed  
Jun 22 2016 10:33 a.m.  
Tara K. Lindeman  
Clerk of Supreme Court

\* \* \* \*

Brendan Nasby,

Petitioner,

Case No. 98C154293-2

vs.

E.K. McDaniel, et al,

Respondent.

Dept. No. XIX

NOTICE OF APPEAL

NOTICE IS GIVEN that Petitioner, Brendan Nasby, in Pro Se, hereby appeals to the Nevada Supreme Court the Findings of Fact, Conclusions of Law and Order denying Petition for Writ of Habeas Corpus and Motion for Appointment of Counsel, which was entered on ~~May 14, 2016~~ the 9th day of May, 2016.

Dated this 9th day of June, 2016.

By: *[Signature]*

Brendan Nasby #63618  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419  
(Petitioner In Pro Se)

RECEIVED

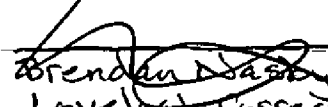
JUN 14 2016

CLERK OF THE COURT

CERTIFICATE OF MAILING

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address on this 9th day of June, 2016, by placing same in the U.S. Mail via prison law library staff:

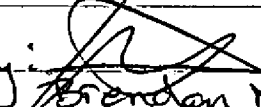
1) District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89155-2212

By:  #63618  
Havelock Correctional Center  
1200 Prison Rd.  
Havelock, NV 89419  
(Petitioner In Pro Se)

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. 98CI54293-2 does not contain the social security number of any person.

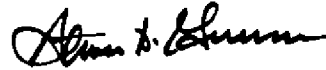
Dated this 9th day of June, 2016.

By:  #63618  
(Petitioner In Pro Se)

COPY

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05/12/2016 02:25:10 PM

NEO



CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BRENDAN NASBY,

Petitioner,

Case No: 98C154293-2

Dept No: XIX

vs.

THE STATE OF NEVADA,

Respondent,

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

PLEASE TAKE NOTICE that on May 9, 2016, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 12, 2016.

STEVEN D. GRIERSON, CLERK OF THE COURT



Heather Ungermann, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 12 day of May 2016, I placed a copy of this Notice of Entry in:

- ☒ The bin(s) located in the Regional Justice Center of:  
Clark County District Attorney's Office  
Attorney General's Office - Appellate Division-
- ☒ The United States mail addressed as follows:  
Brendan Nasby # 63618  
1200 Prison Road  
Lovelock, NV 89419



Heather Ungermann, Deputy Clerk

  
CLERK OF THE COURT

1 FCL  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHRISTOPHER F. BURTON  
6 Deputy District Attorney  
7 Nevada Bar #012940  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 BRENDAN JAMES NASBY,  
13 #1517690

14 Defendant.

CASE NO: 98C154293-2

DEPT NO: XIX

15 FINDINGS OF FACT, CONCLUSIONS OF  
16 LAW AND ORDER

17 DATE OF HEARING: APRIL 4, 2016  
18 TIME OF HEARING: 8:30 A.M.

19 THIS CAUSE having come on for hearing before the Honorable WILLIAM D.  
20 KEPHART, District Judge, on the 4th day of April, 2016, the Petitioner not being present,  
21 PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B.  
22 WOLFSON, Clark County District Attorney, by and through MEGAN THOMSON, Chief  
23 Deputy District Attorney, and the Court having considered the matter, including briefs,  
24 transcripts, arguments of counsel, and documents on file herein, now therefore, the Court  
25 makes the following findings of fact and conclusions of law:

26 FINDINGS OF FACT, CONCLUSIONS OF LAW

27 On November 9, 1998, the State charged BRENDAN JAMES NASBY (hereinafter  
28 "Defendant") by way of Information as follows: COUNT 1 – Conspiracy to Commit Murder

1 (Felony – NRS 199.480, 200.010, 200.030) and COUNT 2 – Murder with use of a Deadly  
2 Weapon (Open Murder) (Felony – NRS 200.010, 200.030, 193.165).

3 A jury trial commenced on October 11, 1999, and on October 19, 1999, the jury  
4 returned with a verdict of guilty on both counts; as to COUNT 2, the jury returned a guilty  
5 verdict for First Degree Murder with use of a Deadly Weapon. On November 29, 1999,  
6 Defendant was sentenced as follows: as to COUNT 1 – 48 to 120 months in the Nevada  
7 Department of Corrections (NDC) and as to COUNT 2 – Life with the possibility of parole,  
8 plus an equal and consecutive term for the use of a deadly weapon, to run consecutive to  
9 COUNT 1. Defendant's Judgment of Conviction was entered on December 2, 1999.

10 Defendant filed a Notice of Appeal on December 14, 1999. The Nevada Supreme Court  
11 affirmed Defendant's conviction on February 7, 2001. See Nasby v. State, No. 35319, Order  
12 of Affirmance (Feb. 7, 2001). Remittitur issued on March 6, 2001.

13 On January 30, 2002, Defendant filed a Post-Conviction Petition for Writ of Habeas  
14 Corpus. The State filed a Response on April 5, 2002. On March 27, 2006, the court denied  
15 Defendant's Petition. Defendant filed a Notice of Appeal on April 12, 2006. The district court  
16 filed its Findings of Fact, Conclusions of Law and Order on April 26, 2006, and its Notice of  
17 Entry on April 27, 2006. On June 18, 2007, the Nevada Supreme Court affirmed the district  
18 court's denial of Defendant's Petition. See Nasby v. State, No. 47130, Order of Affirmance  
19 (June 28, 2007). Remittitur issued on July 13, 2007.

20 Defendant filed his second Post-Conviction Petition for Writ of Habeas Corpus on  
21 February 18, 2011. The State responded on April 8, 2011. The court denied Defendant's  
22 Second Petition as procedurally barred on May 11, 2011. The court filed its Findings of Fact,  
23 Conclusions of Law and Order on June 17, 2011, with Notice of Entry being filed on June 27,  
24 2011. Defendant filed a Notice of Appeal on June 13, 2011, with the Nevada Supreme Court  
25 affirming the decision of the district court on February 8, 2012, and issuing Remittitur on  
26 March 5, 2012. Nasby v. State, No. 58579, Order of Affirmance (Feb. 8, 2012).

27 On December 9, 2014, Defendant filed his third Post-Conviction Petition for Writ of  
28 Habeas Corpus. The State responded on February 4, 2015. This Court denied Defendant's

1 Petition as procedurally barred on February 25, 2015. Defendant filed a notice of appeal on  
2 March 13, 2015. This Court's Findings of Fact, Conclusions of Law and Order was filed on  
3 March 30, 2015, with Notice of Entry being filed April 6, 2015. On September 11, 2015, the  
4 Nevada Supreme Court affirmed the district court's denial of Defendant's third petition as  
5 untimely, successive, and an abuse of the writ without a showing of good cause and prejudice.  
6 On April 3, 2015, Defendant filed a Motion to Disqualify Judge, and Notice and Motion to  
7 Attach Supplemental Exhibits on April 21, 2015. The State filed on Opposition on April 28,  
8 2015. On April 28, 2015, the district court filed a written order denying Defendant's motions.  
9 Defendant appealed this decision and the Nevada Supreme Court dismissed Defendant's  
10 appeal on July 8, 2015.

11 On January 5, 2016, Defendant filed his fourth Post-Conviction Petition for Writ of  
12 Habeas Corpus ("Petition"), a Memorandum of Points and Authorities in Support, a  
13 Supplemental Memorandum of Points and Authorities in Support, and a Motion for  
14 Appointment of Counsel. The State filed a Response on February 23, 2016. Defendant filed  
15 a reply on March 10, 2016.

16 After considering the pleadings, the Court finds that Defendant's Petition is  
17 procedurally barred pursuant to NRS 34.726 and NRS 34.810(1)-(2), and subject to laches  
18 pursuant to NRS 34.800, and now orders that Defendant's Supplement be DENIED.

19 **I. Defendant's Petition is time-barred.**

20 The mandatory provisions of NRS 34.726(1) states:

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

- 25 (a) That the delay is not the fault of the petitioner; and  
26 (b) That dismissal of the petition as untimely will  
unduly prejudice the petitioner. . .

27 //

28 //

//

1 NRS 34.726(1) (emphasis added). “[T]he statutory rules regarding procedural default are  
2 mandatory and cannot be ignored when properly raised by the State.” State v. Eighth Judicial  
3 Dist. Ct. (Riker), 121 Nev. 225, 233, 112 P.3d 1070, 1075 (2005).

4 Here, Defendant filed a direct appeal. Thus, the one-year time bar began to run from  
5 the date the Supreme Court issued Remittitur on March 6, 2001. Defendant had until March  
6 6, 2002 to file his Petition. However, Defendant waited almost 14 years until January 5, 2016,  
7 to file. This Court finds that Defendant’s Petition is procedurally barred under NRS 34.726  
8 and is therefore, denied.

9 **II. Defendant’s Petition is Successive.**

10 Defendant’s instant petition is successive pursuant to NRS 34.810. Pertinent portions  
11 of NRS 34.810 state:

12 2. A second or successive petition must be dismissed if the  
13 judge or justice determines that it fails to allege new or different  
14 grounds for relief and that the prior determination was on the  
15 merits or, if new and different grounds are alleged, the judge or  
16 justice finds that the failure of the Defendant to assert those  
17 grounds in a prior petition constituted an abuse of the writ.

18 3. Pursuant to subsections 1 and 2, the petitioner has the  
19 burden of pleading and proving specific facts that demonstrate:

- 20 (a) Good cause for the petitioner’s failure to present the  
21 claim or for presenting the claim again; and  
22 (b) Actual prejudice to the petitioner.

23 NRS 34.810(2), (3). The Nevada Supreme Court recognizes that “[u]nlike initial petitions  
24 which certainly require a careful review of the record, successive petitions may be dismissed  
25 based solely on the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123,  
26 129 (1995).

27 Defendant filed his first post-conviction petition on February 1, 2002, which was denied  
28 on March 27, 2006, and affirmed by the Nevada Supreme Court on June 18, 2007. Notably,  
29 Defendant filed a second petition on February 18, 2011, which was denied as procedurally  
30 barred on May 11, 2011. On December 9, 2014, Defendant filed his third petition, which was  
31 denied on February 25, 2015, and affirmed by the Nevada Supreme Court on September 11,  
32 2015, as untimely, successive, and an abuse of the writ without a showing of good cause and

1 prejudice. This Court finds that Defendant's first petition was filed and decided on the merits  
2 and that the instant Petition is successive pursuant to NRS 34.810(2) and therefore, denied.

3 **III. Defendant has failed to demonstrate good cause.**

4 The Nevada Supreme Court has specifically found that the district court has a duty to  
5 consider whether the procedural bars apply to a post-conviction petition and not arbitrarily  
6 disregard them. In Riker, the Court held that "[a]pplication of the statutory procedural default  
7 rules to post-conviction habeas petitions is mandatory," and "cannot be ignored when properly  
8 raised by the State." Id. at 231, 233, 112 P.3d at 1074, 1075. There, the Court reversed the  
9 district court's decision not to bar the defendant's untimely and successive petition:

10 Given the untimely and successive nature of [defendant's]  
11 petition, the district court *had a duty imposed by law* to consider  
12 whether any or all of [defendant's] claims were barred under NRS  
13 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . .  
[and] the court's failure to make this determination here  
constituted an arbitrary and unreasonable exercise of discretion.

14 Id. at 234, 112 P.3d at 1076 (emphasis added). "To establish good cause, appellants *must* show  
15 that an impediment external to the defense prevented their compliance with the applicable  
16 procedural rule." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added);  
17 see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003); Pellegrini v. State, 117  
18 Nev. 860, 887, 34 P.3d 519, 537 (2001). Such an external impediment could be "that the  
19 factual or legal basis for a claim was not reasonably available to counsel, or that 'some  
20 interference by officials' made compliance impracticable." Hathaway, 74 P.3d at 506, quoting  
21 Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzalez, 118  
22 Nev. at 595, 53 P.3d at 904, citing Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785  
23 n.4 (1998). Any delay in filing must not be the fault of the petitioner. NRS 34.726(1)(a).  
24 Additionally, the Nevada Supreme Court has clarified that, "appellants cannot attempt to  
25 manufacture good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526.

26 In an effort to demonstrate good cause for his untimely and successive fourth Petition,  
27 Defendant alleges that "[t]he authority relied upon in this petition did not exist 1 year following  
28 the filing of the judgment of conviction or the filing of a decision on direct appeal."



1 Specifically, Defendant asserts a claim of actual innocence explaining that he “was not made  
2 aware, nor had the ability to know of the Nevada Supreme Court’s ruling in Nika.”<sup>1</sup>

3 To the extent Defendant asserts a claim of “actual innocence” as an explanation of good  
4 cause, this Court finds this assertion to be without merit. The United States Supreme Court  
5 has held that in order for a defendant to obtain a reversal of his conviction based on a claim of  
6 actual innocence, he must prove that “‘it is more likely than not that no reasonable juror would  
7 have convicted him in light of the new evidence’ presented in habeas proceedings.” Calderon  
8 v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998) (quoting Schlup v. Delo, 513  
9 U.S. 298, 327, 115 S. Ct. 851, 867 (1995)). This means factual innocence, not mere legal  
10 insufficiency. Calderon, 523 U.S. at 559, 118 S. Ct. at 1502–03; Pellegrini, 117 Nev. at 887,  
11 34 P.3d at 537. Here, Defendant fails to assert a factual claim of innocence and instead, insists  
12 on pursuing a procedurally-barred *legal* claim.

13 This Court finds that Nika does not constitute new evidence and Defendant cannot  
14 manufacture good cause in an attempt to circumvent the statutory procedural bars. Clem, 119  
15 Nev. at 621, 81 P.3d at 526. Defendant’s suggestion that he can procrastinate for over 14 years  
16 before filing an untimely successive petition citing alleged “newly recognized” favorable case  
17 law is misguided as this would allow every defendant to ignore the mandatory statutory bars  
18 each time a potentially promising decision was decided in the courts many years after  
19 conviction, eviscerating the finality of NRS 34.726 and NRS 34.810. Further, Nika was  
20 decided in 2008, and Defendant’s fourth Petition was not filed until January 5, 2016.  
21 Defendant does not attempt to offer an explanation for the near 8-year delay and he has not  
22 overcome the threshold requirement of good cause and his attempt to rest on the merits of his  
23 claims is fatally flawed. Clem, 119 Nev. at 621, 81 P.3d at 525. Even if the 2008 Nika decision  
24 represented good cause (which the State adamantly contests), Defendant fails to explain why  
25 he did not raise these claims in his second or third petitions or, why he decided to file for relief  
26 in federal court. The Nevada Supreme Court is clear that pursuit of habeas corpus relief in  
27 federal courts does not constitute good cause for failure to comply with the mandatory one-

28 <sup>1</sup> Nika v. State, 124 Nev. 1272, 198 P.3d 839 (2008).

1 year statutory deadline set forth in NRS 34.726. Colley v. Warden, 105 Nev. 235, 236, 773  
2 P.2d 1229, 1230 (1989).

3 To the extent that Defendant alleges that post-conviction counsel somehow prevented  
4 him from complying with the mandatory procedural rules, this Court finds this contention to  
5 be without merit because ineffective assistance of post-conviction counsel cannot provide  
6 good cause sufficient to overcome the procedural bars. McKague, 112 Nev. at 164 912 P.2d  
7 at 258 (1996). McKague specifically held that with the exception of a first post-conviction  
8 Petition challenging the conviction or sentence of death under NRS 34.820(1)(a), one does not  
9 have "[a]ny constitutional or statutory right to counsel at all" in post-conviction proceedings.  
10 112 Nev. at 164, 912 P.2d at 258. Because Defendant had no right to post-conviction  
11 counsel—as his was not a capital case—he may not assert that alleged instances of ineffective  
12 post-conviction counsel constituted good cause for his untimely filing. Therefore, his claim is  
13 denied.

14 **IV. Defendant's Petition is barred by the doctrine of laches.**

15 NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period  
16 exceeding five years [elapses] between the filing of a judgment of conviction, an order  
17 imposing a sentence of imprisonment or a decision on direct appeal of a judgment of  
18 conviction and the filing of a petition challenging the validity of a judgment of conviction..."  
19 The Nevada Supreme Court observed in Groesbeck v. Warden, "[P]etitions that are filed many  
20 years after conviction are an unreasonable burden on the criminal justice system. The  
21 necessity for a workable system dictates that there must exist a time when a criminal conviction  
22 is final." 100 Nev. 259, 679 P.2d 1268 (1984). To invoke the presumption, the statute requires  
23 the State plead laches in its motion to dismiss the petition. NRS 34.800(2). This Court finds  
24 that the State affirmatively pleads laches in the instant case, the doctrine of laches applies as  
25 to bar the Defendant's Petition, and the Petition is denied.

26 //

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1 V. Defendant is not entitled to the appointment of counsel.

2 The United States Constitution and Nevada Constitution do not provide for a right to  
3 counsel in post-conviction proceedings. See Coleman v. Thompson, 501 U.S. 722, 752, 111  
4 S. Ct. 2546, 2566 (1991); McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996).  
5 NRS 34.750 provides that a court has discretion to appoint post-conviction counsel:

6 [a] petition may allege that the Defendant is unable to pay the costs  
7 of the proceedings or employ counsel. If the court is satisfied that  
8 the allegation of indigency is true *and the petition is not dismissed*  
9 *summarily*, the court may appoint counsel at the time the court  
orders the filing of an answer and a return. In making its  
determination, the court may consider, among other things, the  
severity of the consequences facing the petitioner and whether:


- 10 (a) The issues are difficult;  
11 (b) The Defendant is unable to comprehend the  
proceedings; or  
(c) Counsel is necessary to proceed with discovery.

12 NRS 34.750 (emphasis added). Additionally, the Nevada Supreme Court has concluded a  
13 petitioner "must show that the requested review is not frivolous before he may have an attorney  
14 appointed." Peterson v. Warden, 87 Nev. 134, 136, 483 P.2d 204, 205 (1971) (citing former  
15 statute NRS 177.345(2)). This Court finds that Defendant is not entitled to appointment of  
16 counsel because he has failed to demonstrate that his claims are not frivolous and that his  
17 untimely and successive fourth Petition will not be summarily dismissed.


18 **ORDER**

19 THEREFORE, IT IS HEREBY ORDERED that the Post-Conviction Petition for Writ  
20 of Habeas Corpus and Motion for Appointment of Counsel shall be, and are, hereby DENIED.

21 DATED this 5<sup>th</sup> day of April, 2016.

22   
23 DISTRICT JUDGE

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

26 BY  Per  
27 CHRISTOPHER F. BURTON  
28 Deputy District Attorney  
Nevada Bar #012940

CERTIFICATE OF SERVICE

I certify that on the 26th day of April, 2016, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

BRENDAN JAMES NASBY #63618  
LOVELOCK CORRECTIONAL CENTER  
1200 PRISON ROAD  
LOVELOCK, NV 89419

BY

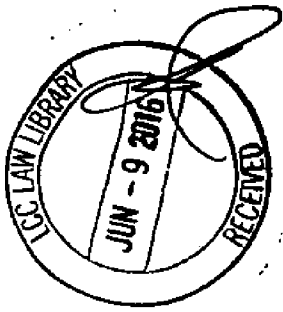


R. JOHNSON

Secretary for the District Attorney's Office

FL/CFB/rj/M-1

Brendan Nasby #63618  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

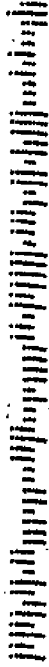


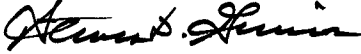
INMATE LEGAL  
MAIL CONFIDENTIAL



Clerk Of The Court  
200 Lewis Ave., 3rd Floor  
Las Vegas, NV 89155-1160

8910138300 0075



  
CLERK OF THE COURT

1 ASTA  
2  
3  
4  
5

6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 BRENDAN J. NASBY,

14 Defendant(s),  
15  
16

Case No: 98C154293-2

Dept No: XIX

17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Brendan Nasby

20 2. Judge: William D. Kephart

21 3. Appellant(s): Brendan Nasby

22 Counsel:

23 Brendan Nasby #63618  
24 1200 Prison Road  
25 Lovelock, NV 89419  
26  
27  
28

1 4. Respondent: The State of Nevada

2 Counsel:

3 Steven B. Wolfson, District Attorney  
4 200 Lewis Ave.  
5 Las Vegas, NV 89101  
(702) 671-2700

Adam Paul Laxalt, Attorney General  
555 E. Washington Ave., Suite 3900  
Las Vegas, NV 89101-1068  
(702) 486-3825

6 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
7 Permission Granted: N/A

8 Respondent(s)'s Attorney Licensed in Nevada: Yes  
9 Permission Granted: N/A

10 6. Appellant Represented by Appointed Counsel In District Court: Yes

11 7. Appellant Represented by Appointed Counsel On Appeal: N/A

12 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

13 9. Date Commenced in District Court: October 21, 1998

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

15 Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

16 11. Previous Appeal: Yes

17 Supreme Court Docket Number(s): 35319, 47130, 58579, 67476, 67580, 67704, 68039

18 12. Child Custody or Visitation: N/A

19 Dated This 15 day of June 2016.

20 Steven D. Grierson, Clerk of the Court

21 /s/ Chaunte Pleasant

22 Chaunte Pleasant, Deputy Clerk  
23 200 Lewis Ave  
24 PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

25  
26  
27  
28 cc: Brendan Nasby

DEPARTMENT 19  
**CASE SUMMARY**  
**CASE NO. 98C154293-2**

State of Nevada  
vs  
Brendan Nasby

§  
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Location: **Department 19**  
Judicial Officer: **Kephart, William D.**  
Filed on: **10/21/1998**  
Case Number History:  
Cross-Reference Case Number: **C154293**  
Defendant's Scope ID #: **1517690**  
Lower Court Case # Root: **98F11168**  
Lower Court Case Number: **98F11168B**  
Supreme Court No.: **58579**  
**67476**  
**67580**  
**67704**  
**68039**

**CASE INFORMATION**

<b>Offense</b>	<b>Deg</b>	<b>Date</b>	<b>Case Type:</b>	<b>Felony/Gross Misdemeanor</b>
1. CONSPIRACY TO COMMIT MURDER.	F	01/01/1900		
2. MURDER WITH A DEADLY WEAPON	F	01/01/1900	<b>Case Flags:</b>	<b>Bail Set</b>

*Bail Set at \$300000.00*  
**Appealed to Supreme Court**  
**Custody Status - Nevada**  
**Department of Corrections**

**Related Cases**

98C154293-1 (Multi-Defendant Case)  
98C154293-3 (Multi-Defendant Case)  
98C154293-4 (Multi-Defendant Case)

**Statistical Closures**

12/13/1999 USJR Reporting Statistical Closure  
05/13/2009 USJR Reporting Statistical Closure

**DATE**

**CASE ASSIGNMENT**

**Current Case Assignment**

Case Number	98C154293-2
Court	Department 19
Date Assigned	01/05/2015
Judicial Officer	Kephart, William D.

**PARTY INFORMATION**

*Lead Attorneys*

**Defendant**      **Nasby, Brendan J**

**Pro Se**

**Plaintiff**      **State of Nevada**

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

**DATE**

**EVENTS & ORDERS OF THE COURT**














**INDEX**

01/01/1900	<b>Plea</b> (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER. Not Guilty PCN:    Sequence:
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01/01/1900	<b>Plea</b> (Judicial Officer: User, Conversion) 2. MURDER WITH A DEADLY WEAPON Not Guilty PCN:    Sequence:
------------	---







DEPARTMENT 19  
**CASE SUMMARY**  
**CASE NO. 98C154293-2**

10/21/1998	 Information
10/22/1998	 Criminal Bindover
10/27/1998	<b>Initial Arraignment (9:00 AM)</b> <i>INITIAL ARRAIGNMENT Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
11/09/1998	 Information
11/12/1998	<b>Arraignment Continued (8:30 AM)</b> <i>ARRAIGNMENT CONTINUED Court Clerk: CAROL GREEN/cg Relief Clerk: PAULA GOODELL Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
11/12/1998	 Agreement <i>Agreement to Testify</i>
11/12/1998	 Guilty Plea Agreement
11/13/1998	 Criminal Bindover
11/24/1998	<b>Initial Arraignment (8:30 AM)</b> <i>INITIAL ARRAIGNMENT Court Clerk: LINDA SKINNER/ls Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
12/03/1998	 Information
12/04/1998	 Criminal Bindover
12/10/1998	<b>Initial Arraignment (8:30 AM)</b> <i>INITIAL ARRAIGNMENT</i>
12/10/1998	<b>Initial Arraignment (8:30 AM)</b> <i>INITIAL ARRAIGNMENT</i>
12/10/1998	<b>All Pending Motions (8:30 AM)</b> <i>ALL PENDING MOTIONS 12/10/98 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
12/10/1998	 Motion <i>Motion for Own Recognizance Release or House Arrest</i>
12/10/1998	 Guilty Plea Agreement
12/10/1998	 Guilty Plea Agreement
12/10/1998	 Reporters Transcript <i>Transcript of Hearing Held on November 5, 1998</i>
12/14/1998	 Reporters Transcript <i>Transcript of Hearing Held on December 2, 1998</i>
12/15/1998	<b>Motion for Own Recognizance Release/Setting Reasonable Bail (8:30 AM)</b> Events: 12/10/1998 Motion










DEPARTMENT 19  
**CASE SUMMARY**  
**CASE No. 98C154293-2**

	<i>DEFT'S MOTION FOR O.R. RELEASE OR HOUSE ARREST Heard By: Joseph Pavlikowski</i>
12/15/1998	<b>Motion for Own Recognizance Release/Setting Reasonable Bail (8:30 AM)</b> <i>DEFT'S REQUEST FOR O.R. RELEASE OR BAIL REDUCTION Heard By: Joseph Pavlikowski</i>
12/15/1998	<b>All Pending Motions (8:30 AM)</b> <i>ALL PENDING MOTIONS 12/15/98 Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
12/18/1998	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234 (1)(b)]</i>
12/18/1998	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234 (2)]</i>
12/21/1998	 Order <i>Order Denying Defendants Motion for Own Recognizance Release or House Arrest</i>
01/05/1999	 Notice of Witnesses <i>Supceding Notice of Witnesses [NRS 174.234 (1)(b)]</i>
01/06/1999	 Motion <i>Notice of Motion and Motion to Revoke Defendant Nasby's Jail Privileges and to Place him in Isolation</i>
01/07/1999	 Order <i>Order for Transcript</i>
01/08/1999	<b>Motion to Revoke Own Recognizance Release (8:30 AM)</b> Events: 01/06/1999 Motion <i>STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
01/21/1999	 Subpoena <i>Subpoena Regular</i>
01/22/1999	<b>Motion to Revoke Own Recognizance Release (9:00 AM)</b> <i>STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Court Clerk: CAROL GREEN Relief Clerk: CONNIE KALSKI/CK Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
01/28/1999	<b>Calendar Call (8:30 AM)</b> <i>CALENDAR CALL Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
01/28/1999	 Subpoena <i>Subpoena Regular</i>
01/29/1999	<b>Calendar Call (8:30 AM)</b> <i>CALENDAR CALL</i>
01/29/1999	<b>Motion to Revoke Own Recognizance Release (8:30 AM)</b> <i>STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Heard By: Joseph Pavlikowski</i>









DEPARTMENT 19  
**CASE SUMMARY**  
**CASE NO. 98C154293-2**

01/29/1999	<b>All Pending Motions</b> (9:00 AM) <i>ALL PENDING MOTIONS 1/29/99 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
02/01/1999	<b>Motion to Revoke Own Recognizance Release</b> (8:30 AM) <i>STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Heard By: Joseph Pavlikowski</i>
02/01/1999	<b>Status Check</b> (8:30 AM) <i>STATUS CHECK: TRIAL SETTING Heard By: Joseph Pavlikowski</i>
02/01/1999	<b>All Pending Motions</b> (8:30 AM) <i>ALL PENDING MOTIONS 2/1/99 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
02/01/1999	<b>CANCELED Jury Trial</b> (9:00 AM) <i>Vacated</i>
02/02/1999	<b>Motion to Revoke Own Recognizance Release</b> (8:30 AM) <i>STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Heard By: Joseph Pavlikowski</i>
02/02/1999	<b>Status Check</b> (8:30 AM) <i>STATUS CHECK: TRIAL SETTING Heard By: Joseph Pavlikowski</i>
02/02/1999	<b>All Pending Motions</b> (8:30 AM) <i>ALL PENDING MOTIONS 2/2/99 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
02/08/1999	<b>Sentencing</b> (8:30 AM) <i>SENTENCING Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
02/10/1999	<b>Request of Court</b> (8:30 AM) <i>AT THE REQUEST OF THE COURT Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
02/12/1999	<b>Request of Court</b> (8:30 AM) <i>AT THE REQUEST OF THE COURT Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
02/24/1999	 <b>Order</b> <i>Order for Visitation of Inmate by Parent, Child and Finance</i>
02/24/1999	 <b>Reporters Transcript</b> <i>Transcript of Hearing Held on November 12, 1998</i>
02/24/1999	 <b>Reporters Transcript</b> <i>Transcript of Hearing Held on December 10, 1998</i>
02/25/1999	<b>Sentencing</b> (8:30 AM) <i>SENTENCING Court Clerk: LINDA SKINNER/LS Relief Clerk: CONNIE KALSKI Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
02/25/1999	<b>Sentencing</b> (8:30 AM) <i>SENTENCING Court Clerk: LINDA SKINNER/LS Relief Clerk: CONNIE KALSKI Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
02/26/1999	 <b>Judgment of Conviction</b>

DEPARTMENT 19  
**CASE SUMMARY**  
**CASE NO. 98C154293-2**














	<i>Judgment of Conviction (Plea)</i>
03/04/1999	<b>Sentencing (8:30 AM)</b> <i>SENTENCING Court Clerk: CAROL GREEN Relief Clerk: SHARRY FRASCARELLI/sf Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
03/09/1999	 <b>Notice of Witnesses</b> <i>Notice of Witnesses [NRS 174.234 (1)(b)]</i>
03/09/1999	 <b>Notice of Expert Witnesses</b> <i>Notice of Expert Witnesses [NRS 174.234 (2)]</i>
03/15/1999	 <b>Judgment of Conviction</b> <i>Judgment of Conviction (Plea)</i>
04/29/1999	<b>Calendar Call (8:30 AM)</b> <i>CALENDAR CALL Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
04/30/1999	<b>Calendar Call (9:00 AM)</b> <i>CALENDAR CALL (OVERFLOW FROM DEPT III) COUMOU/SCISCENTO-17 WIT/2 OUTSTATE/5DAYS Court Clerk: RITA LOPEZ Reporter/Recorder: JOE D'AMATO Heard By: Mosley, Donald M.</i>
05/03/1999	<b>Calendar Call (9:00 AM)</b> <i>CALENDAR CALL (OVERFLOW FROM DEPT III) COUMOU/SCISCENTO-17 WIT/2 OUTSTATE/5DAYS Court Clerk: JUDY NORMAN Reporter/Recorder: MAUREEN SCHORN Heard By: Donald Mosley</i>
05/03/1999	<b>CANCELED Jury Trial (1:00 PM)</b> <i>Vacated</i>
05/06/1999	<b>Conversion Hearing Type (8:30 AM)</b> <i>TRIAL SETTING Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
05/13/1999	<b>Sentencing (8:30 AM)</b> <i>SENTENCING Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
06/09/1999	 <b>Notice of Expert Witnesses</b> <i>Notice of Expert Witnesses [NRS 174.234 (2)]</i>
06/09/1999	 <b>Notice of Witnesses</b> <i>Notice of Witnesses [NRS 174.234 (1)(b)]</i>
07/09/1999	 <b>Motion</b> <i>Motion and Notice of Motion in Limine to Preclude Evidence of Witness Intimidation</i>
07/12/1999	 <b>Notice</b> <i>Notice of Alibi Witnesses</i>
07/13/1999	 <b>Notice of Witnesses</b>
07/13/1999	 <b>Notice</b> <i>Supplemental Notice of Alibi Witnesses</i>

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**CASE SUMMARY**  
**CASE NO. 98C154293-2**








07/14/1999	 Response <i>Response to Motion in Limine to Preclude Evidence of Witness Intimidation</i>
07/15/1999	<b>Calendar Call</b> (8:30 AM) <i>CALENDAR CALL</i>
07/15/1999	<b>Motion in Limine</b> (8:30 AM) Events: 07/09/1999 Motion <i>DEFT'S MOTION IN LIMINE PRECLUDE EVIDENCE OF WITNESS INTIMIDATION Heard By: Joseph Pavlikowski</i>
07/15/1999	<b>All Pending Motions</b> (8:30 AM) <i>ALL PENDING MOTIONS 7/15/99 Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
07/19/1999	<b>CANCELED Jury Trial</b> (9:00 AM) <i>Vacated</i>
07/20/1999	 Motion <i>Motion and Notice of Motion for Discovery</i>
07/27/1999	 Motion <i>Motion and Notice of Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime</i>
07/28/1999	 Errata <i>Errata to Motion and Notice of Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime</i>
07/28/1999	 Receipt of Copy
07/29/1999	<b>Sentencing</b> (8:30 AM) <i>SENTENCING Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
07/29/1999	<b>Motion for Discovery</b> (8:30 AM) Events: 07/20/1999 Motion <i>DEFT'S MOTION FOR DISCOVERY</i>
07/29/1999	<b>Motion in Limine</b> (8:30 AM) Events: 07/27/1999 Motion <i>DEFT'S MOTION IN LIMINE PRECLUDE EVID OF OTHER GUNS NOT USED IN THE CRIME Heard By: Joseph Pavlikowski</i>
07/29/1999	<b>All Pending Motions</b> (8:30 AM) <i>ALL PENDING MOTIONS 7/29/99 Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski</i>
07/29/1999	 Order <i>Order Granting Motion for Discovery</i>
08/16/1999	 Response <i>Response to Defendant's Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime</i>
08/19/1999	 Reply

DEPARTMENT 19  
**CASE SUMMARY**  
**CASE No. 98C154293-2**









*Defendants Reply to State's Opposition to Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime*

08/25/1999	 Motion <i>Motion for Order to Take Video Deposition of Witness and to Use Video Deposition at Trial</i>
08/31/1999	 Association of Counsel <i>Notice of Association of Counsel</i>
08/31/1999	 Receipt of Copy
08/31/1999	 Notice of Witnesses
09/02/1999	 Response <i>Response to Defendant's Motion for Order to take Video Deposition of Witness and to Use Video Deposition at Trial</i>
09/03/1999	 Reply <i>Reply to State's Opposition to Defendant's Motion for Order to Take Video Deposition of Witness and to Use Video Deposition at Trial</i>
09/07/1999	<b>Motion (8:30 AM)</b> Events: 08/25/1999 Motion <i>DEFT'S MOTION FOR ORDER TO TAKE VIDEO DEPOSITION AT TRIAL Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>
09/07/1999	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234 (2)]</i>
09/07/1999	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234 (1)(b)]</i>
09/09/1999	<b>Motion (9:00 AM)</b> <i>DEFT'S MOTION FOR ORDER TO TAKE VIDEO DEPOSITION AT TRIAL Court Clerk: TINA HURD Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons</i>
09/16/1999	 Order for Production of Inmate <i>Order for Production of Inmate Jotee Burnside, BAC #60729</i>
09/16/1999	 Order for Production of Inmate <i>Order for Production of Inmate Tommie Burnside, BAC #60772</i>
09/28/1999	 Substitution of Attorney <i>Substitution of Attorneys</i>
10/01/1999	 Notice <i>Supplemental Notice of Alibi Witnesses</i>
10/04/1999	 Notice of Expert Witnesses <i>Supplemental Notice of Expert Witnesses [NRS 174.234 (2)]</i>
10/07/1999	<b>Motion in Limine (9:00 AM)</b> <i>DEFT'S MOTION IN LIMINE PRECLUDE EVIDENCE OF WITNESS INTIMIDATION Heard By: Joseph Pavlikowski</i>

DEPARTMENT 19  
**CASE SUMMARY**  
**CASE NO. 98C154293-2**













10/07/1999	<b>Calendar Call</b> (9:00 AM) <i>CALENDAR CALL</i>
10/07/1999	<b>Motion in Limine</b> (9:00 AM) <i>DEFT'S MOTION IN LIMINE PRECLUDE EVID OF OTHER GUNS NOT USED IN THE CRIME</i> Heard By: Joseph Pavlikowski
10/07/1999	<b>All Pending Motions</b> (9:00 AM) <i>ALL PENDING MOTIONS 10-7-99</i> Court Clerk: TINA HURD Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons
10/11/1999	<b>Jury Trial</b> (1:30 PM) <i>TRIAL BY JURY</i> Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark
10/12/1999	<b>Jury Trial</b> (11:00 AM) <i>TRIAL BY JURY</i> Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark
10/12/1999	<b>Hearing</b> (11:00 AM) <i>HEARING</i> Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Mark Gibbons
10/12/1999	 Jury List
10/12/1999	 Reporters Transcript <i>Transcript of Hearing Held on October 11, 1999</i>
10/13/1999	<b>Jury Trial</b> (1:30 PM) <i>TRIAL BY JURY</i> Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark
10/13/1999	 Order
10/13/1999	 Reporters Transcript <i>Transcript of Hearing Held on October 12, 1999</i>
10/14/1999	<b>Jury Trial</b> (11:00 AM) <i>TRIAL BY JURY</i> Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark
10/14/1999	 Reporters Transcript <i>Transcript of Hearing Held on October 13, 1999</i>
10/15/1999	<b>Jury Trial</b> (1:30 PM) <i>TRIAL BY JURY</i> Court Clerk: TINA HURD Reporter/Recorder: Renee Silvaggio Heard By: Gibbons, Mark
10/15/1999	 Order <i>Order for Transcript</i>
10/15/1999	 Reporters Transcript <i>Transcript of Hearing Held on October 14, 1999</i>
10/18/1999	<b>Jury Trial</b> (9:00 AM) <i>TRIAL BY JURY</i> Court Clerk: TINA HURD/th Relief Clerk: Blanca Madrigal Reporter/Recorder: PATSY SMITH Heard By: Gibbons, Mark

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10/18/1999	 Reporters Transcript <i>Transcript of Hearing Held on October 15, 1999</i>
10/19/1999	<b>Jury Trial</b> (9:00 AM) <i>TRIAL BY JURY Court Clerk: TINA HURD/th Relief Clerk: Blanca Madrigal Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons</i>
10/19/1999	 Reporters Transcript <i>Transcript of Hearing Held on October 18, 1999</i>
10/19/1999	 Instructions to the Jury
10/19/1999	 Verdict <i>Verdict - Count I</i>
10/19/1999	 Verdict <i>Verdict - Count II</i>
10/22/1999	 Filing <i>Letters in Support of Defendant</i>
10/28/1999	<b>Sentencing</b> (9:00 AM) <i>SENTENCING Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Mark Gibbons</i>
11/08/1999	 Judgment of Conviction <i>Judgment of Conviction (Plea)</i>
11/16/1999	 Order Admitting Defendant to Probation & Fixing Terms <i>Order Admitting Defendant to Probation and Fixing the Terms Thereof</i>
11/29/1999	<b>Sentencing</b> (9:00 AM) <i>SENTENCING Court Clerk: TINA HURD Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons</i>
11/29/1999	<b>Disposition</b> (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER. Guilty PCN: Sequence:
11/29/1999	<b>Disposition</b> (Judicial Officer: User, Conversion)
11/29/1999	<b>Disposition</b> (Judicial Officer: User, Conversion) 2. MURDER WITH A DEADLY WEAPON Guilty PCN: Sequence:
11/29/1999	<b>Disposition</b> (Judicial Officer: User, Conversion)
11/29/1999	<b>Sentence</b> (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER. Adult Adjudication Converted Disposition: Sentence# 0001:



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	Minimum 48 Months to Maximum 120 Months Placement: NSP Converted Disposition: Sentence# 0002: CREDIT FOR TIME SERVED Minimum 480 Days to Maximum 480 Days Converted Disposition: Sentence# 0003: ADMINISTRATION FEE Amount: \$25.00
11/29/1999	<b>Sentence</b> (Judicial Officer: User, Conversion) 2. MURDER WITH A DEADLY WEAPON Adult Adjudication Converted Disposition: Sentence# 0001: LIFE WITH POSSIBILITY OF PAROLE Cons/Conc: Consecutive w/Charge Item: 0001 and Sentence#: 0001 Converted Disposition: Sentence# 0002: LIFE WITH POSSIBILITY OF PAROLE Cons/Conc: Consecutive w/Charge Item: 0002 and Sentence#: 0001
12/02/1999	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
12/08/1999	 Order <i>Order Appointing Counsel</i>
12/08/1999	 Order <i>Order Waiving Costs (Insufficient Property of Income with Which to Pay Costs of Filing)</i>
12/14/1999	 Notice of Appeal
12/14/1999	 Case Appeal Statement
12/15/1999	 Certificate of Mailing
12/15/1999	 Certificate of Mailing
12/21/1999	 Order <i>Order for Transcript</i>
01/13/2000	 Reporters Transcript <i>Transcript of Hearing Held on October 28, 1999</i>
01/28/2000	 Reporters Transcript <i>Transcript of Hearing Held on October 19, 1999</i>
03/19/2001	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
05/31/2001	 Petition <i>Petition for Release of Evidence</i>

DEPARTMENT 19  
**CASE SUMMARY**  
**CASE NO. 98C154293-2**

05/31/2001	 Order <i>Order Releasing Evidence</i>
05/31/2001	 Petition <i>Petition for Release of Evidence</i>
09/07/2001	 Motion for Discovery <i>Motion for Discovery Production and Transmission of Documents</i>
09/07/2001	 Affidavit in Support <i>Affidavit in Support of Motion for Discovery Production and Transmission of Documents</i>
09/14/2001	 Opposition to Motion <i>State's Opposition to Defendant's Motion for Discovery Production and Transmission of Documents</i>
09/17/2001	<b>Motion (9:00 AM)</b> Events: 09/07/2001 Motion for Discovery <i>DEFT'S PRO PER MTN TO DISCOVERY PRODUCTION/TRANSMISSION OF DOCUMENTS/38 Court Clerk: Denise Husted Heard By: Nancy Saitta</i>
09/21/2001	 Order Denying Motion <i>Order Denying Defendant's Pro Per Motion for Discovery Production and Transmission of Documents</i>
09/25/2001	 Reply <i>Reply to State's Opposition to Petitioner's Motion for Discovery Production and Transmission of Documents</i>
01/30/2002	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
01/30/2002	 Motion for Appointment of Attorney <i>Motion for Appointment of Counsel</i>
01/30/2002	 Memorandum of Points and Authorities <i>Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction N.R.S. 34.720)</i>
01/30/2002	 Motion for Leave to Proceed in Forma Pauperis
02/01/2002	 Order for Petition for Writ of Habeas Corpus <i>Order Re Petition for Writ of Habeas Corpus</i>
02/01/2002	 Order for Petition for Writ of Habeas Corpus <i>Order Re Petition for Writ of Habeas Corpus</i>
02/04/2002	 Motion for Discovery <i>Motion for Discovery Production and Transmission of Documents</i>
02/04/2002	 Affidavit in Support <i>Affidavit in Support of Motion for Discovery Production and Transmission of Documents</i>

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**CASE SUMMARY**  
**CASE NO. 98C154293-2**

02/11/2002	 Motion <i>Motion to Attach Supplemental Exhibit to Petition for Post Conviction Relief</i>
02/25/2002	<b>Motion (9:00 AM)</b> Events: 02/04/2002 Motion for Discovery <i>DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42 Court Clerk: Denise Husted Reporter/Recorder: Kristine Cornelius Heard By: Saitta, Nancy M</i>
04/01/2002	 Motion to Withdraw As Counsel <i>Motion to Withdraw as Attorney of Record</i>
04/01/2002	 Receipt of Copy
04/03/2002	 Motion <i>Motion for Evidentiary Hearing</i>
04/03/2002	 Certificate of Mailing
04/04/2002	<b>Petition for Writ of Habeas Corpus (9:00 AM)</b> <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39</i>
04/04/2002	<b>Motion for Appointment (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta</i>
04/04/2002	<b>Petition to Proceed in Forma Pauperis (9:00 AM)</b> Events: 02/01/2002 Order for Petition for Writ of Habeas Corpus <i>DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41</i>
04/04/2002	<b>Motion (9:00 AM)</b> Events: 02/11/2002 Motion <i>DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43</i>
04/05/2002	 Response <i>State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
04/05/2002	 Response <i>State's Response to Defendant's Motion for Evidentiary Hearing</i>
04/05/2002	 Response <i>State's Response to Defendant's Motion for Appointment of Counsel</i>
04/08/2002	<b>Petition for Writ of Habeas Corpus (9:00 AM)</b> <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39</i>
04/08/2002	<b>Motion for Appointment (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta</i>
04/08/2002	<b>Petition to Proceed in Forma Pauperis (9:00 AM)</b> <i>DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41</i>
04/08/2002	<b>Motion (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42</i>
04/08/2002	<b>Motion (9:00 AM)</b> <i>DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43</i>

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**CASE SUMMARY**  
**CASE NO. 98C154293-2**

04/08/2002	<b>All Pending Motions (9:00 AM)</b> <i>ALL PENDING MOTIONS 4/8/02 Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta</i>
04/08/2002	<b>Motion to Withdraw as Counsel (1:00 PM)</b> Events: 04/01/2002 Motion to Withdraw As Counsel <i>FREDERICK SANTACROCE'S MTN TO WITHDRAW AS COUNSEL /44 Heard By: Nancy Saitta</i>
04/08/2002	<b>Motion (1:00 PM)</b> Events: 04/03/2002 Motion <i>DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45</i>
04/08/2002	 <b>Order</b>
04/19/2002	 <b>Reply</b> <i>Petitioner's Reply to State's Opposition to Writ of Habeas Corpus (Post Conviction)</i>
05/06/2002	<b>Petition for Writ of Habeas Corpus (9:00 AM)</b> <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39</i>
05/06/2002	<b>Motion for Appointment (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta</i>
05/06/2002	<b>Petition to Proceed in Forma Pauperis (9:00 AM)</b> <i>DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41</i>
05/06/2002	<b>Motion (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42</i>
05/06/2002	<b>Motion (9:00 AM)</b> <i>DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43</i>
05/06/2002	<b>Motion (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45</i>
05/06/2002	<b>All Pending Motions (9:00 AM)</b> <i>ALL PENDING MOTIONS 5/6/02 Court Clerk: Amber Farley Reporter/Recorder: Debra Vanblaricom Heard By: Nancy Saitta</i>
05/23/2002	 <b>Order for Production of Inmate</b> <i>Order for Production of Inmate Brendan James Nasby, BAC #63618</i>
06/24/2002	<b>Petition for Writ of Habeas Corpus (9:00 AM)</b> <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39</i>
06/24/2002	<b>Motion for Appointment (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta</i>
06/24/2002	<b>Petition to Proceed in Forma Pauperis (9:00 AM)</b> <i>DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41</i>
06/24/2002	<b>Motion (9:00 AM)</b> <i>DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42</i>
06/24/2002	<b>Motion (9:00 AM)</b>











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	<i>DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43</i>
06/24/2002	<b>Motion</b> (9:00 AM) <i>DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45</i>
06/24/2002	<b>All Pending Motions</b> (9:00 AM) <i>ALL PENDING MOTIONS 6/24/02 Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta</i>
07/01/2002	<b>Petition for Writ of Habeas Corpus</b> (9:00 AM) <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39</i>
07/01/2002	<b>Petition to Proceed in Forma Pauperis</b> (9:00 AM) <i>DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41</i>
07/01/2002	<b>Motion</b> (9:00 AM) <i>DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42</i>
07/01/2002	<b>Motion</b> (9:00 AM) <i>DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43</i>
07/01/2002	<b>Motion</b> (9:00 AM) <i>DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45</i>
07/01/2002	<b>Motion for Confirmation of Counsel</b> (9:00 AM) <i>CONFIRMATION OF COUNSEL (L. TEICHER) Heard By: Nancy Saitta</i>
07/01/2002	<b>All Pending Motions</b> (9:00 AM) <i>ALL PENDING MOTIONS 7/1/02 Court Clerk: Amber Farley Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
08/07/2002	 <b>Order</b> <i>Order Appointing Counsel</i>
08/16/2002	 <b>Order</b> <i>Nunc Pro Tunc Order Appointing Counsel</i>
08/19/2002	<b>Status Check</b> (9:00 AM) <i>STATUS CHECK: PENDING MOTIONS Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta</i>
10/31/2002	 <b>Ex Parte Motion</b> <i>Ex-Parte Motion for Appointment of Investigator and Excess Fees</i>
11/06/2002	 <b>Order</b>
12/05/2002	 <b>Motion</b> <i>Motion for Extension of Time to File Supplemental Petition</i>
12/18/2002	<b>CANCELED Motion</b> (9:00 AM) <i>Events: 12/05/2002 Motion Vacated</i>
12/19/2002	 <b>Stipulation and Order</b>
02/05/2003	<b>Hearing</b> (9:00 AM) <i>ARGUMENT: POST-CONVICTION WRIT (SAO 2/26/03) Heard By: Nancy Saitta</i>

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02/26/2003	 Stipulation and Order <i>Stipulation and Order (Second Degree Request)</i>
04/08/2003	 Substitution of Attorney <i>Substitution of Attorneys</i>
05/29/2003	 Order <i>Order Authorizing First Interim Payment</i>
06/25/2003	<b>Hearing (10:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT (SAO 2/26/03) Heard By: Nancy Saitta</i>
01/21/2004	 Motion for Substitution <i>Motion for Substitute Counsel</i>
01/28/2004	 Response <i>State's Response to Defendant's Motion for Substitution of Attorneys</i>
02/02/2004	<b>Motion for Substitution (9:00 AM)</b> Events: 01/21/2004 Motion for Substitution <i>DEFT'S PRO PER MTN FOR SUBSTITUTION COUNSEL/54 Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta</i>
02/04/2004	 Notice <i>Notice of Confirmation of Appointment of Counsel</i>
02/04/2004	 Order <i>Order Appointing Counsel</i>
03/01/2004	<b>Status Check (9:00 AM)</b> <i>STATUS CHECK: BRIEFING SCHEDULE Court Clerk: Amber Farley Reporter/Recorder: Dick Kangas Heard By: Nancy Saitta</i>
11/02/2004	 Order <i>Petition and Order Honorably Discharging Probationer</i>
11/03/2004	 Ex Parte Motion <i>Ex Parte Motion for Extension of Time to File Post Conviction Memorandum of Points and Authorities</i>
11/03/2004	 Affidavit in Support <i>Affidavit in Support of Ex Parte Motion for Extension of Time to File Post Conviction Memorandum of Points and Authorities</i>
11/05/2004	 Order Granting Motion <i>Order Granting Ex Parte Motion for Extension of Time to File Post Conviction Memorandum of Points and Authorities</i>
11/10/2004	 Stipulation and Order
11/17/2004	 Memorandum of Points and Authorities <i>Memorandum of Points and Authorities in Support of Petitioner's Post Conviction Relief</i>

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11/24/2004	 Certificate of Mailing
01/10/2005	<b>Hearing (9:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta</i>
02/01/2005	 Stipulation and Order
02/04/2005	 Opposition <i>State's Opposition to Defendant's Petition for Writ of Habeas Corpus Post-Conviction</i>
02/09/2005	<b>Hearing (9:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta</i>
02/22/2005	 Reply <i>Defendant's Reply to State's Opposition to Defendant's Petition for Writ of Habeas Corpus Post-Conviction</i>
02/28/2005	 Receipt of Copy
03/02/2005	<b>Hearing (9:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Cory, Ken</i>
03/14/2005	<b>Hearing (9:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta</i>
03/25/2005	 Stipulation and Order
03/28/2005	<b>Hearing (9:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta</i>
05/02/2005	<b>Hearing (9:00 AM)</b> <i>ARGUMENT: POST-CONVICTION WRIT Relief Clerk: Jennifer Kimmel Reporter/Recorder: Jo Anne Pierpont Heard By: Nancy Saitta</i>
05/04/2005	 Order for Production of Inmate <i>Order for Production of Inmate Brendan J. Nasby, BAC #63618</i>
06/10/2005	<b>Evidentiary Hearing (9:00 AM)</b> <i>EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Heard By: Nancy Saitta</i>
06/16/2005	 Stipulation and Order
08/10/2005	 Stipulation and Order
08/11/2005	<b>Evidentiary Hearing (11:00 AM)</b> <i>EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Heard By: Nancy Saitta</i>
08/12/2005	 Certificate of Facsimile <i>Certificate of Facsimile and Mailing</i>
09/02/2005	<b>Evidentiary Hearing (11:00 AM)</b> <i>EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Relief Clerk: Theresa Lee Reporter/Recorder: Jo Anne Pierpont Heard By: Saitta,</i>

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*Nancy M*

09/26/2005	<b>Evidentiary Hearing</b> (10:30 AM) <i>EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Saitta, Nancy M</i>
11/02/2005	<b>Evidentiary Hearing</b> (10:30 AM) <i>EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Heard By: Nancy Saitta</i>
11/09/2005	<b>Evidentiary Hearing</b> (10:30 AM) <i>EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Nancy Saitta</i>
11/28/2005	 <b>Reporters Transcript</b> <i>Transcript of Hearing Held on November 9, 2005</i>
01/11/2006	<b>Hearing</b> (11:00 AM) <i>ARGUMENT Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Pavlikowski, Joseph S.</i>
02/14/2006	 <b>Brief</b> <i>Defendant's Supplemental Reply Brief to State's Opposition to Defendant's Petition for Writ of Habeas Corpus Post-Conviction</i>
02/15/2006	<b>Hearing</b> (11:00 AM) <i>ARGUMENT Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Saitta, Nancy M</i>
02/27/2006	<b>Hearing</b> (10:30 AM) <i>ARGUMENT Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Saitta, Nancy M</i>
03/27/2006	<b>Hearing</b> (10:30 AM) <i>ARGUMENT Relief Clerk: Cynthia Georgilas Reporter/Recorder: Jo Anne Pierpont Heard By: Nancy Saitta</i>
04/12/2006	 <b>Notice of Appeal</b>
04/12/2006	 <b>Case Appeal Statement</b>
04/13/2006	 <b>Case Appeal Statement</b>
04/26/2006	 <b>Findings of Fact, Conclusions of Law and Order</b>
04/27/2006	 <b>Notice of Entry of Decision and Order</b>
05/05/2006	 <b>Ex Parte Motion</b> <i>Ex Parte Motion for Authorization of Payment of Fees</i>
05/08/2006	 <b>Order</b> <i>Order Authorizing Payment of Fees</i>
05/24/2006	 <b>Notice of Appeal</b>



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*Notice of Appeal to Supreme Court*

05/24/2006	 Case Appeal Statement
06/16/2006	 Request <i>Request for Rough Draft Transcripts</i>
06/20/2006	 Reporters Transcript <i>Transcript of Hearing Held on March 27, 2006</i>
06/20/2006	 Request <i>Request for Rough Draft Transcripts</i>
01/29/2007	 Ex Parte Motion <i>Ex Parte Motion for Authorization of Payment of Fees</i>
02/12/2007	 Order <i>Order Authorizing Payment of Fees</i>
07/16/2007	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
02/18/2011	 Petition for Writ of Habeas Corpus Filed by: Defendant Nasby, Brendan J <i>Petition for Writ of Habeas Corpus (PostConviction)</i>
02/18/2011	 Motion for Leave to Proceed in Forma Pauperis Filed By: Defendant Nasby, Brendan J
02/18/2011	 Affidavit in Support Filed By: Defendant Nasby, Brendan J <i>Affidavit in Support of Motion to Proceed in Forma Pauperis</i>
02/18/2011	 Motion Filed By: Defendant Nasby, Brendan J <i>Motion for Evidentiary Hearing</i>
02/18/2011	 Memorandum of Points and Authorities Filed By: Defendant Nasby, Brendan J <i>Memorandum of Points and Authorities in Support of Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction N.R.S. 34.720)</i>
02/18/2011	 Motion for Appointment of Attorney Filed By: Defendant Nasby, Brendan J <i>Motion for Appointment of Counsel</i>
02/28/2011	 Order for Petition for Writ of Habeas Corpus
04/08/2011	 Response <i>State's Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus</i>
04/27/2011	 <b>Petition for Writ of Habeas Corpus (8:15 AM)</b> (Judicial Officer: Barker, David)

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04/27/2011, 05/11/2011

Events: 02/28/2011 Order for Petition for Writ of Habeas Corpus

04/29/2011



Reply

Filed by: Defendant Nasby, Brendan J

*Petitioner's Reply to State's Response and Motion to Dismiss Petitioner's Petition for Writ of Habeas Corpus*

06/06/2011



Motion

Filed By: Defendant Nasby, Brendan J

*Notice to the Court and Motion Requesting Update*

06/13/2011



Notice of Appeal (criminal)

Party: Defendant Nasby, Brendan J

*Notice of Appeal*

06/16/2011



Case Appeal Statement

06/17/2011



Findings of Fact, Conclusions of Law and Order

Filed By: Plaintiff State of Nevada

06/20/2011



**Motion** (8:15 AM) (Judicial Officer: Barker, David)

Events: 06/06/2011 Motion

*Notice to the Court and Motion Requesting Update*

06/27/2011



Notice of Entry of Decision and Order

03/12/2012



NV Supreme Court Clerks Certificate/Judgment - Affirmed

*Nevada Supreme Court Clerk's Certificate Judgment - Affirmed*

07/01/2014



Motion

*Motion to Expand the Record*

07/11/2014



Opposition to Motion

Filed By: Plaintiff State of Nevada

*State's Opposition to Defendant's Pro Per Motion to Expand the Record*

07/14/2014



**Motion** (8:15 AM) (Judicial Officer: Barker, David)

*Def't's Pro Per Motion to Expand the Record*

08/14/2014



Order Denying Motion

Filed By: Plaintiff State of Nevada

*Order Denying Defendant's Pro Per Motion To Expand The Record*

12/09/2014



Inmate Filed - Petition for Writ of Habeas Corpus

Party: Defendant Nasby, Brendan J

*Petition for Writ of Habeas Corpus (Post-Conviction Relief - NRS 34.735 Petition: Form)*

12/16/2014



Motion

Filed By: Defendant Nasby, Brendan J

*Motion for Evidentiary Hearing*

12/17/2014



Order for Petition for Writ of Habeas Corpus

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*Order for Petition for Writ of Habeas Corpus (Post-Conviction Relief - NRS 34.735 Petition: Form)*














12/18/2014	 Motion for Appointment of Attorney Filed By: Defendant Nasby, Brendan J <i>Motion for Appointment of Counsel</i>
12/18/2014	 Application to Proceed in Forma Pauperis Filed By: Defendant Nasby, Brendan J
01/02/2015	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion for an Evidentiary Hearing</i>
01/07/2015	 <b>Motion</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Motion for Evidentiary Hearing</i>
01/09/2015	 Opposition to Motion <i>State's Opposition to Defendant's Motion for Appointment of Counsel</i>
01/12/2015	 <b>Motion for Appointment of Attorney</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Motion for Appointment of Counsel</i>
01/12/2015	<b>CANCELED Motion</b> (8:30 AM) (Judicial Officer: Barker, David) <i>Vacated - On in Error</i> <i>Motion for Hearing to Remove Unconstitutional "Pre-Trial Punishment Stipulation"</i>
01/27/2015	 Motion for Appointment of Attorney Filed By: Defendant Nasby, Brendan J <i>Renewed Motion for Appointment of Counsel</i>
01/27/2015	 Motion Filed By: Defendant Nasby, Brendan J <i>Motion for Leave of Court to File Renewed Motion for Appointment of Counsel</i>
01/27/2015	 Application to Proceed in Forma Pauperis Filed By: Defendant Nasby, Brendan J
02/04/2015	 Response Filed by: Plaintiff State of Nevada <i>State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus</i>
02/05/2015	 Opposition to Motion <i>State's Opposition to Defendant's Renewed Pro Per Motion for Appointment of Counsel</i>
02/11/2015	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Evidentiary Hearing</i>
02/11/2015	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Appointment of Counsel</i>

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







02/18/2015	 <b>Motion for Leave</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Motion for Leave of Court to File Renewed Motion for Appointment of Counsel</i>
02/23/2015	 Affidavit <i>Affidavit/Declaration for Entry of Default</i>
02/23/2015	 Application Filed By: Defendant Nasby, Brendan J <i>Application for A Judgment by Default</i>
02/23/2015	 Affidavit Filed By: Defendant Nasby, Brendan J <i>Affidavit/Declaration for Entry of Default</i>
02/23/2015	 Application Filed By: Defendant Nasby, Brendan J <i>Application for Default Judgment and Sanctions</i>
02/23/2015	 Reply to Opposition Filed by: Defendant Nasby, Brendan J <i>Reply to State's Opposition to Defendant's Renewed Motion for Appointment of Counsel and Petitioner's Request for Sanctions</i>
02/24/2015	 Notice of Appeal (criminal) Party: Defendant Nasby, Brendan J <i>Notice of Appeal</i>
02/25/2015	<b>Petition for Writ of Habeas Corpus</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Petition for Writ of Habeas Corpus</i>
02/25/2015	<b>Motion to Dismiss</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus</i>
02/25/2015	 <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Kephart, William D.)
02/25/2015	 Reply Filed by: Defendant Nasby, Brendan J <i>Reply and Motion to Strike State's Response and Motion to Dismiss</i>
02/25/2015	 Case Appeal Statement Filed By: Defendant Nasby, Brendan J
02/26/2015	 Motion Filed By: Defendant Nasby, Brendan J <i>Renewed Motion for Evidentiary Hearing and Motion to Produce Inmate</i>
02/26/2015	 Motion Filed By: Plaintiff State of Nevada <i>Motion for Leave of Court to File Renewed Motion for Evidentiary Hearing</i>
03/13/2015	 Notice of Appeal (criminal) Party: Defendant Nasby, Brendan J

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*Notice of Appeal*

03/16/2015	 Case Appeal Statement Filed By: Defendant Nasby, Brendan J
03/16/2015	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Leave of Court to File Renewed Motion for Appointment of Counsel</i>
03/18/2015	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion for Leave of Court to File Renewed Motion for Evidentiary Hearing and Motion for Evidentiary Hearing and Production of Inmate</i>
03/23/2015	<b>Motion</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Renewed Motion for Evidentiary Hearing and Motion to Produce Inmate</i>
03/23/2015	<b>Motion</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Motion for Leave of Court to File Renewed Motion for Evidentiary Hearing</i>
03/23/2015	 <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Kephart, William D.)
03/30/2015	 Notice of Appeal (criminal) <i>Amended Notice of Appeal</i>
03/30/2015	 Certificate of Service
03/30/2015	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
03/31/2015	 Case Appeal Statement Filed By: Defendant Nasby, Brendan J
04/03/2015	 Motion to Disqualify Judge Filed By: Defendant Nasby, Brendan J
04/06/2015	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
04/21/2015	 Notice Filed By: Defendant Nasby, Brendan J <i>Notice to the Court and Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge</i>
04/22/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
04/28/2015	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion to Disqualify Judge; Notice to the Court and Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge</i>









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04/28/2015	 Order Denying Motion <i>Order Denying Motion to Disqualify Judge</i>
04/30/2015	<b>CANCELED Motion to Disqualify Judge</b> (3:00 AM) (Judicial Officer: Barker, David) <i>Vacated - per Judge</i> <i>Pro Per's Motion to Disqualify Judge</i>
05/11/2015	 Motion Filed By: Defendant Nasby, Brendan J <i>Second Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge</i>
05/14/2015	<b>CANCELED Motion</b> (3:00 AM) (Judicial Officer: Barker, David) <i>Vacated - Superseding Order</i> <i>Notice to the Court and Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge</i>
05/18/2015	 Notice of Appeal (criminal) Party: Defendant Nasby, Brendan J <i>Notice of Appeal</i>
05/20/2015	 Case Appeal Statement Filed By: Defendant Nasby, Brendan J
05/27/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
06/01/2015	 <b>Motion</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Second Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge</i>
08/11/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
10/12/2015	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
01/04/2016	 Filed Under Seal <i>Application to Proceed in Forma Pauperis</i>
01/05/2016	 Petition Filed by: Defendant Nasby, Brendan J <i>Petition for Writ of Habeas Corpus (Post- Conviction Relief - NRS 34.735 Petition, Form)</i> <i>(Actual Innocence)</i>
01/05/2016	 Motion Filed By: Defendant Nasby, Brendan J <i>Motion for Appointment of Counsel</i>
01/05/2016	 Motion Filed By: Defendant Nasby, Brendan J <i>Motion to Extend Prison Copywork Limit</i>
01/05/2016	 Memorandum Filed By: Defendant Nasby, Brendan J <i>Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus</i> <i>(Post- Conviction-Actual Innocence)</i>

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01/05/2016	 Affidavit in Support Filed By: Defendant Nasby, Brendan J <i>Affidavit in Support of Petition for Writ of Habeas Corpus (Post-Conviction-Actual Innocence)</i>
01/05/2016	 Notice Filed By: Defendant Nasby, Brendan J <i>Notice to the Clerk, the Court, and all Interested Parties</i>
01/05/2016	 Supplemental Filed by: Defendant Nasby, Brendan J <i>Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction-Actual Innocence)</i>
01/14/2016	 Order for Petition for Writ of Habeas Corpus
01/14/2016	 Notice of Hearing
02/01/2016	 Motion Filed By: Defendant Nasby, Brendan J <i>Motion for Order to Produce Prisoner</i>
02/22/2016	 <b>Motion for Order</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Motion to Produce Prisoner</i>
02/23/2016	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Post-Conviction Petition for Writ of Habeas Corpus, Memorandum of Points and Authorities in Support, and Supplemental Memorandum and Opposition to Defendant's Motion for Appointment of Counsel</i>
03/10/2016	 Reply Filed by: Defendant Nasby, Brendan J <i>Reply to State's Response to Defendant's Post-Conviction Petition for Writ of Habeas Corpus, Memorandum of Points and Authorities in Support, and Supplemental Memorandum and Opposition to Defendant's Motion for Appointment of Counsel</i>
03/16/2016	<b>Motion for Appointment of Attorney</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <b>03/16/2016, 04/04/2016</b> <i>Defendant's Pro Per Motion for Appointment of Counsel</i>
03/16/2016	<b>Motion</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <b>03/16/2016, 04/04/2016</b> <i>Defendant's Pro Per Motion to Extend Prison Copy Work Limit</i>
03/16/2016	<b>Petition for Writ of Habeas Corpus</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <b>03/16/2016, 04/04/2016</b> Events: 01/14/2016 Order for Petition for Writ of Habeas Corpus <i>Defendant's Pro Per Petition for Writ of Habeas Corpus Post-Conviction</i>
03/16/2016	 <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Kephart, William D.)
04/04/2016	 <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Kephart, William D.)
04/04/2016	 Order

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**CASE SUMMARY**  
**CASE NO. 98C154293-2**

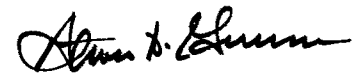
	Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion to Produce Prisoner</i>
05/09/2016	 Findings of Fact, Conclusions of Law and Order
05/10/2016	 Certificate of Service Filed by: Plaintiff State of Nevada <i>Certificate of Service</i>
05/12/2016	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
05/18/2016	 Motion Filed By: Defendant Nasby, Brendan J <i>Motion to Alter or Amend a Judgment N.R.C.;V.P. 59(c)</i>
06/02/2016	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Pro Per Motion to Alter or Amend Judgment N. R. CIV. P. 59 (e)</i>
06/08/2016	 <b>Motion</b> (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Defendant's Pro Per Motion to Alter or Amend a Judgment</i>
06/14/2016	 Notice of Appeal (criminal) Party: Defendant Nasby, Brendan J <i>Notice of Appeal</i>
06/15/2016	 Case Appeal Statement

**DATE**

**FINANCIAL INFORMATION**

<b>Defendant</b> Nasby, Brendan J	
Total Charges	49.00
Total Payments and Credits	24.00
<b>Balance Due as of 6/16/2016</b>	<b>25.00</b>





CLERK OF THE COURT

1 **FCL**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **CHRISTOPHER F. BURTON**  
6 **Deputy District Attorney**  
7 **Nevada Bar #012940**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 **THE STATE OF NEVADA,**  
10 **Plaintiff,**

11 **-vs-**

12 **BRENDAN JAMES NASBY,**  
13 **#1517690**

14 **Defendant.**

**CASE NO: 98C154293-2**

**DEPT NO: XIX**

15 **FINDINGS OF FACT, CONCLUSIONS OF**  
16 **LAW AND ORDER**

17 **DATE OF HEARING: APRIL 4, 2016**  
18 **TIME OF HEARING: 8:30 A.M.**

19 **THIS CAUSE** having come on for hearing before the Honorable WILLIAM D.  
20 **KEPHART**, District Judge, on the 4th day of April, 2016, the Petitioner not being present,  
21 **PROCEEDING IN FORMA PAUPERIS**, the Respondent being represented by STEVEN B.  
22 **WOLFSON**, Clark County District Attorney, by and through MEGAN THOMSON, Chief  
23 **Deputy District Attorney**, and the Court having considered the matter, including briefs,  
24 **transcripts, arguments of counsel, and documents on file herein, now therefore, the Court**  
25 **makes the following findings of fact and conclusions of law:**

26 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

27 **On November 9, 1998, the State charged BRENDAN JAMES NASBY (hereinafter**  
28 **"Defendant") by way of Information as follows: COUNT 1 – Conspiracy to Commit Murder**

1 (Felony – NRS 199.480, 200.010, 200.030) and COUNT 2 – Murder with use of a Deadly  
2 Weapon (Open Murder) (Felony – NRS 200.010, 200.030, 193.165).

3 A jury trial commenced on October 11, 1999, and on October 19, 1999, the jury  
4 returned with a verdict of guilty on both counts; as to COUNT 2, the jury returned a guilty  
5 verdict for First Degree Murder with use of a Deadly Weapon. On November 29, 1999,  
6 Defendant was sentenced as follows: as to COUNT 1 – 48 to 120 months in the Nevada  
7 Department of Corrections (NDC) and as to COUNT 2 – Life with the possibility of parole,  
8 plus an equal and consecutive term for the use of a deadly weapon, to run consecutive to  
9 COUNT 1. Defendant's Judgment of Conviction was entered on December 2, 1999.

10 Defendant filed a Notice of Appeal on December 14, 1999. The Nevada Supreme Court  
11 affirmed Defendant's conviction on February 7, 2001. See Nasby v. State, No. 35319, Order  
12 of Affirmance (Feb. 7, 2001). Remittitur issued on March 6, 2001.

13 On January 30, 2002, Defendant filed a Post-Conviction Petition for Writ of Habeas  
14 Corpus. The State filed a Response on April 5, 2002. On March 27, 2006, the court denied  
15 Defendant's Petition. Defendant filed a Notice of Appeal on April 12, 2006. The district court  
16 filed its Findings of Fact, Conclusions of Law and Order on April 26, 2006, and its Notice of  
17 Entry on April 27, 2006. On June 18, 2007, the Nevada Supreme Court affirmed the district  
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19 (June 28, 2007). Remittitur issued on July 13, 2007.

20 Defendant filed his second Post-Conviction Petition for Writ of Habeas Corpus on  
21 February 18, 2011. The State responded on April 8, 2011. The court denied Defendant's  
22 Second Petition as procedurally barred on May 11, 2011. The court filed its Findings of Fact,  
23 Conclusions of Law and Order on June 17, 2011, with Notice of Entry being filed on June 27,  
24 2011. Defendant filed a Notice of Appeal on June 13, 2011, with the Nevada Supreme Court  
25 affirming the decision of the district court on February 8, 2012, and issuing Remittitur on  
26 March 5, 2012. Nasby v. State, No. 58579, Order of Affirmance (Feb. 8, 2012).

27 On December 9, 2014, Defendant filed his third Post-Conviction Petition for Writ of  
28 Habeas Corpus. The State responded on February 4, 2015. This Court denied Defendant's

1 Petition as procedurally barred on February 25, 2015. Defendant filed a notice of appeal on  
2 March 13, 2015. This Court's Findings of Fact, Conclusions of Law and Order was filed on  
3 March 30, 2015, with Notice of Entry being filed April 6, 2015. On September 11, 2015, the  
4 Nevada Supreme Court affirmed the district court's denial of Defendant's third petition as  
5 untimely, successive, and an abuse of the writ without a showing of good cause and prejudice.  
6 On April 3, 2015, Defendant filed a Motion to Disqualify Judge, and Notice and Motion to  
7 Attach Supplemental Exhibits on April 21, 2015. The State filed on Opposition on April 28,  
8 2015. On April 28, 2015, the district court filed a written order denying Defendant's motions.  
9 Defendant appealed this decision and the Nevada Supreme Court dismissed Defendant's  
10 appeal on July 8, 2015.

11 On January 5, 2016, Defendant filed his fourth Post-Conviction Petition for Writ of  
12 Habeas Corpus ("Petition"), a Memorandum of Points and Authorities in Support, a  
13 Supplemental Memorandum of Points and Authorities in Support, and a Motion for  
14 Appointment of Counsel. The State filed a Response on February 23, 2016. Defendant filed  
15 a reply on March 10, 2016.

16 After considering the pleadings, the Court finds that Defendant's Petition is  
17 procedurally barred pursuant to NRS 34.726 and NRS 34.810(1)-(2), and subject to laches  
18 pursuant to NRS 34.800, and now orders that Defendant's Supplement be DENIED.

19 **I. Defendant's Petition is time-barred.**

20 The mandatory provisions of NRS 34.726(1) states:

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

- 25 (a) That the delay is not the fault of the petitioner; and  
26 (b) That dismissal of the petition as untimely will  
unduly prejudice the petitioner. . .

27 //

28 //

1 NRS 34.726(1) (emphasis added). “[T]he statutory rules regarding procedural default are  
2 mandatory and cannot be ignored when properly raised by the State.” State v. Eighth Judicial  
3 Dist. Ct. (Riker), 121 Nev. 225, 233, 112 P.3d 1070, 1075 (2005).

4 Here, Defendant filed a direct appeal. Thus, the one-year time bar began to run from  
5 the date the Supreme Court issued Remittitur on March 6, 2001. Defendant had until March  
6 6, 2002 to file his Petition. However, Defendant waited almost 14 years until January 5, 2016,  
7 to file. This Court finds that Defendant’s Petition is procedurally barred under NRS 34.726  
8 and is therefore, denied.

9 **II. Defendant’s Petition is Successive.**

10 Defendant’s instant petition is successive pursuant to NRS 34.810. Pertinent portions  
11 of NRS 34.810 state:

12 2. A second or successive petition must be dismissed if the  
13 judge or justice determines that it fails to allege new or different  
14 grounds for relief and that the prior determination was on the  
15 merits or, if new and different grounds are alleged, the judge or  
16 justice finds that the failure of the Defendant to assert those  
17 grounds in a prior petition constituted an abuse of the writ.

18 3. Pursuant to subsections 1 and 2, the petitioner has the  
19 burden of pleading and proving specific facts that demonstrate:

20 (a) Good cause for the petitioner’s failure to present the  
21 claim or for presenting the claim again; and

22 (b) Actual prejudice to the petitioner.

23 NRS 34.810(2), (3). The Nevada Supreme Court recognizes that “[u]nlike initial petitions  
24 which certainly require a careful review of the record, successive petitions may be dismissed  
25 based solely on the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123,  
26 129 (1995).

27 Defendant filed his first post-conviction petition on February 1, 2002, which was denied  
28 on March 27, 2006, and affirmed by the Nevada Supreme Court on June 18, 2007. Notably,  
Defendant filed a second petition on February 18, 2011, which was denied as procedurally  
barred on May 11, 2011. On December 9, 2014, Defendant filed his third petition, which was  
denied on February 25, 2015, and affirmed by the Nevada Supreme Court on September 11,  
2015, as untimely, successive, and an abuse of the writ without a showing of good cause and

1 prejudice. This Court finds that Defendant's first petition was filed and decided on the merits  
2 and that the instant Petition is successive pursuant to NRS 34.810(2) and therefore, denied.

3 **III. Defendant has failed to demonstrate good cause.**

4 The Nevada Supreme Court has specifically found that the district court has a duty to  
5 consider whether the procedural bars apply to a post-conviction petition and not arbitrarily  
6 disregard them. In Riker, the Court held that "[a]pplication of the statutory procedural default  
7 rules to post-conviction habeas petitions is mandatory," and "cannot be ignored when properly  
8 raised by the State." Id. at 231, 233, 112 P.3d at 1074, 1075. There, the Court reversed the  
9 district court's decision not to bar the defendant's untimely and successive petition:

10 Given the untimely and successive nature of [defendant's]  
11 petition, the district court *had a duty imposed by law* to consider  
12 whether any or all of [defendant's] claims were barred under NRS  
13 34.726, NRS 34.810, NRS 34.800, or by the law of the case . . .  
[and] the court's failure to make this determination here  
constituted an arbitrary and unreasonable exercise of discretion.

14 Id. at 234, 112 P.3d at 1076 (emphasis added). "To establish good cause, appellants *must* show  
15 that an impediment external to the defense prevented their compliance with the applicable  
16 procedural rule." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added);  
17 see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003); Pellegrini v. State, 117  
18 Nev. 860, 887, 34 P.3d 519, 537 (2001). Such an external impediment could be "that the  
19 factual or legal basis for a claim was not reasonably available to counsel, or that 'some  
20 interference by officials' made compliance impracticable." Hathaway, 74 P.3d at 506, quoting  
21 Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzalez, 118  
22 Nev. at 595, 53 P.3d at 904, citing Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785  
23 n.4 (1998). Any delay in filing must not be the fault of the petitioner. NRS 34.726(1)(a).  
24 Additionally, the Nevada Supreme Court has clarified that, "appellants cannot attempt to  
25 manufacture good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526.

26 In an effort to demonstrate good cause for his untimely and successive fourth Petition,  
27 Defendant alleges that "[t]he authority relied upon in this petition did not exist 1 year following  
28 the filing of the judgment of conviction or the filing of a decision on direct appeal."

1 Specifically, Defendant asserts a claim of actual innocence explaining that he “was not made  
2 aware, nor had the ability to know of the Nevada Supreme Court’s ruling in Nika.”<sup>1</sup>

3 To the extent Defendant asserts a claim of “actual innocence” as an explanation of good  
4 cause, this Court finds this assertion to be without merit. The United States Supreme Court  
5 has held that in order for a defendant to obtain a reversal of his conviction based on a claim of  
6 actual innocence, he must prove that “‘it is more likely than not that no reasonable juror would  
7 have convicted him in light of the new evidence’ presented in habeas proceedings.” Calderon  
8 v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998) (quoting Schlup v. Delo, 513  
9 U.S. 298, 327, 115 S. Ct. 851, 867 (1995)). This means factual innocence, not mere legal  
10 insufficiency. Calderon, 523 U.S. at 559, 118 S. Ct. at 1502–03; Pellegrini, 117 Nev. at 887,  
11 34 P.3d at 537. Here, Defendant fails to assert a factual claim of innocence and instead, insists  
12 on pursuing a procedurally-barred *legal* claim.

13 This Court finds that Nika does not constitute new evidence and Defendant cannot  
14 manufacture good cause in an attempt to circumvent the statutory procedural bars. Clem, 119  
15 Nev. at 621, 81 P.3d at 526. Defendant’s suggestion that he can procrastinate for over 14 years  
16 before filing an untimely successive petition citing alleged “newly recognized” favorable case  
17 law is misguided as this would allow every defendant to ignore the mandatory statutory bars  
18 each time a potentially promising decision was decided in the courts many years after  
19 conviction, eviscerating the finality of NRS 34.726 and NRS 34.810. Further, Nika was  
20 decided in 2008, and Defendant’s fourth Petition was not filed until January 5, 2016.  
21 Defendant does not attempt to offer an explanation for the near 8-year delay and he has not  
22 overcome the threshold requirement of good cause and his attempt to rest on the merits of his  
23 claims is fatally flawed. Clem, 119 Nev. at 621, 81 P.3d at 525. Even if the 2008 Nika decision  
24 represented good cause (which the State adamantly contests), Defendant fails to explain why  
25 he did not raise these claims in his second or third petitions or, why he decided to file for relief  
26 in federal court. The Nevada Supreme Court is clear that pursuit of habeas corpus relief in  
27 federal courts does not constitute good cause for failure to comply with the mandatory one-

28 <sup>1</sup> Nika v. State, 124 Nev. 1272, 198 P.3d 839 (2008).

1 year statutory deadline set forth in NRS 34.726. Colley v. Warden, 105 Nev. 235, 236, 773  
2 P.2d 1229, 1230 (1989).

3 To the extent that Defendant alleges that post-conviction counsel somehow prevented  
4 him from complying with the mandatory procedural rules, this Court finds this contention to  
5 be without merit because ineffective assistance of post-conviction counsel cannot provide  
6 good cause sufficient to overcome the procedural bars. McKague, 112 Nev. at 164 912 P.2d  
7 at 258 (1996). McKague specifically held that with the exception of a first post-conviction  
8 Petition challenging the conviction or sentence of death under NRS 34.820(1)(a), one does not  
9 have “[a]ny constitutional or statutory right to counsel at all” in post-conviction proceedings.  
10 112 Nev. at 164, 912 P.2d at 258. Because Defendant had no right to post-conviction  
11 counsel—as his was not a capital case—he may not assert that alleged instances of ineffective  
12 post-conviction counsel constituted good cause for his untimely filing. Therefore, his claim is  
13 denied.

14 **IV. Defendant’s Petition is barred by the doctrine of laches.**

15 NRS 34.800 creates a rebuttable presumption of prejudice to the State if “[a] period  
16 exceeding five years [elapses] between the filing of a judgment of conviction, an order  
17 imposing a sentence of imprisonment or a decision on direct appeal of a judgment of  
18 conviction and the filing of a petition challenging the validity of a judgment of conviction...”  
19 The Nevada Supreme Court observed in Groesbeck v. Warden, “[P]etitions that are filed many  
20 years after conviction are an unreasonable burden on the criminal justice system. The  
21 necessity for a workable system dictates that there must exist a time when a criminal conviction  
22 is final.” 100 Nev. 259, 679 P.2d 1268 (1984). To invoke the presumption, the statute requires  
23 the State plead laches in its motion to dismiss the petition. NRS 34.800(2). This Court finds  
24 that the State affirmatively pleads laches in the instant case, the doctrine of laches applies as  
25 to bar the Defendant’s Petition, and the Petition is denied.

26 //

27 //

28 //

1 **V. Defendant is not entitled to the appointment of counsel.**

2 The United States Constitution and Nevada Constitution do not provide for a right to  
3 counsel in post-conviction proceedings. See Coleman v. Thompson, 501 U.S. 722, 752, 111  
4 S. Ct. 2546, 2566 (1991); McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996).  
5 NRS 34.750 provides that a court has discretion to appoint post-conviction counsel:

6 [a] petition may allege that the Defendant is unable to pay the costs  
7 of the proceedings or employ counsel. If the court is satisfied that  
8 the allegation of indigency is true *and the petition is not dismissed*  
9 *summarily*, the court may appoint counsel at the time the court  
orders the filing of an answer and a return. In making its  
determination, the court may consider, among other things, the  
severity of the consequences facing the petitioner and whether:

- 10 (a) The issues are difficult;  
11 (b) The Defendant is unable to comprehend the  
proceedings; or  
(c) Counsel is necessary to proceed with discovery.

12 NRS 34.750 (emphasis added). Additionally, the Nevada Supreme Court has concluded a  
13 petitioner "must show that the requested review is not frivolous before he may have an attorney  
14 appointed." Peterson v. Warden, 87 Nev. 134, 136, 483 P.2d 204, 205 (1971) (citing former  
15 statute NRS 177.345(2)). This Court finds that Defendant is not entitled to appointment of  
16 counsel because he has failed to demonstrate that his claims are not frivolous and that his  
17 untimely and successive fourth Petition will not be summarily dismissed.

18 **ORDER**

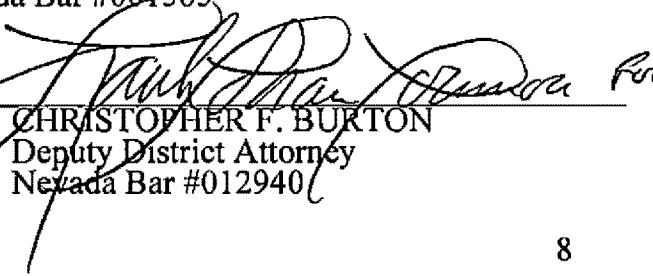
19 THEREFORE, IT IS HEREBY ORDERED that the Post-Conviction Petition for Writ  
20 of Habeas Corpus and Motion for Appointment of Counsel shall be, and are, hereby DENIED.

21 DATED this 5<sup>th</sup> day of April, 2016.

22   
23 DISTRICT JUDGE

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

26 BY

27   
CHRISTOPHER F. BURTON  
28 Deputy District Attorney  
Nevada Bar #012940

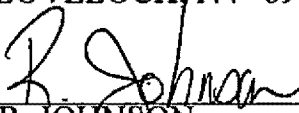


1 CERTIFICATE OF SERVICE

2 I certify that on the 26th day of April, 2016, I mailed a copy of the foregoing proposed  
3 Findings of Fact, Conclusions of Law, and Order to:

4 BRENDAN JAMES NASBY #63618  
5 LOVELOCK CORRECTIONAL CENTER  
6 1200 PRISON ROAD  
7 LOVELOCK, NV 89419

8 BY



R. JOHNSON

Secretary for the District Attorney's Office

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28 FL/CFB/rj/M-1

  
CLERK OF THE COURT

NEO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BRENDAN NASBY,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 98C154293-2

Dept No: XIX

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

**PLEASE TAKE NOTICE** that on May 9, 2016, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 12, 2016.

STEVEN D. GRIERSON, CLERK OF THE COURT



Heather Ungermann, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 12 day of May 2016, I placed a copy of this Notice of Entry in:

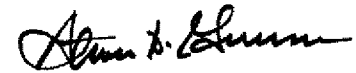
☒ The bin(s) located in the Regional Justice Center of:  
Clark County District Attorney's Office  
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

**Brendan Nasby # 63618**  
1200 Prison Road  
Lovelock, NV 89419



Heather Ungermann, Deputy Clerk



CLERK OF THE COURT

FCL  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
CHRISTOPHER F. BURTON  
Deputy District Attorney  
Nevada Bar #012940  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

BRENDAN JAMES NASBY,  
#1517690

Defendant.

CASE NO: 98C154293-2

DEPT NO: XIX

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER

DATE OF HEARING: APRIL 4, 2016  
TIME OF HEARING: 8:30 A.M.

THIS CAUSE having come on for hearing before the Honorable WILLIAM D. KEPHART, District Judge, on the 4th day of April, 2016, the Petitioner not being present, PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MEGAN THOMSON, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT, CONCLUSIONS OF LAW**

On November 9, 1998, the State charged BRENDAN JAMES NASBY (hereinafter "Defendant") by way of Information as follows: COUNT 1 – Conspiracy to Commit Murder

1 (Felony – NRS 199.480, 200.010, 200.030) and COUNT 2 – Murder with use of a Deadly  
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3 A jury trial commenced on October 11, 1999, and on October 19, 1999, the jury  
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16 After considering the pleadings, the Court finds that Defendant's Petition is  
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18 pursuant to NRS 34.800, and now orders that Defendant's Supplement be DENIED.

19 **I. Defendant's Petition is time-barred.**

20 The mandatory provisions of NRS 34.726(1) states:

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*Supreme Court issues its remittitur.* For the purposes of this  
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27 //

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1 NRS 34.726(1) (emphasis added). “[T]he statutory rules regarding procedural default are  
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4 Here, Defendant filed a direct appeal. Thus, the one-year time bar began to run from  
5 the date the Supreme Court issued Remittitur on March 6, 2001. Defendant had until March  
6 6, 2002 to file his Petition. However, Defendant waited almost 14 years until January 5, 2016,  
7 to file. This Court finds that Defendant’s Petition is procedurally barred under NRS 34.726  
8 and is therefore, denied.

9 **II. Defendant’s Petition is Successive.**

10 Defendant’s instant petition is successive pursuant to NRS 34.810. Pertinent portions  
11 of NRS 34.810 state:

12 2. A second or successive petition must be dismissed if the  
13 judge or justice determines that it fails to allege new or different  
14 grounds for relief and that the prior determination was on the  
15 merits or, if new and different grounds are alleged, the judge or  
16 justice finds that the failure of the Defendant to assert those  
17 grounds in a prior petition constituted an abuse of the writ.

18 3. Pursuant to subsections 1 and 2, the petitioner has the  
19 burden of pleading and proving specific facts that demonstrate:

20 (a) Good cause for the petitioner’s failure to present the  
21 claim or for presenting the claim again; and

22 (b) Actual prejudice to the petitioner.

23 NRS 34.810(2), (3). The Nevada Supreme Court recognizes that “[u]nlike initial petitions  
24 which certainly require a careful review of the record, successive petitions may be dismissed  
25 based solely on the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123,  
26 129 (1995).

27 Defendant filed his first post-conviction petition on February 1, 2002, which was denied  
28 on March 27, 2006, and affirmed by the Nevada Supreme Court on June 18, 2007. Notably,  
Defendant filed a second petition on February 18, 2011, which was denied as procedurally  
barred on May 11, 2011. On December 9, 2014, Defendant filed his third petition, which was  
denied on February 25, 2015, and affirmed by the Nevada Supreme Court on September 11,  
2015, as untimely, successive, and an abuse of the writ without a showing of good cause and

1 prejudice. This Court finds that Defendant's first petition was filed and decided on the merits  
2 and that the instant Petition is successive pursuant to NRS 34.810(2) and therefore, denied.

3 **III. Defendant has failed to demonstrate good cause.**

4 The Nevada Supreme Court has specifically found that the district court has a duty to  
5 consider whether the procedural bars apply to a post-conviction petition and not arbitrarily  
6 disregard them. In Riker, the Court held that "[a]pplication of the statutory procedural default  
7 rules to post-conviction habeas petitions is mandatory," and "cannot be ignored when properly  
8 raised by the State." Id. at 231, 233, 112 P.3d at 1074, 1075. There, the Court reversed the  
9 district court's decision not to bar the defendant's untimely and successive petition:

10           Given the untimely and successive nature of [defendant's]  
11           petition, the district court *had a duty imposed by law* to consider  
12           whether any or all of [defendant's] claims were barred under NRS  
13           34.726, NRS 34.810, NRS 34.800, or by the law of the case . . .  
            [and] the court's failure to make this determination here  
            constituted an arbitrary and unreasonable exercise of discretion.

14 Id. at 234, 112 P.3d at 1076 (emphasis added). "To establish good cause, appellants *must* show  
15 that an impediment external to the defense prevented their compliance with the applicable  
16 procedural rule." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added);  
17 see Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503, 506 (2003); Pellegrini v. State, 117  
18 Nev. 860, 887, 34 P.3d 519, 537 (2001). Such an external impediment could be "that the  
19 factual or legal basis for a claim was not reasonably available to counsel, or that 'some  
20 interference by officials' made compliance impracticable." Hathaway, 74 P.3d at 506, quoting  
21 Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzalez, 118  
22 Nev. at 595, 53 P.3d at 904, citing Harris v. Warden, 114 Nev. 956, 959-60 n.4, 964 P.2d 785  
23 n.4 (1998). Any delay in filing must not be the fault of the petitioner. NRS 34.726(1)(a).  
24 Additionally, the Nevada Supreme Court has clarified that, "appellants cannot attempt to  
25 manufacture good cause[.]" Clem, 119 Nev. at 621, 81 P.3d at 526.

26 In an effort to demonstrate good cause for his untimely and successive fourth Petition,  
27 Defendant alleges that "[t]he authority relied upon in this petition did not exist 1 year following  
28 the filing of the judgment of conviction or the filing of a decision on direct appeal."

1 Specifically, Defendant asserts a claim of actual innocence explaining that he “was not made  
2 aware, nor had the ability to know of the Nevada Supreme Court’s ruling in Nika.”<sup>1</sup>

3 To the extent Defendant asserts a claim of “actual innocence” as an explanation of good  
4 cause, this Court finds this assertion to be without merit. The United States Supreme Court  
5 has held that in order for a defendant to obtain a reversal of his conviction based on a claim of  
6 actual innocence, he must prove that “‘it is more likely than not that no reasonable juror would  
7 have convicted him in light of the new evidence’ presented in habeas proceedings.” Calderon  
8 v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998) (quoting Schlup v. Delo, 513  
9 U.S. 298, 327, 115 S. Ct. 851, 867 (1995)). This means factual innocence, not mere legal  
10 insufficiency. Calderon, 523 U.S. at 559, 118 S. Ct. at 1502–03; Pellegrini, 117 Nev. at 887,  
11 34 P.3d at 537. Here, Defendant fails to assert a factual claim of innocence and instead, insists  
12 on pursuing a procedurally-barred *legal* claim.

13 This Court finds that Nika does not constitute new evidence and Defendant cannot  
14 manufacture good cause in an attempt to circumvent the statutory procedural bars. Clem, 119  
15 Nev. at 621, 81 P.3d at 526. Defendant’s suggestion that he can procrastinate for over 14 years  
16 before filing an untimely successive petition citing alleged “newly recognized” favorable case  
17 law is misguided as this would allow every defendant to ignore the mandatory statutory bars  
18 each time a potentially promising decision was decided in the courts many years after  
19 conviction, eviscerating the finality of NRS 34.726 and NRS 34.810. Further, Nika was  
20 decided in 2008, and Defendant’s fourth Petition was not filed until January 5, 2016.  
21 Defendant does not attempt to offer an explanation for the near 8-year delay and he has not  
22 overcome the threshold requirement of good cause and his attempt to rest on the merits of his  
23 claims is fatally flawed. Clem, 119 Nev. at 621, 81 P.3d at 525. Even if the 2008 Nika decision  
24 represented good cause (which the State adamantly contests), Defendant fails to explain why  
25 he did not raise these claims in his second or third petitions or, why he decided to file for relief  
26 in federal court. The Nevada Supreme Court is clear that pursuit of habeas corpus relief in  
27 federal courts does not constitute good cause for failure to comply with the mandatory one-

28 <sup>1</sup> Nika v. State, 124 Nev. 1272, 198 P.3d 839 (2008).



1 year statutory deadline set forth in NRS 34.726. Colley v. Warden, 105 Nev. 235, 236, 773  
2 P.2d 1229, 1230 (1989).

3 To the extent that Defendant alleges that post-conviction counsel somehow prevented  
4 him from complying with the mandatory procedural rules, this Court finds this contention to  
5 be without merit because ineffective assistance of post-conviction counsel cannot provide  
6 good cause sufficient to overcome the procedural bars. McKague, 112 Nev. at 164 912 P.2d  
7 at 258 (1996). McKague specifically held that with the exception of a first post-conviction  
8 Petition challenging the conviction or sentence of death under NRS 34.820(1)(a), one does not  
9 have “[a]ny constitutional or statutory right to counsel at all” in post-conviction proceedings.  
10 112 Nev. at 164, 912 P.2d at 258. Because Defendant had no right to post-conviction  
11 counsel—as his was not a capital case—he may not assert that alleged instances of ineffective  
12 post-conviction counsel constituted good cause for his untimely filing. Therefore, his claim is  
13 denied.

14 **IV. Defendant’s Petition is barred by the doctrine of laches.**

15 NRS 34.800 creates a rebuttable presumption of prejudice to the State if “[a] period  
16 exceeding five years [elapses] between the filing of a judgment of conviction, an order  
17 imposing a sentence of imprisonment or a decision on direct appeal of a judgment of  
18 conviction and the filing of a petition challenging the validity of a judgment of conviction...”  
19 The Nevada Supreme Court observed in Groesbeck v. Warden, “[P]etitions that are filed many  
20 years after conviction are an unreasonable burden on the criminal justice system. The  
21 necessity for a workable system dictates that there must exist a time when a criminal conviction  
22 is final.” 100 Nev. 259, 679 P.2d 1268 (1984). To invoke the presumption, the statute requires  
23 the State plead laches in its motion to dismiss the petition. NRS 34.800(2). This Court finds  
24 that the State affirmatively pleads laches in the instant case, the doctrine of laches applies as  
25 to bar the Defendant’s Petition, and the Petition is denied.

26 //

27 //

28 //

1 **V. Defendant is not entitled to the appointment of counsel.**

2 The United States Constitution and Nevada Constitution do not provide for a right to  
3 counsel in post-conviction proceedings. See Coleman v. Thompson, 501 U.S. 722, 752, 111  
4 S. Ct. 2546, 2566 (1991); McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996).  
5 NRS 34.750 provides that a court has discretion to appoint post-conviction counsel:

6 [a] petition may allege that the Defendant is unable to pay the costs  
7 of the proceedings or employ counsel. If the court is satisfied that  
8 the allegation of indigency is true *and the petition is not dismissed*  
9 *summarily*, the court may appoint counsel at the time the court  
orders the filing of an answer and a return. In making its  
determination, the court may consider, among other things, the  
severity of the consequences facing the petitioner and whether:

- 10 (a) The issues are difficult;  
11 (b) The Defendant is unable to comprehend the  
proceedings; or  
(c) Counsel is necessary to proceed with discovery.

12 NRS 34.750 (emphasis added). Additionally, the Nevada Supreme Court has concluded a  
13 petitioner "must show that the requested review is not frivolous before he may have an attorney  
14 appointed." Peterson v. Warden, 87 Nev. 134, 136, 483 P.2d 204, 205 (1971) (citing former  
15 statute NRS 177.345(2)). This Court finds that Defendant is not entitled to appointment of  
16 counsel because he has failed to demonstrate that his claims are not frivolous and that his  
17 untimely and successive fourth Petition will not be summarily dismissed.

18 **ORDER**

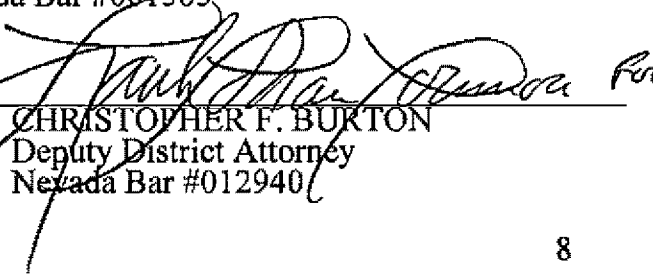
19 THEREFORE, IT IS HEREBY ORDERED that the Post-Conviction Petition for Writ  
20 of Habeas Corpus and Motion for Appointment of Counsel shall be, and are, hereby DENIED.

21 DATED this 5<sup>th</sup> day of April, 2016.

22   
23 DISTRICT JUDGE

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

26 BY

27   
CHRISTOPHER F. BURTON  
28 Deputy District Attorney  
Nevada Bar #012940

CERTIFICATE OF SERVICE

I certify that on the 26th day of April, 2016, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

BRENDAN JAMES NASBY #63618  
LOVELOCK CORRECTIONAL CENTER  
1200 PRISON ROAD  
LOVELOCK, NV 89419

BY



R. JOHNSON

Secretary for the District Attorney's Office

FL/CFB/rj/M-1

October 27, 1998

**INITIAL  
ARRAIGNMENT  
Relief Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

Minutes Date: October 27, 1998

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****November 12, 1998**

98C154293-2

State of Nevada

vs

Brendan Nasby

**November 12, 1998****8:30 AM****Arraignment Continued**

**ARRAIGNMENT  
CONTINUED Court  
Clerk: CAROL  
GREEN/cg Relief  
Clerk: PAULA  
GOODELL  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- AGREEMENT TO TESTIFY FILED IN OPEN COURT. NEGOTIATIONS are as contained in the GUILTY PLEA AGREEMENT FILED IN OPEN COURT. Defendant DESKIN ARRAIGNED AND PLED GUILTY TO ACCESSORY TO MURDER (F). COURT ACCEPTED plea, ADJUDGED DEFENDANT GUILTY and ORDERED, matter referred to Parole and Probation and set for sentencing.

BOND

2/8/99 8:30 AM SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****November 24, 1998**

98C154293-2

State of Nevada

vs

Brendan Nasby

**November 24, 1998****8:30 AM****Initial Arraignment**

**INITIAL  
ARRAIGNMENT  
Court Clerk: LINDA  
SKINNER/ls Relief  
Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Lalli, Christopher J.

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- DEFT ARRAIGNED, PLED NOT GUILTY AND INVOKED THE 60 DAY RULE. COURT ORDERED, matter set for trial. Court advised this date is a few days past the 60 day rule. All parties agreed. Mr. Sciscento will have 21 days from the filing of the transcript to file a writ.

**CUSTODY**

1/28/99 8:30 AM CALENDAR CALL

2/1/99 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****December 10, 1998**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**December 10, 1998****8:30 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 12/10/98  
Relief Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- ARRAIGNMENT (TOMMIE BURNSIDE JR and JOTEE BURNSIDE)

Defendant TOMMIE BURNSIDE, JR.: GUILTY PLEA AGREEMENT FILED IN OPEN COURT.

NEGOTIATIONS: Deft. waived right to a Preliminary Hearing to enter plea of guilty to Information; State retains right to argue, but will not oppose with Defendant's other case. Defendant TOMMIE BURNSIDE, JR. ARRAIGNED AND PLED GUILTY TO ACCESSORY TO MURDER (F). COURT ACCEPTED plea, ADJUDGED DEFENDANT GUILTY and ORDERED, matter referred to Parole and Probation and set for sentencing. Further, COURT ORDERED, Police Report will be made a part of this plea.

Defendant JOTEE BURNSIDE: GUILTY PLEA AGREEMENT FILED IN OPEN COURT.

NEGOTIATIONS: Deft. waived right to a Preliminary Hearing to enter plea of guilty to Information; State retains right to argue. Defendant JOTEE BURNSIDE ARRAIGNED AND PLED GUILTY TO

ACCESSORY TO MURDER (F). COURT ACCEPTED plea, ADJUDGED DEFENDANT GUILTY and ORDERED, matter referred to Parole and Probation and set for sentencing. Further, COURT ORDERED, Police Report will be made a part of this plea.

Regarding request for O.R. Release on behalf of Deft. Jotee Burnside, Court advised counsel to file written motion and get something from Intake Services and matter will be put on 12/15 calendar. Counsel advised that Deft. Tommie Burnside would join in motion. Matter will be on calendar as to both Defendants.

CUSTODY (BOTH)

12/15/98 8:30 AM DEFTS' REQUEST FOR O.R. RELEASE (BOTH)

2/25/99 8:30 AM SENTENCING (BOTH)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****December 15, 1998**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

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**December 15, 1998****8:30 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 12/15/98  
Court Clerk: LINDA  
SKINNER  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**      Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- DEFT'S MOTION FOR OWN RECOGNIZANCE RELEASE OR HOUSE ARREST (JOTEE)...DEFT'S REQUEST FOR O.R. RELEASE (TOMMIE)

Mr. Brooks advised the Intake Services Report denies an O.R. release, but would request house arrest as Deft's mother has a full time job and can afford the fees. Mr. Figler stated this applies to Tommie as well. Mr. Coumou opposed both motions because of Deft's gang affiliation and their records. COURT ORDERED, both Motions are DENIED, however, reduced the bail to \$10,000 for each Deft. CUSTODY (BOTH)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 08, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**January 08, 1999****8:30 AM****Motion to Revoke Own  
Recognizance Release**

**STATE'S MOTION  
TO REVOKE DEFT  
NASBY'S JAIL  
PRIVILEGES AND  
PLACE IN  
ISOLATION Relief  
Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By:  
Pavlikowski, Joseph  
S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Mr. Sciscento advised that Defendant will stipulate to isolation until matter can be set for and Evidentiary hearing and Defendant would only request contact with his parents, daughter and two attorneys. Mr. Coumou stated no objection to contact with close family members. COURT ORDERED, matter CONTINUED for hearing; Defendant, having stipulated to being placed in isolation, will be allowed contact with parents, daughter and two attorneys.

PRINT DATE: 06/16/2016

Page 7 of 94

Minutes Date: October 27, 1998

**98C154293-2**

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 22, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**January 22, 1999****9:00 AM**

**Motion to Revoke Own  
Recognizance Release**

**STATE'S MOTION  
TO REVOKE DEFT  
NASBY'S JAIL  
PRIVILEGES AND  
PLACE IN  
ISOLATION Court  
Clerk: CAROL  
GREEN Relief Clerk:  
CONNIE  
KALSKI/CK  
Reporter/Recorder:  
JAMES HELLESO  
Heard By:  
Pavlikowski, Joseph  
S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- Mr. Sciscento advised that the allegations made against Defendant will require him to call witnesses. Mr. Sciscento, therefore, requested matter be continued and be put at the end of the court's calendar. COURT ORDERED, matter CONTINUED.

PRINT DATE: 06/16/2016

Page 9 of 94

Minutes Date: October 27, 1998

**98C154293-2**

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 28, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**January 28, 1999****8:30 AM****Calendar Call**

**CALENDAR CALL**  
**Court Clerk: LINDA**  
**SKINNER**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By:**  
**Pavlikowski, Joseph**  
**S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Brown, Philip H.  
 Nasby, Brendan J  
 Sciscento, Joseph S.

Attorney  
 Defendant  
 Attorney

**JOURNAL ENTRIES**

- Mr. Brown appeared for Mr. Coumou and upon Court's inquiry, Mr. Sciscento advised he would not be ready for trial as he has a civil matter going on Monday. COURT ORDERED, matter CONTINUED with Motion set for Friday.  
 CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 29, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**January 29, 1999****9:00 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 1/29/99  
Relief Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Duffy, John L.  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- CALENDAR CALL...STATE'S MOTION TO REVOKE DEFT'S JAIL PRIVILEGES AND TO PLACE HIM IN ISOLATION

Argument by Mr. Coumou and Mr. Sciscento. Regarding Jury Trial, Mr. Sciscento advised that as he will be in another trial on Monday, he would request a continuance. Defendant had no objection to continuance of trial. COURT ORDERED, Trial Date VACATED; matter CONTINUED for Decision and Status Check on trial setting. Defendant's custody status will remain status quo.

**CUSTODY**

2/1/99 8:30 AM STATUS CHECK: TRIAL SETTING...STATE'S MOTION TO REVOKE DEFT'S JAIL

PRIVILEGES AND TO PLACE HIM IN ISOLATION



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 01, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**February 01, 1999****8:30 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 2/1/99  
Relief Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Brown, Philip H.

Attorney

Duffy, John L.

Attorney

Nasby, Brendan J

Defendant

**JOURNAL ENTRIES**

- STATUS CHECK: TRIAL SETTING...STATE'S MOTION TO REVOKE DEFT'S JAIL PRIVILEGES  
AND TO PLACE HIM IN ISOLATION

Mr. Duffy advised that Mr. Sciscento is in Los Angeles and is requesting that matter be continued  
until tomorrow. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 2/2/99 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 02, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**February 02, 1999****8:30 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 2/2/99  
Relief Clerk: CAROL  
GREEN  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: TRIAL SETTING...STATE'S MOTION TO REVOKE DEFT'S JAIL PRIVILEGES  
AND PLACE HIM IN ISOLATION

COURT ORDERED, Deft's request to be released from isolation is DENIED; Defendant to remain in  
isolation, with contact only by Mr. Duffy, Mr. Sciscento, fiance, mother and child. Further, COURT  
ORDERED, matter set for Trial.

**CUSTODY**

4/29/99 8:30 AM CALENDAR CALL

5/3/99 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 08, 1999**

98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

**February 08, 1999****8:30 AM****Sentencing**

**SENTENCING**  
**Court Clerk: LINDA**  
**SKINNER**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By:**  
**Pavlikowski, Joseph**  
**S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**      Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- Dawn Williams from the Division of Parole and Probation present. CONFERENCE AT BENCH.  
Pursuant to that conference, COURT ORDERED, matter CONTINUED.  
BOND

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 10, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**February 10, 1999****8:30 AM****Request of Court**

**AT THE REQUEST  
OF THE COURT  
Court Clerk: LINDA  
SKINNER  
Reporter/Recorder:  
JAMES HELLESO  
Heard By:  
Pavlikowski, Joseph  
S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Duffy, John L.

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Mr. Coumou advised he had no objection to Deft's fiancée being allowed to visit Deft. Mr. Sciscento to prepare Order adding her name, Colleen Warner, to the list of visitors.

**CUSTODY**

**CLERK'S NOTE:** After calendar, Secretary advised an issue was not addressed and requested matter be put back on calendar for Friday. ls.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 12, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**February 12, 1999****8:30 AM****Request of Court**

**AT THE REQUEST  
OF THE COURT  
Court Clerk: LINDA  
SKINNER  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J

Attorney  
Defendant

**JOURNAL ENTRIES**

- Court advised there was a question regarding correspondence to and from Deft. Mr. Coumou advised he did not have a problem with Deft receiving or sending correspondence as long as it is monitored. COURT SO ORDERED and Mr. Coumou advised he would prepare the Order.  
DURING CALENDAR: Mr. Sciscento appeared and was apprised of what happened. Mr. Sciscento advised he would speak with Mr. Coumou as he wanted the Order to also contain the information regarding visitation.  
CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Felony/Gross Misdemeanor

## COURT MINUTES

February 25, 1999

98C154293-2                      State of Nevada  
vs  
Brendan Nasby

February 25, 1999

**8:30 AM**

## Sentencing

**SENTENCING**  
**Court Clerk: LINDA**  
**SKINNER/LS Relief**  
**Clerk: CONNIE**  
**KALSKI**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By:**  
**Pavlikowski, Joseph**  
**S.**

HEARD BY:

COURTROOM:

**COURT CLERK:**

**RECORDER:**

**REPORTER:**

## PARTIES

**PRESENT:** Coumou, Frank Attorney

## JOURNAL ENTRIES

- J.R. Haggerty from the Division of Parole and Probation present. Speaker Helen Jones tried to address the Court. Court directed Mr. Coumou to have Ms. Jones prepare a written statement and ORDERED, matter CONTINUED.  
CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 25, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**February 25, 1999****8:30 AM****Sentencing**

**SENTENCING**  
**Court Clerk: LINDA**  
**SKINNER/LS Relief**  
**Clerk: CONNIE**  
**KALSKI**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By: Joseph**  
**Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- J.R. Haggerty from the Division of Parole and Probation present. Mr. Brooks advised Deft did not want to proceed with sentencing, but would like this continued for several months so that he might bail out. Upon Court's inquiry, Court DENIED this request. Parties argued and submitted. Statement by Deft. Having been ADJUDGED GUILTY of ACCESSORY TO MURDER (F), COURT ORDERED, in addition to the \$25 Administrative Assessment Fee, DEFT JOTEE BURNSIDE SENTENCED to the Nevada Department of Prisons for a MAXIMUM term of (30) MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS with 121 days credit for time served. BOND, if any, EXONERATED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 04, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**March 04, 1999****8:30 AM****Sentencing****SENTENCING****Court Clerk: CAROL****GREEN Relief Clerk:****SHARRY****FRASCARELLI/sf****Reporter/Recorder:****JAMES HELLESO****Heard By: Joseph****Pavlikowski****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- Roy Stuart from the Division of Parole and Probation present. Statement by Mr. Coumou. Ms. Dickinson argued her case (C152990) be treated as a gross misdemeanor and Mr. Figler argued for boot camp and continuance of sentencing in this case. Defendant made statement. DEFENDANT BURNSIDE, having been ADJUDGED GUILTY of ACCESSORY TO MURDER (F), COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, Defendant SENTENCED to a MAXIMUM term of THIRTY SIX (36) MONTHS in the Nevada Department of Prisons with a MINIMUM parole eligibility of TWELVE (12) MONTHS with 139 DAYS credit for time served.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 29, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**April 29, 1999****8:30 AM****Calendar Call**

**CALENDAR CALL**  
**Relief Clerk: CAROL**  
**GREEN**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By: Joseph**  
**Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Duffy, John L.  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- Mr. Coumou advised that State is ready, with 17 witnesses, with two out-of-State witnesses. Mr. Sciscento stated that he is ready, but co-counsel, Mr. Duffy may be in another trial beginning next week. COURT ORDERED, matter sent to OVERFLOW.

**CUSTODY**

4/30/99 9:00 AM CALENDAR CALL IN DEPT XIV (OVERFLOW FROM DEPT III)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 30, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**April 30, 1999****9:00 AM****Calendar Call**

**CALENDAR CALL  
(OVERFLOW FROM  
DEPT III)  
COUMOU/SCISCEN  
TO-17 WIT/2  
OUTSTATE/5DAYS  
Court Clerk: RITA  
LOPEZ  
Reporter/Recorder:  
JOE D'AMATO  
Heard By: Mosley,  
Donald M.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Duffy, John L.

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Mr. Sciscento advised the Court Mr. Duffy is co-counsel in this matter. Colloquy between Court and Counsel regarding the length of trial and number of witnesses. Due to the Judge's Conference next week, COURT ORDERED, MATTER CONTINUED IN DEPARTMENT XIV TO SEE IF THE TRIAL CAN BE ENTERTAINED.

**98C154293-2**

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 03, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**May 03, 1999****9:00 AM****Calendar Call**

**CALENDAR CALL  
(OVERFLOW FROM  
DEPT III)  
COUMOU/SCISCEN  
TO-17 WIT/2  
OUTSTATE/5DAYS  
Court Clerk: JUDY  
NORMAN  
Reporter/Recorder:  
MAUREEN  
SCHORN Heard By:  
Donald Mosley**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Duffy, John L.

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Mr. Sciscento advised Mr. Duffy would be setting second chair in this matter. There not being a Courtroom available, COURT ORDERED, matter referred back to Dept. III for Trial setting; TRIAL DATE VACATED.  
CUSTODY

**98C154293-2**

5/6/99 8:30 AM TRIAL SETTING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 06, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**May 06, 1999****8:30 AM****Conversion Hearing Type**

**TRIAL SETTING**  
**Court Clerk: LINDA**  
**SKINNER**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By: Joseph**  
**Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- CONFERENCE AT BENCH. Pursuant to that conference, COURT ORDERED, matter set for trial. Mr. Sciscento inquired if the Order for visit of Deft's mother, could also include Deft's father. Mr. Coumou had no opposition. COURT SO ORDERED.

CUSTODY

7/15/99 8:30 AM CALENDAR CALL

7/19/99 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 13, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**May 13, 1999****8:30 AM****Sentencing**

**SENTENCING**  
**Relief Clerk: CAROL GREEN**  
**Reporter/Recorder: JAMES HELLESO**  
**Heard By: Pavlikowski, Joseph S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- Tom Tatten of the Division of Parole and Probation present. Mr. Golightly advised that State is aware that Defendant is out of the jurisdiction. Further, State is requesting a continuance and he has no objection. Mr. Coumou requested continuance until after July 19. COURT ORDERED, matter CONTINUED.

BOND

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 15, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**July 15, 1999****8:30 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 7/15/99  
Court Clerk: LINDA  
SKINNER  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- CALENDAR CALL...DEFT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF WITNESS  
INTIMIDATION

Upon Court's inquiry, Mr. Coumou advised he is not ready for trial as the witness that examined the gun and cassings will be unavailable. Further, Mr. Coumou advised Mr. Sciscento served an Amended Notice of Witnesses within 10 days of trial and two of these witnesses live out of State and there will not be enough time before trial to interview them. For these reasons, Mr. Coumou requested a continuance. Mr. Sciscento had no objection to a short continuance. COURT ORDERED, trial date VACATED and RESET and Motion set for today will be CONTINUED to calendar call.  
CUSTODY



**98C154293-2**

10/7/99 8:30 AM CALENDAR CALL

10/11/99 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 29, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**July 29, 1999****8:30 AM****Sentencing**

**SENTENCING**  
**Court Clerk: LINDA**  
**SKINNER**  
**Reporter/Recorder:**  
**JAMES HELLESO**  
**Heard By:**  
**Pavlikowski, Joseph**  
**S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- Larry Scott from the Division of Parole and Probation present. Mr. Golightly advised Deft is out of State and requested a continuance until after co-deft's trial, which is October 11. There being no objection, COURT SO ORDERED.

**BOND**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 29, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**July 29, 1999****8:30 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 7/29/99  
Court Clerk: LINDA  
SKINNER  
Reporter/Recorder:  
JAMES HELLESO  
Heard By: Joseph  
Pavlikowski**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- DEFT'S MOTION FOR DISCOVERY...DEFT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS NOT USED IN THE CRIME

CONFERENCE AT BENCH. Upon Court's inquiry, Mr. Coumou had no objection to Deft's Motion for Discovery. COURT ORDERED, Motion GRANTED. Pursuant to conference, Mr. Sciscento to prepare Order to reproduce file. Mr. Coumou requested time to respond to Deft's second motion. Court directed Mr. Coumou to answer by 5 pm on 8/13 and Mr. Sciscento to reply by 5 pm on 8/20. Further, matter will be CONTINUED for argument to calendar call.

**CUSTODY**

10/7/99 8:30 AM DEFT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS NOT

**98C154293-2**

USED IN THE CRIME

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 07, 1999**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

---

**September 07, 1999      8:30 AM      Motion**

**DEFT'S MOTION  
FOR ORDER TO  
TAKE VIDEO  
DEPOSITION AT  
TRIAL Court Clerk:  
LINDA SKINNER  
Reporter/Recorder:  
JAMES HELLESO  
Heard By:  
Pavlikowski, Joseph  
S.**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	Coumou, Frank	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	Attorney

**JOURNAL ENTRIES**

- CONFERENCE AT BENCH. Pursuant to that conference, COURT ORDERED, matter  
CONTINUED and TRANSFERED TO DEPT. 7  
CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 09, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**September 09, 1999****9:00 AM****Motion**

**DEFT'S MOTION  
FOR ORDER TO  
TAKE VIDEO  
DEPOSITION AT  
TRIAL Court Clerk:  
TINA HURD  
Reporter/Recorder:  
PATSY SMITH  
Heard By: Mark  
Gibbons**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Court advised he has read the pleadings. Mr. Sciscento advised the witness, Nina Hoque, is getting married and moving out of the country to Bangladesh or Thailand and may not be available for trial. Mr. Coumou advised there are too many questions regarding the availability of the witness. Court advised Ms. Hoque can be placed under subpoena and, if she is available, the deposition will not be used. Mr. Coumou objected to the video deposition and argued there is no authority for it and he does not want the other witnesses to decide not to appear and have their depositions taken as well. Mr. Coumou advised it is the State's position this is a concocted story and if this deposition is on tape,

it can be shared with the other witnesses to solidify their story; these witnesses have been extremely uncooperative with the State. Mr. Coumou further argued there is no attached affidavit from this witness stating she is not going to be available. Mr. Sciscento advised he became aware of this recently and wants to preserve her testimony; further, he gave the witnesses names and phone numbers to the State and it is not his responsibility if they do not cooperate with the State. Mr. Sciscento advised these witnesses have also received threats. COURT ORDERED, motion GRANTED and the video deposition will be taken in this courtroom at a time mutually convenient for both counsel; if the witness is available, the tape will not be used and the witness will be subpoenaed to be here, however, the deposition may be used for impeachment. At request of Mr. Coumou, COURT FURTHER ORDERED, this testimony is not to be shared with anyone and admonished deft. not to share the testimony he hears during the deposition. Counsel to contact the Court for a time. CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 07, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**October 07, 1999****9:00 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 10-7-99  
Court Clerk: TINA  
HURD  
Reporter/Recorder:  
PATSY SMITH  
Heard By: Mark  
Gibbons**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J  
Sciscento, Joseph S.

Attorney  
Defendant  
Attorney

**JOURNAL ENTRIES**

- AS TO DEFT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER GUNS NOT USED IN THE CRIME...Court FINDS the probative value is outweighed by the prejudicial effect, however, this would be proper for rebuttal if it comes up. COURT ORDERED, motion GRANTED.

AS TO DEFT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF WITNESS INTIMIDATION.. .COURT ORDERED, motion DENIED as this is relevant if deft. is shown to be the source of the intimidation. Colloquy regarding a pre-trial evidentiary hearing. Mr. Coumou advised he has a handwriting expert that states deft. Nasby is the source of these letters. Mr. Sciscento advised he is not prepared for trial at this time as he got the report of the firearms expert, Tory Johnson, a little late. Mr. Coumou objected to a continuance and advised this case has been continued countless times. AS



to the discovery motion, Mr. Coumou advised it is speculative and Mr. Sciscento had ample time to do this as the motion was granted on July 29 and all paperwork requested had been photocopied previously as the State had no objection. Further, Mr. Coumou advised defense counsel has a duty to provide notice of an expert which he has not received. Mr. Sciscento advised his request was for Mr. Johnson's personal notes and when his office called, they were told by Mr. Johnson's office that they would get to it when they got to it. COURT ORDERED, motion to continue is DENIED and trial will go forward Monday afternoon.

CUSTODY

10-11-99 1:30 PM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 11, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**October 11, 1999****1:30 PM****Jury Trial**

**TRIAL BY JURY**  
**Court Clerk:**  
**JOSEPHINE BOHN**  
**Reporter/Recorder:**  
**RENEE SILVAGGIO**  
**Heard By: Gibbons,**  
**Mark**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	Coumou, Frank	Attorney
	Nasby, Brendan J	Defendant
	Santacroce, Frederick A.	Attorney
	Sciscento, Joseph S.	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY. Mr. Sciscento stated there was a motion granted regarding guns not used and he was concerned that witness Johnson would mention them. Mr. Coumou stated he has already spoken to the witness regarding that issue and they will not be mentioned. Colloquy regarding the removal of clips from the gun used outside the presence of the jury and the assault rifle not being admitted but released back to the crime scene analyst. Mr. Sciscento addressed the issue of a letter intercepted by the District Attorney's office as well as an audio tape. Court noted the letter was provided to the Court and it was reviewed. Mr. Coumou advised that the letter was obtained by search warrant, but he has found nothing of evidentiary value on the audio tape. Colloquy as to an evidentiary hearing on the issue of the letter. Court stated jury

selection would begin and the hearing can be held tomorrow. IN THE PRESENCE OF THE JURY PANEL. Conference at the bench. Jury selection proceeded. Prospective panel admonished and excused for the evening. OUTSIDE THE PRESENCE OF THE JURY. Court permitted the State to make its first peremptory challenge, juror #137 McNeal. Batson objection by Mr. Sciscento. Arguments by counsel. Court found the State had a rational basis for the challenge and, ORDERED, CHALLENGE APPROVED. Court in recess.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 12, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**October 12, 1999****11:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****JOSEHINE BOHN****Reporter/Recorder:****RENEE SILVAGGIO****Heard By: Gibbons,****Mark****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coulmou, Frank

Attorney

Nasby, Brendan J

Defendant

Santacroce, Frederick A.

Attorney

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Court reconvened with all present as before. Counsel stipulated to the PRESENCE OF THE JURY. Jury and alternates selected and sworn. Conference at the bench. Information ready by the Clerk of the Court. EXCLUSIONARY RULE INVOKED BY THE COURT. Opening statements by Mr. Coulmou and Mr. Sciscento. Jury admonished and excused for the evening. OUTSIDE THE PRESENCE OF THE JURY. Mr. Santacroce moved for a mistrial based on the State's opening statement regarding the letter which was the basis for the hearing this date. Following arguments by counsel, COURT ORDERED, motion is DENIED. Court in recess.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 12, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**October 12, 1999****11:00 AM****Hearing**

**HEARING Court**  
**Clerk: JOSEPHINE**  
**BOHN**  
**Reporter/Recorder:**  
**RENEE SILVAGGIO**  
**Heard By: Mark**  
**Gibbons**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank	Attorney
Nasby, Brendan J	Defendant
Santacroce, Frederick A.	Attorney
Sciscento, Joseph S.	Attorney

**JOURNAL ENTRIES**

- Court noted this is a hearing regarding the intimidation of witnesses. Testimony and exhibits presented. (See worksheets.) Mr. Sciscento moved to exclude testimony under the Fifth Amendment as well as the letter received after November 4. He stated that any statements made prior to that date are not a part of this motion. Opposition by Mr. Coumou who argued that this is a motion in limine and should have been brought before the Court 10 days prior to the calendar call. Arguments of counsel regarding witness Holmes being an agent of the State. Court stated it will reserve decision until after reviewing the transcript of this hearing which the Court Reporter is ORDERED to prepare and submit to the Court. Court advised counsel the transcript will be reviewed to determine when the letters were delivered and when the witness spoke to the police. COURT ORDERED, RULING

RESERVED on the Fifth Amendment issue and witness Holmes working as an agent of the State. Mr. Santacroce moved to exclude testimony and conclusions of Kelly Daubert regarding handwriting comparisons. Court stated the defense can cross examine on that issue and ORDERED, motion is DENIED.  
CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 13, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**October 13, 1999****1:30 PM****Jury Trial****TRIAL BY JURY****Court Clerk:****JOSEPHINE BOHN****Reporter/Recorder:****RENEE SILVAGGIO****Heard By: Gibbons,****Mark****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Nasby, Brendan J

Defendant

Santacroce, Frederick A.

Attorney

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Court reconvened with all present as before. Counsel stipulated to the PRESENCE OF THE JURY. Testimony and exhibits presented. (See worksheets.) Jury admonished and excused for lunch recess. Court reconvened with all present as before. Counsel stipulated to the PRESENCE OF THE JURY. Testimony continued. Exhibits admitted. Jury admonished and excused. Evening recess.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 14, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**October 14, 1999****11:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****JOSEPHINE BOHN****Reporter/Recorder:****RENEE SILVAGGIO****Heard By: Gibbons,****Mark****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Nasby, Brendan J

Defendant

Santacroce, Frederick A.

Attorney

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Court reconvened with all present as before. Counsel stipulated to the PRESENCE OF THE JURY. Testimony and exhibits presented. (See worksheets.) Counsel stipulated to the chain of custody of exhibits 52, 52A, 52B and 52C. Counsel further stipulated to exhibit 52 being WITHDRAWN AND RETURNED TO Officer McPhail of Metro. Jury admonished and excused. Evening recess.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 15, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**October 15, 1999****1:30 PM****Jury Trial**

**TRIAL BY JURY**  
**Court Clerk: TINA**  
**HURD**  
**Reporter/Recorder:**  
**Renee Silvaggio**  
**Heard By: Gibbons,**  
**Mark**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank	Attorney
Nasby, Brendan J	Defendant
Santacroce, Frederick A.	Attorney
Sciscento, Joseph S.	Attorney

**JOURNAL ENTRIES**

- 11:15 A.M.--OUTSIDE THE PRESENCE OF THE JURY, Court advised records from the jail have been subpoenaed and he has reviewed them with Mitchell Cohen, DDA, and there are two possible names that may pertain to this case. Court advised he has asked Mr. Cohen to make copies of those two possibilities and provide those to counsel. Mr. Sciscento advised there is an issue regarding the visitation records. Off record conference between Court and Mr. Cohen. On the record, Court advised he did not see any names of anyone involved in this case on the records except Mr. Buczek. 11:20 a.m.--Counsel stipulated to the presence of the Jury. Further testimony and exhibits presented per worksheets. 12:42 p.m.--Jury admonished and excused for lunch, to return at 2:00 p.m. OUTSIDE THE PRESENCE OF THE JURY, Court admonished deft. Nasby regarding his right not to be

compelled to testify. Upon Court's inquiry, counsel and deft. stipulated to WAIVE the penalty phase if there is a conviction and deft. is to be sentenced by the Court. COURT SO ORDERED.

2:05 P.M.--Counsel stipulated to the presence of the Jury. Further testimony and exhibits presented.

3:41 p.m.--OUTSIDE THE PRESENCE OF THE JURY, Court addressed the issue of John Holmes' testimony. Colloquy regarding when John Holmes spoke with law enforcement. State advised there was no interrogation going on, however, there may be a Sixth Amendment issue; John Holmes subsequently received a letter with names and addresses of people deft. wanted intimidated or killed and that is a separate crime. Court advised that sounds like a Petrocelli issue. Court stated his findings and ORDERED, the letter will be EXCLUDED as the prejudice outweighs the probative value. Brief recess taken. 4:08 p.m.--Counsel stipulated to the presence of the Jury. Further testimony and exhibits presented. Court admonished the Jury and excused them for the weekend at 5:10 p.m. to return at 1:30 p.m. Monday afternoon. OUTSIDE THE PRESENCE OF THE JURY, colloquy regarding scheduling. Mr. Sciscento requested the State bring back Jerimiah Deskin. COURT SO ORDERED. Court adjourned for the weekend.  
CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 18, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**October 18, 1999****9:00 AM****Jury Trial**

**TRIAL BY JURY**  
**Court Clerk: TINA**  
**HURD/th Relief**  
**Clerk: Blanca**  
**Madrigal**  
**Reporter/Recorder:**  
**PATSY SMITH**  
**Heard By: Gibbons,**  
**Mark**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Nasby, Brendan J

Defendant

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- 11:28 A.M.--Deft's presence waived. Counsel stipulated instructions may be settled on the record before both sides rest on the record with counsel having the right to additional instructions if further issues arise. Jury Instructions settled on the record. Off the record at 11:38 a.m.

1:30 P.M.--Counsel stipulated to the presence of the Jury. State rested. Conference at the bench. 1:33 p.m.--OUTSIDE THE PRESENCE OF THE JURY, Mr. Sciscento moved to dismiss on the grounds the State did not prove their case beyond a reasonable doubt and argued. State argued this should be argued to the Jury as an issue of fact. Court FINDS the State has set forth a prima facie case and ORDERED, motion DENIED. 1:36 p.m.--IN THE PRESENCE OF THE JURY, Defense rested. Court

instructed the Jury. Closing arguments by counsel. 3:25 p.m.--Bailiff sworn to take charge of the Jury. Court explained the scheduling to the Jury. At the hour of 3:28 p.m. this date, Jury retired to commence deliberations. Court in recess.

5:00 P.M.--Jury admonished and excused for the evening to return at 9:00 a.m. tomorrow morning.  
CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 19, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**October 19, 1999****9:00 AM****Jury Trial**

**TRIAL BY JURY**  
**Court Clerk: TINA**  
**HURD/th Relief**  
**Clerk: Blanca**  
**Madrigal**  
**Reporter/Recorder:**  
**PATSY SMITH**  
**Heard By: Mark**  
**Gibbons**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
 Nasby, Brendan J  
 Sciscento, Joseph S.

Attorney  
 Defendant  
 Attorney

**JOURNAL ENTRIES**

- 9:00 A.M.--Jury retired to continue deliberations.

1:34 P.M.--Counsel stipulated to the presence of the Jury. Jury returned with VERDICTS of GUILTY OF COUNT I - CONSPIRACY TO COMMIT MURDER (F) and GUILTY OF COUNT II - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). Jury polled at request of Mr. Sciscento; 12 affirmed. Court thanked and excused the Jury at 1:38 p.m. OUTSIDE THE PRESENCE OF THE JURY, deft. Nasby having been found guilty, COURT ORDERED, matter REFERRED to P&P and set for sentencing; deft. REMANDED TO CUSTODY.  
 CUSTODY

**98C154293-2**

11-29-99 9:00 AM SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 28, 1999**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**October 28, 1999****9:00 AM****Sentencing**

**SENTENCING**  
**Court Clerk:**  
**JOSEPHINE BOHN**  
**Reporter/Recorder:**  
**RENEE SILVAGGIO**  
**Heard By: Mark**  
**Gibbons**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Coumou, Frank

Attorney

**JOURNAL ENTRIES**

- Susan Bowler of Parole and Probation present. DEFENDANT DESKIN ADJUDGED GUILTY of ACCESSORY TO MURDER (F). Statements by counsel and defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, Defendant SENTENCED to a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Prisons SUSPENDED; placed on PROBATION for a FIXED period of FIVE (5) YEARS. CONDITIONS: 1. Search clause for the detection of weapons and evidence of gang affiliation. 2. Complete 40 hours of community service work each month of probation not to exceed the provisions of NRS 176.087 unless employed full time. 3. Have no association with Brendan Nasby, Tommie Burnside and Jotee Burnside during probation. 4. Have no contact or association with any member of a gang during probation. 5. Pay a \$10,000.00 fine during the term of probation on a monthly basis. Defendant ORDERED to report to P & P immediately upon leaving the courtroom or a bench warrant will issue. BOND, if any, EXONERATED.





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****November 29, 1999**

98C154293-2

State of Nevada

vs

Brendan Nasby

**November 29, 1999****9:00 AM****Sentencing****SENTENCING****Court Clerk: TINA****HURD****Reporter/Recorder:****PATSY SMITH****Heard By: Mark****Gibbons****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Nasby, Brendan J

Defendant

Santacroce, Frederick A.

Attorney

Sciscento, Joseph S.

Attorney

**JOURNAL ENTRIES**

- Tom Tatten of Parole and Probation present. Mr. Sciscento requested a brief continuance as he received the PSI report late Wednesday afternoon at which time he was out of state; further, he has received additional letters over the weekend. Mr. Sciscento stated he understands there are speakers and suggested a bifurcated hearing, allowing the speakers to speak today and continuing the rest of the sentencing. State objected to bifurcating as the victim's family has travelled a great distance and want to see deft. sentenced so they can have closure; however, he would have no objection to trailing the matter so Mr. Sciscento can go over the PSI report with deft. Colloquy. COURT ORDERED, matter TRAILED until 2:00 p.m. this afternoon.

2:20 P.M.--Matter recalled with all present as before. DEFT. NASBY ADJUDGED GUILTY OF

COUNT I - CONSPIRACY TO COMMIT MURDER (F) and COUNT II - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). Sworn statements made by victim's grandmother and mother, ELLEN BEAVER-JONES and VELMA BEASLEY, and deft's mother, BRENDA NASBY. Matter argued and submitted. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, deft. is SENTENCED to a MAXIMUM term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS in the Nevada Department of Prisons for Count I and SENTENCED to LIFE WITH THE POSSIBILITY OF PAROLE plus an equal and CONSECUTIVE term of LIFE WITH THE POSSIBILITY OF PAROLE for use of a deadly weapon. for Count II, CONSECUTIVE to Count I, with 480 DAYS credit for time served. BOND, if any, EXONERATED. Mr. Sciscento advised deft's visitors have been restricted to his mother, fiancée and child by court order and requested that be lifted. State advised he moved for that when he found all his witnesses were being intimidated and threatened; deft. is obviously not in isolation now or he would not have these new charges for Battery on a Corrections Officer. COURT ORDERED, the Court order restricting visitation is LIFTED and matter is left to the discretion of the jail commander. Mr. Sciscento advised, as to the appeal, he believes there will be a conflict as the Special Public Defender represented one of the co-defts. and requested the Court appoint Mr. Santacroce. State took no position. COURT ORDERED, Mr. Santacroce is APPOINTED to represent deft. Nasby on appeal. Off the record at 3:16 p.m.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 17, 2001**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

---

**September 17, 2001      9:00 AM      Motion**

**DEFT'S PRO PER  
MTN TO  
DISCOVERY  
PRODUCTION/TRA  
NSMISSION OF  
DOCUMENTS/38  
Court Clerk: Denise  
Husted Heard By:  
Nancy Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**      Brower, Keith

Attorney

**JOURNAL ENTRIES**

- COURT noted Defendant has failed to file a writ and is not entitled to the documents, therefore  
ORDERED, motion DENIED.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 25, 2002**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

---

**February 25, 2002****9:00 AM****Motion**

**DEFT'S PRO PER  
MTN FOR  
DISCOVERY  
PRODUCTION AND  
TRANSMISSIONS  
OF DOCUM/42  
Court Clerk: Denise  
Husted  
Reporter/Recorder:  
Kristine Cornelius  
Heard By: Saitta,  
Nancy M**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**      Goettsch, Becky S.

Attorney

**JOURNAL ENTRIES**

- COURT noted no opposition from the State and ORDERED, motion CONTINUED to 4/8/02; State to file response.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 08, 2002**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**April 08, 2002****9:00 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 4/8/02  
Court Clerk: Amber  
Farley  
Reporter/Recorder:  
Kristine Cornelius  
Heard By: Nancy  
Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Santacroce, Frederick A.

Attorney

**JOURNAL ENTRIES**

- F. SANTACROCE'S MOTION TO WITHDRAW AS COUNSEL Mr. Santacroce stated he took this case on the appeal, the appeal was denied and the conviction was affirmed. COURT ORDERED, Motion GRANTED, order signed in open court.

DEFT'S PRO PER MOTION FOR DISCOVERY PRODUCTION...DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL ...DEFTS PRO PER MOTION TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO PER MOTION TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR POST CONVICTION RELIEF...DEFT'S PRO PER MOTION FOR EVIDENTIARY HEARING

Mr. Coumou stated he doesn't believe an evidentiary hearing is needed and that the motions can be ruled on. Court indicated that it will continue this matter for thirty days to ensure that everything

**98C154293-2**

has been fully reviewed, and SO ORDERED.

NDC

ABOVE MOTIONS CONTINUED TO: 5/6/02 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 06, 2002**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**May 06, 2002****9:00 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 5/6/02  
Court Clerk: Amber  
Farley  
Reporter/Recorder:  
Debra Vanblaricom  
Heard By: Nancy  
Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Lawson, Tamara F.

Attorney

**JOURNAL ENTRIES**

- DEFT'S PRO PER MOTION FOR DISCOVERY PRODUCTION...DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL ...DEFTS PRO PER MOTION TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO PER MOTION TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR POST CONVICTION RELIEF...DEFT'S PRO PER MOTION FOR EVIDENTIARY HEARING  
COURT ORDERED, Mr. Christiansen appointed as counsel. Neither Defendant nor Mr. Christiansen present, COURT ORDERED, matters CONTINUED.  
NDC  
CONTINUED TO: 6/24/02 9:00 AM  
CLERK'S NOTE: Minute Order AMENDED to reflect the Court's appointment of counsel. /af  
5/10/02





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 24, 2002**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**June 24, 2002****9:00 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 6/24/02  
Court Clerk: Amber  
Farley  
Reporter/Recorder:  
Kristine Cornelius  
Heard By: Nancy  
Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Brown, David T.  
Lawson, Tamara F.  
Nasby, Brendan J

Attorney  
Attorney  
Defendant

**JOURNAL ENTRIES**

- DEFT'S PRO PER MOTION FOR DISCOVERY PRODUCTION AND TRANSMISSION OF DOCUMENTS...DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S PRO PER MOTION TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO PER MOTION TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR POST CONVICTION RELIEF... DEFT'S PRO PER MOTION FOR EVIDENTIARY HEARING

MATTERS CONTINUED to 7/1/02.

DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL

Conference at bench. Pursuant to same, Mr. Christiansen's office is REMOVED from the case and Lori Teicher is APPOINTED. Matter set for confirmation of counsel.

**98C154293-2**

NDC

7/1/02 9:00 AM CONFIRMATION OF COUNSEL (L. TEICHER)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 01, 2002**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**July 01, 2002****9:00 AM****All Pending Motions**

**ALL PENDING  
MOTIONS 7/1/02  
Court Clerk: Amber  
Farley  
Reporter/Recorder:  
Tina Smith Heard  
By: Kathy Hardcastle**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Teicher, Lori C.  
Wall, David T.

Attorney  
Attorney

**JOURNAL ENTRIES**

- DEFT'S PRO PER MOTION FOR DISCOVERY PRODUCTION AND TRANSMISSION OF DOCUMENTS...DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S PRO PER MOTION TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO PER MOTION TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR POST CONVICTION RELIEF... DEFT'S PRO PER MOTION FOR EVIDENTIARY HEARING...CONFIRMATION OF COUNSEL (L. TEICHER)  
Ms. Teicher confirmed as counsel. COURT ORDERED, counsel to work out a briefing schedule and ORDERED, matter set for a status check in forty-five days.

NDC

8/19/02 9:00 AM STATUS CHECK: PENDING MOTIONS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****August 19, 2002**

98C154293-2

State of Nevada

vs

Brendan Nasby

**August 19, 2002****9:00 AM****Status Check**

**STATUS CHECK:**  
**PENDING**  
**MOTIONS Court**  
**Clerk: Amber Farley**  
**Reporter/Recorder:**  
**Kristine Cornelius**  
**Heard By: Nancy**  
**Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Nasby, Brendan J  
 Teicher, Lori C.  
 Wall, David T.

Defendant  
 Attorney  
 Attorney

**JOURNAL ENTRIES**

- Ms. Teicher stated she has met with the Defendant and now has the file; requested a briefing schedule be set. COURT SO ORDERED, as follows:

Opening due 11/22/02 Response due 12/20/02 Reply due 1/24/02

Matter set for hearing.

NDC

2/5/03 9:00 AM ARGUMENT: POST-CONVICTION WRIT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 02, 2004**

98C154293-2

State of Nevada

vs

Brendan Nasby

**February 02, 2004****9:00 AM****Motion for Substitution**

**DEFT'S PRO PER  
MTN FOR  
SUBSTITUTION  
COUNSEL/54 Court  
Clerk: Amber Farley  
Reporter/Recorder:  
Kristine Cornelius  
Heard By: Nancy  
Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Owens, Steven S.

Attorney

**JOURNAL ENTRIES**

- Court noted that prior appointed counsel, Ms. Teicher, has gone to the Federal Public Defender's office, and ORDERED, new counsel is appointed.

NDC

CLERK'S NOTE: The Clerk contacted Tony Sgro, who stated he would accept the appointment, and confirmed as counsel. Status check date set in court for confirmation is changed to a status check on the setting of a briefing schedule.

3/1/04 9:00 AM STATUS CHECK: BRIEFING SCHEDULE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 01, 2004**

98C154293-2

State of Nevada

vs

Brendan Nasby

**March 01, 2004****9:00 AM****Status Check**

**STATUS CHECK:**  
**BRIEFING**  
**SCHEDULE Court**  
**Clerk: Amber Farley**  
**Reporter/Recorder:**  
**Dick Kangas Heard**  
**By: Nancy Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Owens, Steven S.

Attorney

Sgro, Anthony P.

Attorney

**JOURNAL ENTRIES**

- Mr. Sgro stated the writ was filed in July 2002 and never litigated, and recounted the procedural history regarding the writ. Mr. Sgro stated the writ was filed 1/30/02, which cures the one-year time bar. Mr. Owens requested that issue be argued, stating that good cause must be shown for the delay. Bench conference. The Court set a briefing schedule, as follows: Opening due 9/3/04; Response due 11/12/04; Reply due 11/17/04; and matter set for argument.

NDC

1/10/05 9:00 AM ARGUMENT: WRIT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 02, 2005**

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98C154293-2	State of Nevada
	vs
	Brendan Nasby

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<b>March 02, 2005</b>	<b>9:00 AM</b>	<b>Hearing</b>
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**ARGUMENT: POST-  
CONVICTION  
WRIT Court Clerk:  
Kristen Brown  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Cory, Ken**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	Coumou, Frank	Attorney
	Sgro, Anthony P.	Attorney

**JOURNAL ENTRIES**

- At the request of counsel, COURT ORDERED, matter CONTINUED to be heard in front of Judge Saitta.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 02, 2005**

98C154293-2

State of Nevada

vs

Brendan Nasby

**May 02, 2005****9:00 AM****Hearing**

**ARGUMENT: POST-  
CONVICTION  
WRIT Relief Clerk:  
Jennifer Kimmel  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Nancy  
Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Sgro, Anthony P.

Attorney  
Attorney

**JOURNAL ENTRIES**

- Argument by counsel. COURT NOTED, an Evidentiary Hearing shall be conducted to ascertain if the conduct of the trial attorney rises to a level of effectiveness in this matter. Court additionally STATED that ineffectiveness at the appellate level may or may not be the result of certain issues not being raised. COURT directed counsel to limit testimony to Mr. Santacroce and Mr. Sciscento at the upcoming hearing. Discussion regarding tactical decisions for trial. COURT ORDERED, Evidentiary Hearing set.

NDC

6/10/05 9:00 A.M. EVIDENTIARY HEARING: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 02, 2005**

98C154293-2

State of Nevada

vs

Brendan Nasby

**September 02, 2005****11:00 AM****Evidentiary Hearing**

**EVIDENTIARY  
HEARING RE:  
TRIAL STRATEGY  
(INEFFECTIVE  
ASSISTANCE OF  
COUNSEL) Relief  
Clerk: Theresa Lee  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Saitta,  
Nancy M**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Attorney

Michaelides, Thomas C.

Attorney

**JOURNAL ENTRIES**

- (Witnesses present, Joseph Sciscento, Esq. and Frederick Santacroce, Esq.)

Deft not present. Mr. Michaelides contacted Mr. Sgro whom he is appearing for and was informed he wanted the deft present for the hearing. COURT ORDERED, hearing CONTINUED, State to prepare a new Order to Transport. Counsel believed the hearing could take one hour.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 26, 2005**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

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**September 26, 2005      10:30 AM      Evidentiary Hearing**

**EVIDENTIARY  
HEARING RE:  
TRIAL STRATEGY  
(INEFFECTIVE  
ASSISTANCE OF  
COUNSEL) Court  
Clerk: Kristen Brown  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Saitta,  
Nancy M**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	Coumou, Frank	Attorney
	Nasby, Brendan J	Defendant

**JOURNAL ENTRIES**

- Court advised the deft. that it received information that the deft. was not transported and called off Mr. Sciscento, therefore, ORDERED, matter CONTINUED.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****November 09, 2005**

98C154293-2

State of Nevada

vs

Brendan Nasby

**November 09, 2005****10:30 AM****Evidentiary Hearing**

**EVIDENTIARY  
HEARING RE:  
TRIAL STRATEGY  
(INEFFECTIVE  
ASSISTANCE OF  
COUNSEL) Court  
Clerk: Kristen Brown  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Nancy  
Saitta**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coulmou, Frank

Attorney

Michaelides, Thomas C.

Attorney

Nasby, Brendan J

Defendant

**JOURNAL ENTRIES**

- Frederick Santacroce, Esq. and Joseph Sciscento, Esq., sworn and testified. Argument by Mr. Coulmou. Mr. Michaelides requested to file a written response. Court stated it will give Mr. Michaelides 30 days to file a written response and will give the State 30 days to file a reply. COURT ORDERED, matter set for argument.

NDC

1/11/06 11:00 AM ARGUMENT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 11, 2006**

98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

**January 11, 2006      11:00 AM      Hearing**

**ARGUMENT Court  
Clerk: Kristen Brown  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By:  
Pavlikowski, Joseph  
S.**

**HEARD BY:**

**COURTROOM:**

**COURT CLERK:**

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**      Coumou, Frank      Attorney  
                         Nasby, Brendan J      Defendant

**JOURNAL ENTRIES**

- COURT ORDERED, matter CONTINUED.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 15, 2006**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

---

**February 15, 2006****11:00 AM****Hearing**

**ARGUMENT Court  
Clerk: Kristen Brown  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Saitta,  
Nancy M**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	Coumou, Frank	Attorney
	Michaelides, Thomas C.	Attorney
	Nasby, Brendan J	Defendant

**JOURNAL ENTRIES**

- Mr. Coumou advised the Court that he just received deft's supplemental pleading and is prepared to respond. COURT ORDERED, matter CONTINUED for oral argument.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 27, 2006**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

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**February 27, 2006****10:30 AM****Hearing**

**ARGUMENT Court  
Clerk: Kristen Brown  
Reporter/Recorder: Jo  
Anne Pierpont  
Heard By: Saitta,  
Nancy M**

**HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank  
Nasby, Brendan J

Attorney  
Defendant

**JOURNAL ENTRIES**

- COURT ORDERED, matter CONTINUED.  
NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 27, 2006**

98C154293-2

State of Nevada

vs

Brendan Nasby

**March 27, 2006****10:30 AM****Hearing****ARGUMENT Relief****Clerk: Cynthia****Georgilas****Reporter/Recorder: Jo****Anne Pierpont****Heard By: Nancy****Saitta****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coumou, Frank

Nasby, Brendan J

Sgro, Anthony P.

Attorney

Defendant

Attorney

**JOURNAL ENTRIES**

- Mr. Sgro summarized the facts of the case. Argument by Mr. Sgro regarding counsel's representation at the time of trial. Argument by Mr. Coumou regarding potential alibi witness and handwriting expert, and requested the Court deny Defendant's Post Conviction for Writ of Habeas Corpus. Court FINDS, the decisions by counsel were reasonable and within the discretion of decision making and the evidence does not support ineffective assistance of counsel and therefore counsels' actions were effective. Mr. Coumou to prepare the Order.

NDC



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

### Felony/Gross Misdemeanor

# COURT MINUTES

**April 27, 2011**

98C154293-2                      State of Nevada  
vs  
Brendan Nasby

**April 27, 2011      8:15 AM      Petition for Writ of Habeas Corpus**

**HEARD BY:** Barker, David

COURTROOM: RJC Courtroom 11B

**COURT CLERK:** Phyllis Irby

**RECORDER:** Richard Kangas

**REPORTER:**

## PARTIES

**PRESENT:** Raman, Jay Attorney  
State of Nevada Plaintiff

## JOURNAL ENTRIES

- Deft not present. Mr. Sgro Deft's counsel not present. COURT ORDERED, MATTER CONTINUED. Mr. Sgro needs to be present next date to make representations.

NDC

5-11-11 8:00 AM SAME (DEPT. XVIII)

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 11, 2011**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

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**May 11, 2011      8:15 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES**

**PRESENT:**      Raman, Jay      Attorney  
                         State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Court advised, Defense counsel is not present for today's matter. This matter has been passed twice for counsel to provide additional information. The State has filed a response and defense counsel has failed to file documents. Therefore, this Court will render a decision based upon what has been presented to the Court. COURT ORDERED, petition DENIED under NRS 34.726 and NRS 34.810 as being excessively time barred. The State is to prepare the order of Conclusions of Law and/or the Procedural Grounds.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 20, 2011**

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98C154293-2            State of Nevada  
                              vs  
                              Brendan Nasby

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**June 20, 2011****8:15 AM****Motion****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Billie Jo Craig**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Deputy District Attorney Frank Ponticello present for the State. Kevin Leik appearing for Anthony Sgro representing defendant. Defendant not present.

Colloquy regarding status of case. COURT ORDERED, Defendant's Pro Per Motion is DENIED. At request of Mr. Leik, COURT ORDERED, Sgro allowed to WITHDRAW as Counsel of Record. RECALLED LATER. The State advised the Findings of Facts and Conclusions of Law were previously filed and forwarded to defendant at Ely.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 14, 2014**

98C154293-2

State of Nevada

vs

Brendan Nasby

**July 14, 2014****8:15 AM****Motion****Deft's Pro Per Motion  
to Expand the Record****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES****PRESENT:**

Burton, Chris

Attorney

State of Nevada

Plaintiff

**JOURNAL ENTRIES**

- Per review, Supreme Court Remittitur, over two years ago, order of affirmance of the denial of post-conviction petition noting certain procedurally aspects that Deft. did not meet in the first instance as a result of the jury verdict from 1999. Deft. request to expand record even though Deft. has not persuaded any Court during the time he has been in custody on this first degree murder conviction and wishes to expand the record regarding aggregation of consecutive sentences. Court FINDS no basis under Chapter 34 by which this relief could be remotely granted, no basis therefore to expand record, no basis to spend tax payer monies in that fashion and ORDERED, motion DENIED.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Brendan James Nasby #63618, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89419. aw

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 07, 2015**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

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**January 07, 2015****8:30 AM****Motion****Defendant's Pro Per  
Motion for  
Evidentiary Hearing****HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Ying Pan**RECORDER:** Christine Erickson**REPORTER:****PARTIES**

**PRESENT:**      Overly, Sarah      Attorney  
                         State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

COURT FINDS, the motion is premature, and ORDERED, Motion DENIED. State to prepare a proposed Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 12, 2015**

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98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

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<b>January 12, 2015</b>	<b>8:30 AM</b>	<b>Motion for Appointment of Attorney</b>	<b>Defendant's Pro Per Motion for Appointment of Counsel</b>
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**HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Ying Pan**RECORDER:** Christine Erickson**REPORTER:****PARTIES**

<b>PRESENT:</b>	Burton, Chris	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

COURT FINDS, Defendant did not meet the prerequisite, and ORDERED, Motion DENIED. State to prepare a proposed Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 18, 2015**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**February 18, 2015****8:30 AM****Motion for Leave**

**Defendant's Pro Per  
Motion for Leave of  
Court to File  
Renewed Motion for  
Appointment of  
Counsel**

**HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Ying Pan**RECORDER:** Christine Erickson**REPORTER:****PARTIES****PRESENT:**

Keeler, Brett O.  
State of Nevada

Attorney  
Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Court NOTED, this Motion was heard previously, Defendant has not established anything overcoming the prerequisites. COURT ORDERED, Motion DENIED.

NDC

CLERK'S NOTE: The above minute order has been distributed via U.S. Regular Mail to: Defendant:

Brendan Nasby #63618  
Lovelock Correctional Center  
1200 Prison Road

**98C154293-2**

Lovelock, NV 89419  
- YP 2-24-15



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 25, 2015**

98C154293-2      State of Nevada  
vs  
Brendan Nasby

**February 25, 2015      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Ying Pan

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES**

**PRESENT:**      Benedict, Susan M      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS ... STATE'S RESPONSE  
AND MOTION TO DISMISS TO DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS  
CORPUS

Defendant not present.

COURT ORDERED, State's Motion to Dismiss to Defendant's Petition GRANTED and Defendant's  
Petition for Writ of Habeas Corpus DENIED. State to prepare a proposed Order including finding of  
facts and conclusion of law.

CLERK'S NOTE: The above minute order has been distributed via U.S. Regular Mail to: Defendant:

BRENDAN JAMES NASBY #63618  
LOVELOCK CORRECTIONAL CENTER  
1200 PRISON ROAD  
LOVELOCK, NV 89419

**98C154293-2**

- YP 2-26-15

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 23, 2015**

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98C154293-2            State of Nevada  
                              vs  
                              Brendan Nasby

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**March 23, 2015            8:30 AM            All Pending Motions**

**HEARD BY:**   Kephart, William D.

**COURTROOM:**   RJC Courtroom 03E

**COURT CLERK:**   Kristen Brown

**RECORDER:**   Christine Erickson

**REPORTER:**

**PARTIES**

**PRESENT:**            Keeler, Brett O.                            Attorney  
                              State of Nevada                           Plaintiff

**JOURNAL ENTRIES**

- DEFT'S PRO PER RENEWED MOTION FOR EVIDENTIARY HEARING AND MOTION TO PRODUCE INMATE...DEFT'S PRO PER MOTION FOR LEAVE OF COURT TO FILE RENEWED MOTION FOR EVIDENTIARY HEARING

Court stated that as the deft. has appealed the Court prior denial of the Deft's Petition for Writ of Habeas Corpus, it divests jurisdiction of this Court, therefore, ORDERED, Motions OFF CALENDAR.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 01, 2015**

98C154293-2

State of Nevada  
vs  
Brendan Nasby

**June 01, 2015****8:30 AM****Motion**

**Defendant's Second  
Motion to Attach  
Supplemental Exhibit  
to Motion to  
Disqualify Judge**

**HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Ying Pan**RECORDER:** Christine Erickson**REPORTER:****PARTIES****PRESENT:**

Beverly, Leah C  
State of Nevada

Attorney  
Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Court NOTED, this matter was addressed and the Supreme Court denied Defendant's motion previously. COURT ORDERED, matter OFF CALENDAR.

NDC

CLERK'S NOTE: The above minute order has been distributed via U.S. Regular Mail to: Defendant,

Brendan Nasby #63618  
Love Lock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 22, 2016**

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98C154293-2            State of Nevada  
                              vs  
                              Brendan Nasby

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**February 22, 2016        8:30 AM            Motion for Order**

**HEARD BY:**   Kephart, William D.                            **COURTROOM:**   RJC Courtroom 03E

**COURT CLERK:**   Tia Everett

**RECORDER:**    Christine Erickson

**REPORTER:**

**PARTIES**

**PRESENT:**        State of Nevada                            Plaintiff  
                             Thomson, Megan                            Attorney

**JOURNAL ENTRIES**

- COURT ORDERED, motion DENIED and noted Defendant continuously files motions of the same nature.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 16, 2016**

98C154293-2      State of Nevada  
                         vs  
                         Brendan Nasby

**March 16, 2016      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Tia Everett**RECORDER:** Christine Erickson**REPORTER:****PARTIES**

**PRESENT:**      State of Nevada      Plaintiff  
                         Thomson, Megan      Attorney

**JOURNAL ENTRIES**

- DEFENDANT S PRO PER MOTION FOR APPOINTMENT OF COUNSEL ... DEFENDANT S PRO PER MOTION TO EXTEND PRISON COPYWORK LIMIT DEFENDANT S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

Court noted Defendant not present and in custody with the Nevada Department of Corrections.

Court noted he has not received a written response by the State. Ms. Thomson advised a response was filed on 2/23/2016. COURT ORDERED, matter CONTINUED in order to review the response.

NDC

CONTINUED TO: 4/04/2016 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Felony/Gross Misdemeanor

## COURT MINUTES

**April 04, 2016**

98C154293-2                      State of Nevada  
vs  
Brendan Nasby

**April 04, 2016                      8:30 AM                      All Pending Motions**

**HEARD BY:** Kephart, William D. **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Tia Everett

**RECORDER:** Christine Erickson

**REPORTER:**

## PARTIES

**PRESENT:** State of Nevada Plaintiff  
Thomson, Megan Attorney

## JOURNAL ENTRIES

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION):

Court noted Defendant not present and in custody with the Nevada Department of Corrections. Court FINDS the petition to be successive as well as untimely pursuant to NRS 34 and Defendant has failed to show good cause for the delay; therefore, COURT ORDERED, Petition DENIED.

DEFENDANT'S PRO PER MOTION FOR MOTION TO EXTEND PRISON COPY WORK LIMIT:

COURT ORDERED, Motion DENIED.

DEFENDANT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL:

COURT ORDERED, Motion DENIED.

Court directed State to prepare the appropriate order.

CLERK'S NOTE: The above minute order has been distributed to:

BRENDAN JAMES NASBY #63618  
LOVELOCK CORRECTIONAL CENTER  
1200 PRISON ROAD  
LOVELOCK, NEVADA 89419



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 08, 2016**

98C154293-2            State of Nevada  
                              vs  
                              Brendan Nasby

**June 08, 2016****8:30 AM****Motion****HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Tia Everett**RECORDER:** Christine Erickson**REPORTER:****PARTIES**

**PRESENT:**        Dickerson, Michael                    Attorney  
                              State of Nevada                        Plaintiff

**JOURNAL ENTRIES**

- Court noted Defendant not present and in custody with the Nevada Department of Corrections.  
COURT ORDERED, Defendant's Motion DENIED.

NDC

CLERK'S NOTE: The above minute order has been distributed to:

BRENDAN JAMES NASBY # 63618  
LOVELOCK CORRECTIONAL CENTER  
1200 PRISON ROAD  
LOVELOCK, NV 89419

OFFERED ADMITTED

1. Poster - Areal	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
2. Poster - Crime scene diagram	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13
3. Poster - Autopsy photos	<input checked="" type="checkbox"/> obj OK	<input checked="" type="checkbox"/> 10/13
4. Package (cigarette butts) - Evidence envelope	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
5. Package - Evidence envelope	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> 10/13
5 A - Cartridge Case	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
5 B - " "	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
5 C - " "	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
5 D - " "	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> "
6. Photo	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
7. "	<input type="checkbox"/>	<input type="checkbox"/>
8. "	<input type="checkbox"/>	<input type="checkbox"/>
9. "	<input type="checkbox"/>	<input type="checkbox"/>
10. "	<input type="checkbox"/>	<input type="checkbox"/>
11. "	<input type="checkbox"/>	<input type="checkbox"/>
12. "	<input type="checkbox"/>	<input type="checkbox"/>
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(17) "	<input type="checkbox"/>	<input type="checkbox"/>
(18) "	<input type="checkbox"/>	<input type="checkbox"/>
(19) "	<input type="checkbox"/>	<input type="checkbox"/>
20. "	<input type="checkbox"/>	<input type="checkbox"/>
21. Photo	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99

DO NOT REMOVE

	OFFERED	ADMITTED
22 Photo	<input checked="" type="checkbox"/> 20/24	<input checked="" type="checkbox"/> 10/13/99
23 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
24 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
25 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
26 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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28 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
29 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
30 Photo	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
31 Photo	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
32 "	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
33 "	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/>
34 "	<input checked="" type="checkbox"/> obj OR	<input checked="" type="checkbox"/>
35 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
36 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
37 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
38 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
39 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
40 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
41. Package - Evidence envelope	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
41.A - Casings	<input checked="" type="checkbox"/> obj OR	<input checked="" type="checkbox"/>
41.B - Bullet	<input checked="" type="checkbox"/> obj OR	<input checked="" type="checkbox"/>
41.C - Bullet	<input checked="" type="checkbox"/> obj OR	<input checked="" type="checkbox"/>
41.D - Bullet fragments	<input checked="" type="checkbox"/> obj OR	<input checked="" type="checkbox"/>
41.E - Bullet	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/>

	OFFERED	ADMITTED
41 F - Bullet + Fragments	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
41 G - Bullet Fragments	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
42 Photo	<input checked="" type="checkbox"/> OK	<input checked="" type="checkbox"/> 10/13/99
43	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
44	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
45	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
46	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
47	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
48	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
49	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
50	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
51	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
52 Evidence Bag Released to Mitro	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/14/99
52A Gun - (hand)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 10/14/99
52B Clips	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
52C Blue gym bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
53 Photo	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/14/99
<del>54 Withdrawn</del>	<input type="checkbox"/>	<input type="checkbox"/>
<del>55 Withdrawn</del>	<input type="checkbox"/>	<input type="checkbox"/>
56 Photo	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/14/99
57	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
58 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
59 - Copy of "The Girls' statement"	<input type="checkbox"/>	<input type="checkbox"/>
60 - Copy of List of Names + Addresses, Phone Nos.	<input type="checkbox"/>	<input type="checkbox"/>
61 - NOT PROVIDED	<input type="checkbox"/>	<input type="checkbox"/>

OFFERED ADMITTED

☒ no ☒ yes

☒ no ☒ sh

☒ no ☒ 10/11/99

☒ *dy* ☒ *dy*

☒ *Stp* ☒ *10/14/99*

☒ *Step*      ☒ *9/14/97*

☒ *no* ☒ *10/15*

☒ 1'      ☒ 11



□ □

11




Page 10 of 10

[illegible]

[illegible]

VII

MARK GIBBONS

Tina Hurd

PATSY SMITH

FRANK CUMMINS

**COUNSEL FOR THE PLAINTIFF**

JOSEPH SCISCUNTO / FREDRICK SANTACROCE

**COUNSEL FOR THE DEFENDANT**

**PLAINTIFF**\_\_\_\_\_

BROWDER JAMES NABBY

**DEFENDANT**\_\_\_\_,

[illegible]

#1 - Small photograph of Sept. w/ gun

My

11/29



# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF  
ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT  
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

BRENDAN J. NASBY,

Defendant(s).

Case No: 98C154293-2

Dept No: XIX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 16 day of June 2016.

Steven D. Grierson, Clerk of the Court

*Chaunte Pleasant*

Chaunte Pleasant, Deputy Clerk