

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

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CLERK OF THE COURT

DA
PP

DISTRICT COURT

CLARK COUNTY, NEVADA

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

* * * * *

Brendan Nasby,
Petitioner,
vs.
E.K. McDaniel, et al,
Respondent.

Case No. 98C154293-2

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 11, 2016~~ the 9th day of May, 2016.

Dated this 9th day of June, 2016.

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

RECEIVED

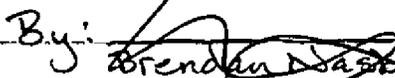
JUN 14 2016

CLERK OF THE COURT

1 CERTIFICATE OF MAILING

2 I do certify that I mailed a true and correct copy of
3 the foregoing NOTICE OF APPEAL to the below address on
4 this 9th day of June, 2016, by placing same in
5 the U.S. Mail via prison law library staff:
6

7 1) District Attorney
8 200 Lewis Ave.
9 Las Vegas, NV 89155-2212
10

11 By: 
12 ~~Brendan Nasby #63618~~
13 ~~Lovelock Correctional Center~~
14 ~~1200 Prison Rd.~~
~~Lovelock, NV 89419~~
(Petitioner In Pro Se)

15 AFFIRMATION PURSUANT TO NRS 239B.030

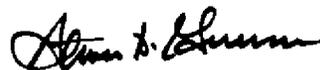
16 The undersigned does hereby affirm that the preceding NOTICE
17 OF APPEAL filed in District Court Case No. 98CI54293-2
18 does not contain the social security number of any person.

19 Dated this 9th day of June, 2016.
20

21 By: 
22 ~~Brendan Nasby #63618~~
(Petitioner In Pro Se)
23
24
25
26
27
28

COPY

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CLERK OF THE COURT

1 NEO

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 BRENDAN NASBY,

6 Petitioner,

Case No: 98C154293-2

Dept No: XIX

7 vs.

8 THE STATE OF NEVADA,

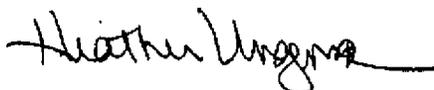
9 Respondent,

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

11
12 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.

13 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.

14
15 STEVEN D. GRIERSON, CLERK OF THE COURT



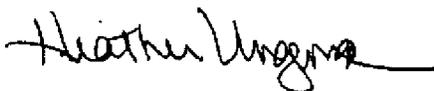
16
17 Heather Ungermann, Deputy Clerk

18
19 CERTIFICATE OF MAILING

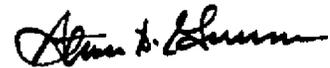
20 I hereby certify that on this 12 day of May 2016, I placed a copy of this Notice of Entry in:

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

24 The United States mail addressed as follows:
25 Brendan Nasby # 63618
26 1200 Prison Road
27 Lovelock, NV 89419



28 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. . .

26 //
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.”¹

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 ¹ 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 //

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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:

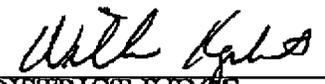
- 10 (a) The issues are difficult;
11 (b) The Defendant is unable to comprehend the
proceedings; or
(c) Counsel is necessary to proceed with discovery.

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 5th day of April, 2016.

22 
23 _____
DISTRICT JUDGE

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

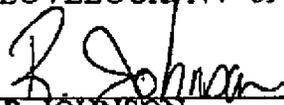
26 BY  For
27 CHRISTOPHER F. BURTON
28 Deputy District Attorney
Nevada Bar #012940

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

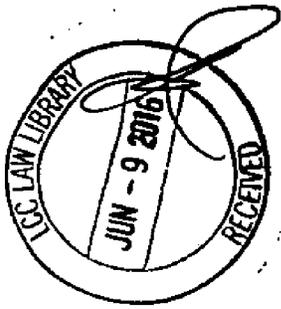


R. JOHNSON
Secretary for the District Attorney's Office

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FL/CFB/rj/M-1

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



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

INMATE LEGAL
MAIL CONFIDENTIAL



8910136300 0075



Alvin S. Lewis
CLERK OF THE COURT

1 ASTA
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3
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5

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

9 STATE OF NEVADA,
10

11 Plaintiff(s),

12 vs.

13 BRENDAN J. NASBY,

14 Defendant(s),
15

Case No: 98C154293-2

Dept No: XIX

16 **CASE APPEAL STATEMENT**
17

18 1. Appellant(s): Brendan Nasby

19 2. Judge: William D. Kephart

20 3. Appellant(s): Brendan Nasby

21 Counsel:

22 Brendan Nasby #63618
23 1200 Prison Road
24 Lovelock, NV 89419
25
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
6 (702) 671-2700

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

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

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

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

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

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

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

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

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

15 11. Previous Appeal: Yes

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

17 12. Child Custody or Visitation: N/A

18 Dated This 15 day of June 2016.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Chaunte Pleasant

21 _____
22 Chaunte Pleasant, Deputy Clerk
23 200 Lewis Ave
24 PO Box 551601
25 Las Vegas, Nevada 89155-1601
26 (702) 671-0512

27 cc: Brendan Nasby

DEPARTMENT 19
CASE SUMMARY
CASE NO. 98C154293-2

State of Nevada
vs
Brendan Nasby

§
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§
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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

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. CONSPIRACY TO COMMIT MURDER.	F	01/01/1900		
2. MURDER WITH A DEADLY WEAPON	F	01/01/1900	Case Flags:	Bail Set <i>Bail Set at \$300000.00</i>
Related Cases				Appealed to Supreme Court Custody Status - Nevada Department of Corrections
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

Defendant	Nasby, Brendan J	<i>Lead Attorneys</i>
		Pro Se
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
-------------	---	--------------

01/01/1900	Plea (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER. Not Guilty PCN: Sequence:
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01/01/1900	Plea (Judicial Officer: User, Conversion) 2. MURDER WITH A DEADLY WEAPON Not Guilty PCN: Sequence:
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DEPARTMENT 19
CASE SUMMARY
CASE NO. 98C154293-2

10/21/1998  Information

10/22/1998  Criminal Bindover

10/27/1998 **Initial Arraignment (9:00 AM)**
INITIAL ARRAIGNMENT Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

11/09/1998  Information

11/12/1998 **Arraignment Continued (8:30 AM)**
ARRAIGNMENT CONTINUED Court Clerk: CAROL GREEN/cg Relief Clerk: PAULA GOODELL Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

11/12/1998  Agreement
Agreement to Testify

11/12/1998  Guilty Plea Agreement

11/13/1998  Criminal Bindover

11/24/1998 **Initial Arraignment (8:30 AM)**
INITIAL ARRAIGNMENT Court Clerk: LINDA SKINNER/ls Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

12/03/1998  Information

12/04/1998  Criminal Bindover

12/10/1998 **Initial Arraignment (8:30 AM)**
INITIAL ARRAIGNMENT

12/10/1998 **Initial Arraignment (8:30 AM)**
INITIAL ARRAIGNMENT

12/10/1998 **All Pending Motions (8:30 AM)**
ALL PENDING MOTIONS 12/10/98 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

12/10/1998  Motion
Motion for Own Recognizance Release or House Arrest

12/10/1998  Guilty Plea Agreement

12/10/1998  Guilty Plea Agreement

12/10/1998  Reporters Transcript
Transcript of Hearing Held on November 5, 1998

12/14/1998  Reporters Transcript
Transcript of Hearing Held on December 2, 1998

12/15/1998 **Motion for Own Recognizance Release/Setting Reasonable Bail (8:30 AM)**
Events: 12/10/1998 Motion

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DEFT'S MOTION FOR O.R. RELEASE OR HOUSE ARREST Heard By: Joseph Pavlikowski

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

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CASE NO. 98C154293-2

01/29/1999 **All Pending Motions** (9:00 AM)
ALL PENDING MOTIONS 1/29/99 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

02/01/1999 **Motion to Revoke Own Recognizance Release** (8:30 AM)
STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Heard By: Joseph Pavlikowski

02/01/1999 **Status Check** (8:30 AM)
STATUS CHECK: TRIAL SETTING Heard By: Joseph Pavlikowski

02/01/1999 **All Pending Motions** (8:30 AM)
ALL PENDING MOTIONS 2/1/99 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

02/01/1999 **CANCELED Jury Trial** (9:00 AM)
Vacated

02/02/1999 **Motion to Revoke Own Recognizance Release** (8:30 AM)
STATE'S MOTION TO REVOKE DEFT NASBY'S JAIL PRIVILEGES AND PLACE IN ISOLATION Heard By: Joseph Pavlikowski

02/02/1999 **Status Check** (8:30 AM)
STATUS CHECK: TRIAL SETTING Heard By: Joseph Pavlikowski

02/02/1999 **All Pending Motions** (8:30 AM)
ALL PENDING MOTIONS 2/2/99 Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

02/08/1999 **Sentencing** (8:30 AM)
SENTENCING Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.

02/10/1999 **Request of Court** (8:30 AM)
AT THE REQUEST OF THE COURT Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.

02/12/1999 **Request of Court** (8:30 AM)
AT THE REQUEST OF THE COURT Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

02/24/1999  **Order**
Order for Visitation of Inmate by Parent, Child and Finance

02/24/1999  **Reporters Transcript**
Transcript of Hearing Held on November 12, 1998

02/24/1999  **Reporters Transcript**
Transcript of Hearing Held on December 10, 1998

02/25/1999 **Sentencing** (8:30 AM)
SENTENCING Court Clerk: LINDA SKINNER/LS Relief Clerk: CONNIE KALSKI Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.

02/25/1999 **Sentencing** (8:30 AM)
SENTENCING Court Clerk: LINDA SKINNER/LS Relief Clerk: CONNIE KALSKI Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski

02/26/1999  **Judgment of Conviction**

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Judgment of Conviction (Plea)

03/04/1999 **Sentencing** (8:30 AM)
*SENTENCING Court Clerk: CAROL GREEN Relief Clerk: SHARRY FRASCARELLI/sf
Reporter/Recorder: JAMES HELLESO Heard By: Joseph Pavlikowski*

03/09/1999  **Notice of Witnesses**
Notice of Witnesses [NRS 174.234 (1)(b)]

03/09/1999  **Notice of Expert Witnesses**
Notice of Expert Witnesses [NRS 174.234 (2)]

03/15/1999  **Judgment of Conviction**
Judgment of Conviction (Plea)

04/29/1999 **Calendar Call** (8:30 AM)
*CALENDAR CALL Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO
Heard By: Joseph Pavlikowski*

04/30/1999 **Calendar Call** (9:00 AM)
*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.*

05/03/1999 **Calendar Call** (9:00 AM)
*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*

05/03/1999 **CANCELED Jury Trial** (1:00 PM)
Vacated

05/06/1999 **Conversion Hearing Type** (8:30 AM)
*TRIAL SETTING Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO
Heard By: Joseph Pavlikowski*

05/13/1999 **Sentencing** (8:30 AM)
*SENTENCING Relief Clerk: CAROL GREEN Reporter/Recorder: JAMES HELLESO Heard
By: Pavlikowski, Joseph S.*

06/09/1999  **Notice of Expert Witnesses**
Notice of Expert Witnesses [NRS 174.234 (2)]

06/09/1999  **Notice of Witnesses**
Notice of Witnesses [NRS 174.234 (1)(b)]

07/09/1999  **Motion**
Motion and Notice of Motion in Limine to Preclude Evidence of Witness Intimidation

07/12/1999  **Notice**
Notice of Alibi Witnesses

07/13/1999  **Notice of Witnesses**

07/13/1999  **Notice**
Supplemental Notice of Alibi Witnesses

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07/14/1999  Response
Response to Motion in Limine to Preclude Evidence of Witness Intimidation

07/15/1999 **Calendar Call (8:30 AM)**
CALENDAR CALL

07/15/1999 **Motion in Limine (8:30 AM)**
Events: 07/09/1999 Motion
DEFT'S MOTION IN LIMINE PRECLUDE EVIDENCE OF WITNESS INTIMIDATION Heard
By: *Joseph Pavlikowski*

07/15/1999 **All Pending Motions (8:30 AM)**
ALL PENDING MOTIONS 7/15/99 Court Clerk: LINDA SKINNER Reporter/Recorder:
JAMES HELLESO Heard By: Joseph Pavlikowski

07/19/1999 **CANCELED Jury Trial (9:00 AM)**
Vacated

07/20/1999  Motion
Motion and Notice of Motion for Discovery

07/27/1999  Motion
Motion and Notice of Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime

07/28/1999  Errata
Errata to Motion and Notice of Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime

07/28/1999  Receipt of Copy

07/29/1999 **Sentencing (8:30 AM)**
SENTENCING Court Clerk: LINDA SKINNER Reporter/Recorder: JAMES HELLESO Heard
By: *Pavlikowski, Joseph S.*

07/29/1999 **Motion for Discovery (8:30 AM)**
Events: 07/20/1999 Motion
DEFT'S MOTION FOR DISCOVERY

07/29/1999 **Motion in Limine (8:30 AM)**
Events: 07/27/1999 Motion
DEFT'S MOTION IN LIMINE PRECLUDE EVID OF OTHER GUNS NOT USED IN THE CRIME Heard By: Joseph Pavlikowski

07/29/1999 **All Pending Motions (8:30 AM)**
ALL PENDING MOTIONS 7/29/99 Court Clerk: LINDA SKINNER Reporter/Recorder:
JAMES HELLESO Heard By: Joseph Pavlikowski

07/29/1999  Order
Order Granting Motion for Discovery

08/16/1999  Response
Response to Defendant's Motion in Limine to Preclude Evidence of Other Guns Not Used in the Crime

08/19/1999  Reply

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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
Motion for Order to Take Video Deposition of Witness and to Use Video Deposition at Trial

08/31/1999  Association of Counsel
Notice of Association of Counsel

08/31/1999  Receipt of Copy

08/31/1999  Notice of Witnesses

09/02/1999  Response
Response to Defendant's Motion for Order to take Video Deposition of Witness and to Use Video Deposition at Trial

09/03/1999  Reply
Reply to State's Opposition to Defendant's Motion for Order to Take Video Deposition of Witness and to Use Video Deposition at Trial

09/07/1999 **Motion (8:30 AM)**
Events: 08/25/1999 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.

09/07/1999  Notice of Expert Witnesses
Notice of Expert Witnesses [NRS 174.234 (2)]

09/07/1999  Notice of Witnesses
Notice of Witnesses [NRS 174.234 (1)(b)]

09/09/1999 **Motion (9:00 AM)**
DEFT'S MOTION FOR ORDER TO TAKE VIDEO DEPOSITION AT TRIAL Court Clerk: TINA HURD Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons

09/16/1999  Order for Production of Inmate
Order for Production of Inmate Jotee Burnside, BAC #60729

09/16/1999  Order for Production of Inmate
Order for Production of Inmate Tommie Burnside, BAC #60772

09/28/1999  Substitution of Attorney
Substitution of Attorneys

10/01/1999  Notice
Supplemental Notice of Alibi Witnesses

10/04/1999  Notice of Expert Witnesses
Supplemental Notice of Expert Witnesses [NRS 174.234 (2)]

10/07/1999 **Motion in Limine (9:00 AM)**
DEFT'S MOTION IN LIMINE PRECLUDE EVIDENCE OF WITNESS INTIMIDATION Heard By: Joseph Pavlikowski

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10/07/1999 **Calendar Call** (9:00 AM)
CALENDAR CALL

10/07/1999 **Motion in Limine** (9:00 AM)
DEFT'S MOTION IN LIMINE PRECLUDE EVID OF OTHER GUNS NOT USED IN THE CRIME Heard By: Joseph Pavlikowski

10/07/1999 **All Pending Motions** (9:00 AM)
ALL PENDING MOTIONS 10-7-99 Court Clerk: TINA HURD Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons

10/11/1999 **Jury Trial** (1:30 PM)
TRIAL BY JURY Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark

10/12/1999 **Jury Trial** (11:00 AM)
TRIAL BY JURY Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark

10/12/1999 **Hearing** (11:00 AM)
HEARING Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Mark Gibbons

10/12/1999  Jury List

10/12/1999  Reporters Transcript
Transcript of Hearing Held on October 11, 1999

10/13/1999 **Jury Trial** (1:30 PM)
TRIAL BY JURY Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark

10/13/1999  Order

10/13/1999  Reporters Transcript
Transcript of Hearing Held on October 12, 1999

10/14/1999 **Jury Trial** (11:00 AM)
TRIAL BY JURY Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO Heard By: Gibbons, Mark

10/14/1999  Reporters Transcript
Transcript of Hearing Held on October 13, 1999

10/15/1999 **Jury Trial** (1:30 PM)
TRIAL BY JURY Court Clerk: TINA HURD Reporter/Recorder: Renee Silvaggio Heard By: Gibbons, Mark

10/15/1999  Order
Order for Transcript

10/15/1999  Reporters Transcript
Transcript of Hearing Held on October 14, 1999

10/18/1999 **Jury Trial** (9:00 AM)
TRIAL BY JURY 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
Transcript of Hearing Held on October 15, 1999

10/19/1999 **Jury Trial** (9:00 AM)
*TRIAL BY JURY Court Clerk: TINA HURD/th Relief Clerk: Blanca Madrigal
Reporter/Recorder: PATSY SMITH Heard By: Mark Gibbons*

10/19/1999  Reporters Transcript
Transcript of Hearing Held on October 18, 1999

10/19/1999  Instructions to the Jury

10/19/1999  Verdict
Verdict - Count I

10/19/1999  Verdict
Verdict - Count II

10/22/1999  Filing
Letters in Support of Defendant

10/28/1999 **Sentencing** (9:00 AM)
*SENTENCING Court Clerk: JOSEPHINE BOHN Reporter/Recorder: RENEE SILVAGGIO
Heard By: Mark Gibbons*

11/08/1999  Judgment of Conviction
Judgment of Conviction (Plea)

11/16/1999  Order Admitting Defendant to Probation & Fixing Terms
Order Admitting Defendant to Probation and Fixing the Terms Thereof

11/29/1999 **Sentencing** (9:00 AM)
*SENTENCING Court Clerk: TINA HURD Reporter/Recorder: PATSY SMITH Heard By: Mark
Gibbons*

11/29/1999 **Disposition** (Judicial Officer: User, Conversion)
1. CONSPIRACY TO COMMIT MURDER.
Guilty
PCN: Sequence:

11/29/1999 **Disposition** (Judicial Officer: User, Conversion)

11/29/1999 **Disposition** (Judicial Officer: User, Conversion)
2. MURDER WITH A DEADLY WEAPON
Guilty
PCN: Sequence:

11/29/1999 **Disposition** (Judicial Officer: User, Conversion)

11/29/1999 **Sentence** (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 **Sentence** (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
Judgment of Conviction (Jury Trial)

12/08/1999  Order
Order Appointing Counsel

12/08/1999  Order
Order Waiving Costs (Insufficient Property of Income with Which to Pay Costs of Filing)

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
Order for Transcript

01/13/2000  Reporters Transcript
Transcript of Hearing Held on October 28, 1999

01/28/2000  Reporters Transcript
Transcript of Hearing Held on October 19, 1999

03/19/2001  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate Judgment - Affirmed

05/31/2001  Petition
Petition for Release of Evidence

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05/31/2001  Order
Order Releasing Evidence

05/31/2001  Petition
Petition for Release of Evidence

09/07/2001  Motion for Discovery
Motion for Discovery Production and Transmission of Documents

09/07/2001  Affidavit in Support
Affidavit in Support of Motion for Discovery Production and Transmission of Documents

09/14/2001  Opposition to Motion
State's Opposition to Defendant's Motion for Discovery Production and Transmission of Documents

09/17/2001 **Motion** (9:00 AM)
Events: 09/07/2001 Motion for Discovery
DEFT'S PRO PER MTN TO DISCOVERY PRODUCTION/TRANSMISSION OF DOCUMENTS/38 Court Clerk: Denise Husted Heard By: Nancy Saitta

09/21/2001  Order Denying Motion
Order Denying Defendant's Pro Per Motion for Discovery Production and Transmission of Documents

09/25/2001  Reply
Reply to State's Opposition to Petitioner's Motion for Discovery Production and Transmission of Documents

01/30/2002  Petition for Writ of Habeas Corpus
Petition for Writ of Habeas Corpus (Post-Conviction)

01/30/2002  Motion for Appointment of Attorney
Motion for Appointment of Counsel

01/30/2002  Memorandum of Points and Authorities
Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction N.R.S. 34.720)

01/30/2002  Motion for Leave to Proceed in Forma Pauperis

02/01/2002  Order for Petition for Writ of Habeas Corpus
Order Re Petition for Writ of Habeas Corpus

02/01/2002  Order for Petition for Writ of Habeas Corpus
Order Re Petition for Writ of Habeas Corpus

02/04/2002  Motion for Discovery
Motion for Discovery Production and Transmission of Documents

02/04/2002  Affidavit in Support
Affidavit in Support of Motion for Discovery Production and Transmission of Documents

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02/11/2002  Motion
Motion to Attach Supplemental Exhibit to Petition for Post Conviction Relief

02/25/2002 **Motion (9:00 AM)**
Events: 02/04/2002 Motion for Discovery
*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*

04/01/2002  Motion to Withdraw As Counsel
Motion to Withdraw as Attorney of Record

04/01/2002  Receipt of Copy

04/03/2002  Motion
Motion for Evidentiary Hearing

04/03/2002  Certificate of Mailing

04/04/2002 **Petition for Writ of Habeas Corpus (9:00 AM)**
DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39

04/04/2002 **Motion for Appointment (9:00 AM)**
DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta

04/04/2002 **Petition to Proceed in Forma Pauperis (9:00 AM)**
Events: 02/01/2002 Order for Petition for Writ of Habeas Corpus
DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41

04/04/2002 **Motion (9:00 AM)**
Events: 02/11/2002 Motion
DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43

04/05/2002  Response
State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)

04/05/2002  Response
State's Response to Defendant's Motion for Evidentiary Hearing

04/05/2002  Response
State's Response to Defendant's Motion for Appointment of Counsel

04/08/2002 **Petition for Writ of Habeas Corpus (9:00 AM)**
DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39

04/08/2002 **Motion for Appointment (9:00 AM)**
DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta

04/08/2002 **Petition to Proceed in Forma Pauperis (9:00 AM)**
DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41

04/08/2002 **Motion (9:00 AM)**
*DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF
DOCUM/42*

04/08/2002 **Motion (9:00 AM)**
DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43

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04/08/2002 **All Pending Motions** (9:00 AM)
ALL PENDING MOTIONS 4/8/02 Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta

04/08/2002 **Motion to Withdraw as Counsel** (1:00 PM)
Events: 04/01/2002 Motion to Withdraw As Counsel
FREDERICK SANTACROCE'S MTN TO WITHDRAW AS COUNSEL /44 Heard By: Nancy Saitta

04/08/2002 **Motion** (1:00 PM)
Events: 04/03/2002 Motion
DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45

04/08/2002  **Order**

04/19/2002  **Reply**
Petitioner's Reply to State's Opposition to Writ of Habeas Corpus (Post Conviction)

05/06/2002 **Petition for Writ of Habeas Corpus** (9:00 AM)
DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39

05/06/2002 **Motion for Appointment** (9:00 AM)
DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta

05/06/2002 **Petition to Proceed in Forma Pauperis** (9:00 AM)
DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41

05/06/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42

05/06/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43

05/06/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45

05/06/2002 **All Pending Motions** (9:00 AM)
ALL PENDING MOTIONS 5/6/02 Court Clerk: Amber Farley Reporter/Recorder: Debra Vanblaricom Heard By: Nancy Saitta

05/23/2002  **Order for Production of Inmate**
Order for Production of Inmate Brendan James Nasby, BAC #63618

06/24/2002 **Petition for Writ of Habeas Corpus** (9:00 AM)
DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39

06/24/2002 **Motion for Appointment** (9:00 AM)
DEFT'S PRO PER MTN FOR APPOINTMENT CNSL/40 Heard By: Nancy Saitta

06/24/2002 **Petition to Proceed in Forma Pauperis** (9:00 AM)
DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41

06/24/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42

06/24/2002 **Motion** (9:00 AM)

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DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43

06/24/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45

06/24/2002 **All Pending Motions** (9:00 AM)
ALL PENDING MOTIONS 6/24/02 Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta

07/01/2002 **Petition for Writ of Habeas Corpus** (9:00 AM)
DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS /39

07/01/2002 **Petition to Proceed in Forma Pauperis** (9:00 AM)
DEFT'S PRO PER MTN TO PROCEED IN FORMA PAUPERIS /41

07/01/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN FOR DISCOVERY PRODUCTION AND TRANSMISSIONS OF DOCUM/42

07/01/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN TO ATTACH SUPPLEMENTAL EXHIBIT TO PETITION FOR/43

07/01/2002 **Motion** (9:00 AM)
DEFT'S PRO PER MTN FOR EVIDENTIARY HEARING/45

07/01/2002 **Motion for Confirmation of Counsel** (9:00 AM)
CONFIRMATION OF COUNSEL (L. TEICHER) Heard By: Nancy Saitta

07/01/2002 **All Pending Motions** (9:00 AM)
ALL PENDING MOTIONS 7/1/02 Court Clerk: Amber Farley Reporter/Recorder: Tina Smith Heard By: Kathy Harcastle

08/07/2002  **Order**
Order Appointing Counsel

08/16/2002  **Order**
Nunc Pro Tunc Order Appointing Counsel

08/19/2002 **Status Check** (9:00 AM)
STATUS CHECK: PENDING MOTIONS Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta

10/31/2002  **Ex Parte Motion**
Ex-Parte Motion for Appointment of Investigator and Excess Fees

11/06/2002  **Order**

12/05/2002  **Motion**
Motion for Extension of Time to File Supplemental Petition

12/18/2002 **CANCELED Motion** (9:00 AM)
*Events: 12/05/2002 Motion
Vacated*

12/19/2002  **Stipulation and Order**

02/05/2003 **Hearing** (9:00 AM)
ARGUMENT: POST-CONVICTION WRIT (SAO 2/26/03) Heard By: Nancy Saitta

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CASE NO. 98C154293-2

02/26/2003  Stipulation and Order
Stipulation and Order (Second Degree Request)

04/08/2003  Substitution of Attorney
Substitution of Attorneys

05/29/2003  Order
Order Authorizing First Interim Payment

06/25/2003 **Hearing (10:00 AM)**
ARGUMENT: POST-CONVICTION WRIT (SAO 2/26/03) Heard By: Nancy Saitta

01/21/2004  Motion for Substitution
Motion for Substitute Counsel

01/28/2004  Response
State's Response to Defendant's Motion for Substitution of Attorneys

02/02/2004 **Motion for Substitution (9:00 AM)**
Events: 01/21/2004 Motion for Substitution
DEFT'S PRO PER MTN FOR SUBSTITUTION COUNSEL/54 Court Clerk: Amber Farley Reporter/Recorder: Kristine Cornelius Heard By: Nancy Saitta

02/04/2004  Notice
Notice of Confirmation of Appointment of Counsel

02/04/2004  Order
Order Appointing Counsel

03/01/2004 **Status Check (9:00 AM)**
STATUS CHECK: BRIEFING SCHEDULE Court Clerk: Amber Farley Reporter/Recorder: Dick Kangas Heard By: Nancy Saitta

11/02/2004  Order
Petition and Order Honorably Discharging Probationer

11/03/2004  Ex Parte Motion
Ex Parte Motion for Extension of Time to File Post Conviction Memorandum of Points and Authorities

11/03/2004  Affidavit in Support
Affidavit in Support of Ex Parte Motion for Extension of Time to File Post Conviction Memorandum of Points and Authorities

11/05/2004  Order Granting Motion
Order Granting Ex Parte Motion for Extension of Time to File Post Conviction Memorandum of Points and Authorities

11/10/2004  Stipulation and Order

11/17/2004  Memorandum of Points and Authorities
Memorandum of Points and Authorities in Support of Petitioner's Post Conviction Relief

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CASE NO. 98C154293-2

11/24/2004  Certificate of Mailing

01/10/2005 **Hearing (9:00 AM)**
ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta

02/01/2005  Stipulation and Order

02/04/2005  Opposition
State's Opposition to Defendant's Petition for Writ of Habeas Corpus Post-Conviction

02/09/2005 **Hearing (9:00 AM)**
ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta

02/22/2005  Reply
Defendant's Reply to State's Opposition to Defendant's Petition for Writ of Habeas Corpus Post-Conviction

02/28/2005  Receipt of Copy

03/02/2005 **Hearing (9:00 AM)**
ARGUMENT: POST-CONVICTION WRIT Court Clerk: Kristen Brown Reporter/Recorder: Jo Anne Pierpont Heard By: Cory, Ken

03/14/2005 **Hearing (9:00 AM)**
ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta

03/25/2005  Stipulation and Order

03/28/2005 **Hearing (9:00 AM)**
ARGUMENT: POST-CONVICTION WRIT Heard By: Nancy Saitta

05/02/2005 **Hearing (9:00 AM)**
ARGUMENT: POST-CONVICTION WRIT Relief Clerk: Jennifer Kimmel Reporter/Recorder: Jo Anne Pierpont Heard By: Nancy Saitta

05/04/2005  Order for Production of Inmate
Order for Production of Inmate Brendan J. Nasby, BAC #63618

06/10/2005 **Evidentiary Hearing (9:00 AM)**
EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Heard By: Nancy Saitta

06/16/2005  Stipulation and Order

08/10/2005  Stipulation and Order

08/11/2005 **Evidentiary Hearing (11:00 AM)**
EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Heard By: Nancy Saitta

08/12/2005  Certificate of Facsimile
Certificate of Facsimile and Mailing

09/02/2005 **Evidentiary Hearing (11:00 AM)**
EVIDENTIARY HEARING RE: TRIAL STRATEGY (INEFFECTIVE ASSISTANCE OF COUNSEL) Relief Clerk: Theresa Lee Reporter/Recorder: Jo Anne Pierpont Heard By: Saitta,

DEPARTMENT 19
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CASE NO. 98C154293-2

Nancy M

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

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Notice of Appeal to Supreme Court

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

DEPARTMENT 19
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CASE NO. 98C154293-2

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

DEPARTMENT 19
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CASE NO. 98C154293-2

02/18/2015  **Motion for Leave** (8:30 AM) (Judicial Officer: Kephart, William D.)
Defendant's Pro Per Motion for Leave of Court to File Renewed Motion for Appointment of Counsel

02/23/2015  Affidavit
Affidavit/Declaration for Entry of Default

02/23/2015  Application
Filed By: Defendant Nasby, Brendan J
Application for A Judgment by Default

02/23/2015  Affidavit
Filed By: Defendant Nasby, Brendan J
Affidavit/Declaration for Entry of Default

02/23/2015  Application
Filed By: Defendant Nasby, Brendan J
Application for Default Judgment and Sanctions

02/23/2015  Reply to Opposition
Filed by: Defendant Nasby, Brendan J
Reply to State's Opposition to Defendant's Renewed Motion for Appointment of Counsel and Petitioner's Request for Sanctions

02/24/2015  Notice of Appeal (criminal)
Party: Defendant Nasby, Brendan J
Notice of Appeal

02/25/2015 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Kephart, William D.)
Defendant's Pro Per Petition for Writ of Habeas Corpus

02/25/2015 **Motion to Dismiss** (8:30 AM) (Judicial Officer: Kephart, William D.)
State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus

02/25/2015  **All Pending Motions** (8:30 AM) (Judicial Officer: Kephart, William D.)

02/25/2015  Reply
Filed by: Defendant Nasby, Brendan J
Reply and Motion to Strike State's Response and Motion to Dismiss

02/25/2015  Case Appeal Statement
Filed By: Defendant Nasby, Brendan J

02/26/2015  Motion
Filed By: Defendant Nasby, Brendan J
Renewed Motion for Evidentiary Hearing and Motion to Produce Inmate

02/26/2015  Motion
Filed By: Plaintiff State of Nevada
Motion for Leave of Court to File Renewed Motion for Evidentiary Hearing

03/13/2015  Notice of Appeal (criminal)
Party: Defendant Nasby, Brendan J

DEPARTMENT 19
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CASE NO. 98C154293-2

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

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04/28/2015  Order Denying Motion
Order Denying Motion to Disqualify Judge

04/30/2015 **CANCELED Motion to Disqualify Judge** (3:00 AM) (Judicial Officer: Barker, David)
Vacated - per Judge
Pro Per's Motion to Disqualify Judge

05/11/2015  Motion
Filed By: Defendant Nasby, Brendan J
Second Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge

05/14/2015 **CANCELED Motion** (3:00 AM) (Judicial Officer: Barker, David)
Vacated - Superseding Order
Notice to the Court and Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge

05/18/2015  Notice of Appeal (criminal)
Party: Defendant Nasby, Brendan J
Notice of Appeal

05/20/2015  Case Appeal Statement
Filed By: Defendant Nasby, Brendan J

05/27/2015  NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate Judgment - Dismissed

06/01/2015  **Motion** (8:30 AM) (Judicial Officer: Kephart, William D.)
Defendant's Second Motion to Attach Supplemental Exhibit to Motion to Disqualify Judge

08/11/2015  NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate Judgment - Dismissed

10/12/2015  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate Judgment - Affirmed

01/04/2016  Filed Under Seal
Application to Proceed in Forma Pauperis

01/05/2016  Petition
Filed by: Defendant Nasby, Brendan J
Petition for Writ of Habeas Corpus (Post- Conviction Relief - NRS 34.735 Petition, Form)
(Actual Innocence)

01/05/2016  Motion
Filed By: Defendant Nasby, Brendan J
Motion for Appointment of Counsel

01/05/2016  Motion
Filed By: Defendant Nasby, Brendan J
Motion to Extend Prison Copywork Limit

01/05/2016  Memorandum
Filed By: Defendant Nasby, Brendan J
Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus
(Post- Conviction-Actual Innocence)

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01/05/2016  Affidavit in Support
Filed By: Defendant Nasby, Brendan J
Affidavit in Support of Petition for Writ of Habeas Corpus (Post-Conviction-Actual Innocence)

01/05/2016  Notice
Filed By: Defendant Nasby, Brendan J
Notice to the Clerk, the Court, and all Interested Parties

01/05/2016  Supplemental
Filed by: Defendant Nasby, Brendan J
Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction-Actual Innocence)

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
Motion for Order to Produce Prisoner

02/22/2016  **Motion for Order** (8:30 AM) (Judicial Officer: Kephart, William D.)
Defendant's Pro Per Motion to Produce Prisoner

02/23/2016  Response
Filed by: Plaintiff State of Nevada
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

03/10/2016  Reply
Filed by: Defendant Nasby, Brendan J
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

03/16/2016 **Motion for Appointment of Attorney** (8:30 AM) (Judicial Officer: Kephart, William D.)
03/16/2016, 04/04/2016
Defendant's Pro Per Motion for Appointment of Counsel

03/16/2016 **Motion** (8:30 AM) (Judicial Officer: Kephart, William D.)
03/16/2016, 04/04/2016
Defendant's Pro Per Motion to Extend Prison Copy Work Limit

03/16/2016 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Kephart, William D.)
03/16/2016, 04/04/2016
Events: 01/14/2016 Order for Petition for Writ of Habeas Corpus
Defendant's Pro Per Petition for Writ of Habeas Corpus Post-Conviction

03/16/2016  **All Pending Motions** (8:30 AM) (Judicial Officer: Kephart, William D.)

04/04/2016  **All Pending Motions** (8:30 AM) (Judicial Officer: Kephart, William D.)

04/04/2016  Order

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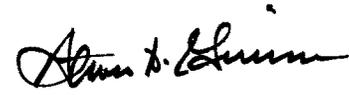
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Per Motion to Produce Prisoner

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	 Motion (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

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


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
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21 Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzalez, 118
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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.”¹

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
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8 v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998) (quoting Schlup v. Delo, 513
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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 ¹ 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:

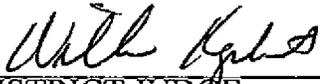
- 10 (a) The issues are difficult;
11 (b) The Defendant is unable to comprehend the
proceedings; or
12 (c) Counsel is necessary to proceed with discovery.

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

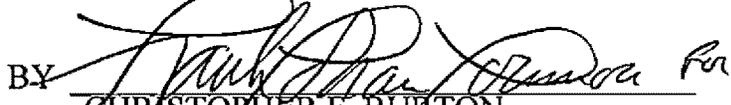
18 **ORDER**

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 5th day of April, 2016.

22 
23 _____
DISTRICT JUDGE

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

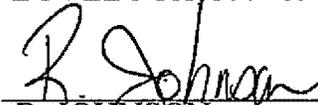
26 BY 
27 CHRISTOPHER F. BURTON
28 Deputy District Attorney
Nevada Bar #012940

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:

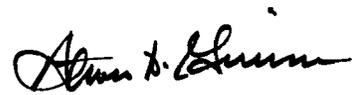
BRENDAN JAMES NASBY #63618
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

BY



R. JOHNSON
Secretary for the District Attorney's Office

FL/CFB/rj/M-1



CLERK OF THE COURT

1 NEO

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 BRENDAN NASBY,

6 Petitioner,

Case No: 98C154293-2

Dept No: XIX

7 vs.

8 THE STATE OF NEVADA,

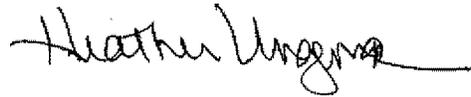
9 Respondent,

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

10
11 **PLEASE TAKE NOTICE** that on May 9, 2016, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

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

16 STEVEN D. GRIERSON, CLERK OF THE COURT

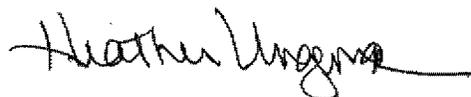


18 Heather Ungermann, Deputy Clerk

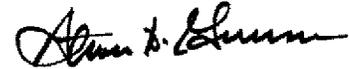
19 CERTIFICATE OF MAILING

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

- 21 The bin(s) located in the Regional Justice Center of:
22 Clark County District Attorney's Office
23 Attorney General's Office – Appellate Division-
- 24 The United States mail addressed as follows:
25 **Brendan Nasby # 63618**
26 1200 Prison Road
27 Lovelock, NV 89419



28 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
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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
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21 Defendant does not attempt to offer an explanation for the near 8-year delay and he has not
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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:

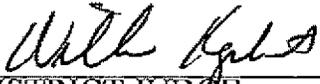
- 10 (a) The issues are difficult;
11 (b) The Defendant is unable to comprehend the
proceedings; or
(c) Counsel is necessary to proceed with discovery.

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.

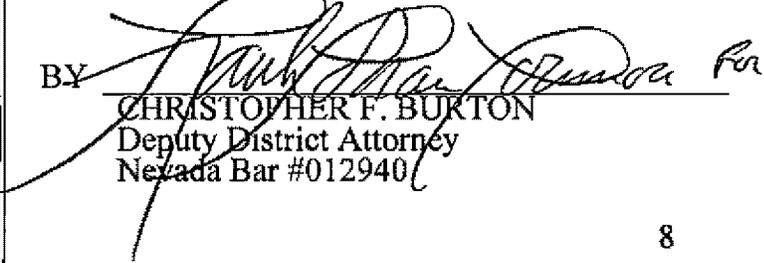
18 **ORDER**

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 5th 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

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

October 27, 1998

98C154293-2

State of Nevada
vs
Brendan Nasby

October 27, 1998

9:00 AM

Initial Arraignment

INITIAL
ARRAIGNMENT
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

- Mr. Coumou requested continuance until 11/10 to finalize negotiations. No objection by Mr. Golightly. COURT ORDERED, matter CONTINUED.

BOND

11/12/98 8:30 AM ARRAIGNMENT CONTINUED

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/Is 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

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.
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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.

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.

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.	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	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

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
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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 Attorney
Nasby, Brendan J Defendant
Sciscento, Joseph S. 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 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.
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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 Attorney
Nasby, Brendan J 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: 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

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	Attorney
	Duffy, John L.	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	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.
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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
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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
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Coumou, Frank	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	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

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	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	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

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	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	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

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.
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HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	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
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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

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**

PRESENT:	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:	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. 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. Coumou 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	Attorney
	Nasby, Brendan J	Defendant
	Sciscento, Joseph S.	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

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

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

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

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
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HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Brown, David T.	Attorney
	Lawson, Tamara F.	Attorney
	Nasby, Brendan J	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

March 02, 2005

98C154293-2

State of Nevada
vs
Brendan Nasby

March 02, 2005

9:00 AM

Hearing

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

PRESENT:

Coumou, Frank
Sgro, Anthony P.

Attorney
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

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
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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

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
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HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Coumou, 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. Coumou. 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
Nasby, Brendan J

Attorney
Defendant

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

February 15, 2006

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

PRESENT: 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

98C154293-2 State of Nevada
 vs
 Brendan Nasby

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 Attorney
 Nasby, Brendan J Defendant

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.
NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 20, 2011

98C154293-2 State of Nevada
 vs
 Brendan Nasby

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

January 07, 2015

98C154293-2

State of Nevada
vs
Brendan Nasby

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
State of Nevada

Attorney
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

98C154293-2 State of Nevada
vs
Brendan Nasby

January 12, 2015 8:30 AM Motion for Appointment of Attorney Defendant's Pro Per Motion for Appointment of Counsel

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

COURT CLERK: Ying Pan

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: 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.

98C154293-2

Lovelock, NV 89419
- YP 2-24-15

98C154293-2

- YP 2-26-15

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 23, 2015

98C154293-2 State of Nevada
 vs
 Brendan Nasby

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 Attorney
State of Nevada 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

98C154293-2 State of Nevada
 vs
 Brendan Nasby

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

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

	OFFERED	ADMITTED
1. <u>Poster - Areal</u>	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
2. <u>Poster - Crime scene diagram</u>	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13
3. <u>Poster - Autopsy photos</u>	<input checked="" type="checkbox"/> obj OK	<input checked="" type="checkbox"/> 10/13
4. <u>Package (cigarette butts) - Evidence envelope</u>	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99
5. <u>Package - Evidence envelope</u>	<input checked="" type="checkbox"/> "	<input checked="" type="checkbox"/> 10/13
5 A - <u>Cartridge Case</u>	<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. <u>Photo</u>	<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"/>
13. "	<input type="checkbox"/>	<input type="checkbox"/>
14. "	<input type="checkbox"/>	<input type="checkbox"/>
15. "	<input type="checkbox"/>	<input type="checkbox"/>
16. "	<input type="checkbox"/>	<input type="checkbox"/>
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. <u>Photo</u>	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 10/13/99

DO NOT REVERSE

OFFERED ADMITTED

Item Description	OFFERED	ADMITTED
22 Photo	<input checked="" type="checkbox"/> 20/1/99	<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"/>
27 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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"/> 10/12/99
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

no obj

10/13/99

4. G - Bullet Fragments

no obj

"

42 Photo

ok

10/13/99

43

44

45

46

47

48

49

50

51

52 Evidence Bag Released to Metro

no obj

10/14/99

52A Gun - (hand)

"

52B Clips

52C Blue gym bag

53 Photo

no obj

10/14/99

~~54 Withdrawn~~

~~55 Withdrawn~~

56 Photo

no obj

10/14/99

57 "

58 "

59 - Copy of "The Girl's statement"

60 - Copy of List of Names + Addresses, Photos.

61 - NOT PROVIDED

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

