

BENNETT G. BRINES #1098810
HIGH DESERT STATE PRISON
P.O. Box 650
INDIAN SPRINGS, NV. 89070.

FILED
APR 10 2020

DISTRICT COURT
CLARK COUNTY, NEVADA

Elizabeth A. Brown
CLERK OF COURT

Electronically Filed
Apr 21 2020 01:33 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

BENNETT BRINES
DEFENDANT

v.

THE STATE OF NEVADA
PLAINTIFF

CASE NO.:

C-1276163-1

DEPT. NO.:

RSC COURTROOM

14D

AN APPEAL FROM THE
DENIAL OF A MOTION TO AN ILLEGAL
SENTENCE CORRECT

COMES NOW DEFENDANT BENNETT G. BRINES,
PROCEEDING IN PROPER PERSON, DOES NOW APPEAL
THE DENIAL OF A MOTION TO CORRECT AN ILLEGAL
SENTENCE BY THE 8TH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA AND FOR THE COUNTY OF
CLARK, HEARD BY BECKER NANCY ON MARCH 31,
2020.

DATED THIS 8TH DAY OF APRIL 2020.

RECEIVED

APR 10 2020

RESPECTFULLY SUBMITTED

Bennett G. Brines

BENNETT G. BRINES

DEFENDANT IN PROPER PERSON

CLERK OF THE COURT

BONED G-SHINES 1078810
H.O.S.P.
P.O. BOX 650
INDIANAPOLIS, IN 46202

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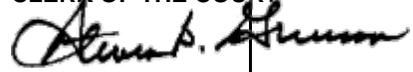


ZIP 89101
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STEVEN D. BRIDGES
CLERK of DISTRICT

200 LEWIS AVENUE 3RD FLOOR
LAS VEGAS, NV 89155-1160

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

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STATE OF NEVADA,

Case No: C-11-276163-1

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Plaintiff(s),

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Dept No: XII

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vs.

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BENNETT GRIMES,

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Defendant(s),

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CASE APPEAL STATEMENT

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1. Appellant(s): Bennett Grimes

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2. Judge: Michelle Leavitt

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3. Appellant(s): Bennett Grimes

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Counsel:

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Bennett Grimes #1098810

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P.O. Box 650

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Indian Springs, NV 89070

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4. Respondent: The State of Nevada

26

Counsel:

27

Steven B. Wolfson, District Attorney

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200 Lewis Ave.

Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A
9. Date Commenced in District Court: September 13, 2011
10. Brief Description of the Nature of the Action: Criminal
Type of Judgment or Order Being Appealed: Misc. Order
11. Previous Appeal: Yes
Supreme Court Docket Number(s): 62835, 67598, 67741, 74419
12. Child Custody or Visitation: N/A

Dated This 17 day of April 2020.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Bennett Grimes

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

State of Nevada
vs
Bennett Grimes

§	Location:	Department 12
§	Judicial Officer:	Leavitt, Michelle
§	Filed on:	09/13/2011
§	Cross-Reference Case	C276163
§	Number:	
§	Defendant's Scope ID #:	2762267
§	ITAG Booking Number:	1100043435
§	ITAG Case ID:	1278290
§	Lower Court Case # Root:	11F13012
§	Lower Court Case Number:	11F13012X
§	Supreme Court No.:	62835
§		67598
§		67741
§		74419

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER	200.030	F	07/22/2011	Case Status:	03/04/2013 Closed
2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER	205.060	F	07/22/2011		
3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..	200.481	F	07/22/2011		

Statistical Closures

03/04/2013 Jury Trial - Conviction - Criminal

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	C-11-276163-1
Court	Department 12
Date Assigned	09/13/2011
Judicial Officer	Leavitt, Michelle

PARTY INFORMATION

Defendant	Grimes, Bennett	Resch, Jamie J. <i>Retained</i> 702-483-7360(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

08/25/2011	Bail Set \$1,015,000.00
09/13/2011	 Criminal Bindover
09/14/2011	 Information

CASE SUMMARY
CASE NO. C-11-276163-1

Information

- 09/14/2011  Notice of Change of Hearing
- 09/21/2011  Amended Information
Amended Information
- 09/21/2011  Addendum
Criminal Bindover Receipts
- 10/04/2011  Reporters Transcript
Filed By: Plaintiff State of Nevada
Reporter's Transcript of Preliminary Hearing - Heard 08-25-11
- 10/12/2011  Petition for Writ of Habeas Corpus
Filed by: Defendant Grimes, Bennett
Petition for Writ of Habeas Corpus
- 10/14/2011  Order for Petition for Writ of Habeas Corpus
Order
- 10/14/2011  Writ of Habeas Corpus
- 10/25/2011  Information
Second Amended Information
- 10/26/2011  Return
Return to Writ of Habeas Corpus
- 01/31/2012  Notice of Witnesses and/or Expert Witnesses
Notice of Witnesses
- 01/31/2012  Notice of Witnesses and/or Expert Witnesses
Notice of Expert Witnesses
- 02/09/2012  Order
Filed By: Plaintiff State of Nevada
Order Releasing Medical Records
- 02/09/2012  Ex Parte Motion
Ex Parte Motion For Release Of Medical Records
- 02/22/2012  Notice of Witnesses and/or Expert Witnesses
Supplemental Notice of Expert Witnesses
- 02/27/2012  Motion to Continue Trial
Filed By: Defendant Grimes, Bennett
Motion to Continue Trial Date
- 05/25/2012  Motion for Discovery
Motion For Discovery

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05/29/2012  Notice of Witnesses and/or Expert Witnesses
Second Supplemental Notice of Expert Witnesses

06/05/2012  Motion
Defendant's Motion to Dismiss For Failure to Gather Evidence

06/05/2012  Response
State's Response to Defendant's Motion for Discovery

06/12/2012  Motion to Continue Trial

07/18/2012  Opposition
State's Opposition to Defendant's Motion to Dismiss for Failure to Gather Evidence

09/19/2012  Notice of Witnesses and/or Expert Witnesses
Supplemental Notice of Expert Witnesses (NRS 174.234 (2))

10/02/2012  Notice of Witnesses and/or Expert Witnesses
Defendant's Notice Of Witnesses, Pursuant To NRS 174.234

10/02/2012  Motion
Filed By: Defendant Grimes, Bennett
Defendant's Motion In Limine To Preclude Introduction Of Temporary Protective Order At Trial

10/04/2012  Notice of Witnesses and/or Expert Witnesses
Supplemental Notice of Witnesses

10/10/2012  Amended Information
Filed By: Plaintiff State of Nevada
Third Amended Information

10/10/2012  Jury List
Jury

10/15/2012  Amended Jury List
Amended Jury

10/15/2012  Instructions to the Jury
Instructions to the Jury (Instruction No. 1)

10/15/2012  Verdict
Party: Plaintiff State of Nevada

10/22/2012  Motion for New Trial
Motion For New Trial

10/23/2012  Notice
Notice of Intent to Seek Punishment as a Habitual Criminal

11/05/2012  Opposition
State's Opposition to Defendant's Motion for a New Trial

CASE SUMMARY
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- 12/12/2012  PSI
- 12/18/2012  PSI - Miscellaneous
Defendant's Statement
- 02/21/2013  Judgment of Conviction
Judgment Of Conviction (Jury Trial)
- 03/04/2013  Criminal Order to Statistically Close Case
Criminal Order To Statistically Close Case
- 03/18/2013  Notice of Appeal (criminal)
Notice of Appeal
- 03/18/2013  Case Appeal Statement
Case Appeal Statement
- 03/18/2013  Request
Request for Rough Draft Transcript
- 04/09/2013  Recorders Transcript of Hearing
Recorder's Transcript of Hearing Re: Arraignment September 20, 2011
- 04/16/2013  Recorders Transcript of Hearing
Recorder's Transcript Re: Status Check: The Defendant's Motion to Dismiss for Failure to Gather Evidence Thursday, August 23, 2012
- 04/19/2013  Recorders Transcript of Hearing
Transcript of Proceedings: Sentencing -- Thursday, February 7, 2013
- 04/24/2013  Recorders Transcript of Hearing
Recorder's Transcript Re: Defendant's Petition for Writ of Habeas Corpus 11/03/11
- 04/24/2013  Recorders Transcript of Hearing
Recorder's Transcript Re: Defendant's Motion to Dismiss for Failure to Gather Evidence 07/19/12
- 04/26/2013  Recorders Transcript of Hearing
Rough Draft Recorder's Transcript of Defendant's Motion for Discovery June 7, 2012
- 04/26/2013  Recorders Transcript of Hearing
Rough Draft Recorder's Transcript of Calendar Call June 12, 2012
- 04/26/2013  Recorders Transcript of Hearing
Rough Draft Recorder's Transcript of Defendant's Motion to Dismiss for Failure to Gather Evidence
- 04/26/2013  Recorders Transcript of Hearing
Rough Draft Recorder's Transcript of Defendant's Motion to Dismiss for Failure to Gather Evidence September 13, 2012
- 04/26/2013  Recorders Transcript of Hearing
Rough Draft Recorder's Transcript of Sentencing December 18, 2012

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- 04/26/2013  Recorders Transcript of Hearing
Recorder's Transcript RE: Defendant's Motion to Continue Trial Date March 20, 2012
- 04/26/2013  Recorders Transcript of Hearing
Recorder's Transcript RE: Defendant's Motion to Dismiss for Failure to Gather Evidence July 31, 2012
- 04/26/2013  Recorders Transcript of Hearing
Recorder's Transcript RE: Calendar Call
- 04/26/2013  Recorders Transcript of Hearing
Recorder's Transcript RE: Defendant's Motion for New Trial November 6, 2012
- 05/07/2013  Recorders Transcript of Hearing
Transcript of Proceedings: Sentencing -- 2-12-13
- 06/04/2013  Recorders Transcript of Hearing
Transcript of Proceedings Jury Trial - Day 2 October 11, 2012
- 06/04/2013  Recorders Transcript of Hearing
Transcript of Proceedings Jury Trial - Day 3 October 12, 2012
- 06/04/2013  Recorders Transcript of Hearing
Transcript of Proceedings Jury Trial - Day 4 October 15, 2012
- 06/04/2013  Recorders Transcript of Hearing
Transcript of Proceedings Jury Trial - Day 1 October 10, 2012
- 09/09/2013  Motion
Defendant's Motion To Correct Illegal Sentence
- 09/23/2013  Opposition to Motion
State's Opposition to Defendant's Motion to Correct Illegal Sentence
- 09/24/2013  Motion
Defendant's Motion To Strike As Untimely The State's Opposition To Defendant's Motion To Correct Illegal Sentence
- 10/03/2013  Reply
State's Surreply in Support of Opposition to Defendant's Motion to Correct Illegal Sentence
- 10/03/2013  Reply in Support
DEFT'S REPLY IN SUPPORT OF MOTION TO CORRECT ILLEGAL SENTENCE
- 03/27/2014  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate Judgment - Affirmed
- 11/21/2014  Order
Order for Transcript
- 12/19/2014  Recorders Transcript of Hearing
Thursday, October 3, 2013 Recorder's Transcript Re: Defendant's Motion to Correct Illegal Sentence Defendant's Motion to Strike as Untimely the State's Opposition to Defendant's Motion to Correct Illegal Sentence October 3, 2013

CASE SUMMARY
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- 02/20/2015  Inmate Filed - Petition for Writ of Habeas Corpus
Party: Defendant Grimes, Bennett
Petition for Writ of Habeas Corpus (Post Conviction)
- 02/20/2015  Motion for Appointment of Attorney
Filed By: Defendant Grimes, Bennett
Motion to Appoint Counsel
- 03/02/2015  Motion
Motion to Withdraw Due to Conflict and Motion to Appoint New Counsel
- 03/16/2015  Notice of Appeal (criminal)
Notice of Appeal
- 03/16/2015  Case Appeal Statement
Case Appeal Statement
- 03/16/2015  Request
Request for Rough Draft Transcript
- 03/18/2015  Recorders Transcript of Hearing
Recorder's Rough Draft Transcript Re: Defendant's Status Check on Court's Order Tuesday, February 10, 2015
- 03/23/2015  Case Appeal Statement
Case Appeal Statement
- 03/23/2015  Notice of Appeal (criminal)
Notice of Appeal
- 03/25/2015  Order for Production of Inmate
Order for Production of Inmate
- 04/01/2015  Notice of Appeal (criminal)
Notice of Appeal
- 04/03/2015  Case Appeal Statement
Case Appeal Statement
- 04/08/2015  Order for Production of Inmate
Order for Production of Inmate
- 05/01/2015  Order
Order Denying Defendant's Motion to Correct Illegal Sentence
- 05/14/2015  Order for Production of Inmate
Order for Production of Inmate
- 06/08/2015  Order for Production of Inmate
Order for Production of Inmate
- 06/18/2015

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CASE NO. C-11-276163-1

-  NV Supreme Court Clerks Certificate/Judgment - Dismissed
Nevada Supreme Court Clerk's Certificate Judgment - Dismissed
- 03/25/2016

 NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate Judgment - Affirmed
- 08/25/2016

 Motion
Motion to Add an Additional Found; i.e. Ground Five Counsel Stipulated to Use of Deadly Weapon and Failed to object to Deadly Weapon Instruction
- 08/25/2016

 Motion
Motion to Request Evidentiary Hearing
- 08/25/2016

 Motion
Motion to Add an Additional Ground i.e. Ground Four
- 09/08/2016

 Opposition
State's Opposition to Defendant's Motion to Add an Additional Ground, I.E. Ground Four, Motion to Add an Additional Ground I.E. Ground Five, and Motion to Request an Evidentiary Hearing
- 09/13/2016

 Motion
Motion for Leave of Court to File Amended Petition
- 09/23/2016

 Motion
Motion to Discharge Mr. William H. Ramage as Attorney Pursuant to Nevada R.P.C 1.16
- 01/19/2017

 Ex Parte Order
Ex Parte Order for Investigative Fees
- 05/16/2017

 Supplemental
 Filed by: Defendant Grimes, Bennett
Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)
- 05/16/2017

 Exhibits
 Filed By: Defendant Grimes, Bennett
Petitioner's Exhibits In Support of Supplement to Post-Conviction Writ of Habeas Corpus
- 07/17/2017

 Response
State's Response To Defendant's Supplemental Petition For Writ Of Habeas Corpus
- 08/07/2017

 Reply
 Filed by: Defendant Grimes, Bennett
Reply to State's Response to Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)
- 09/06/2017

 Errata
Errata (Transcript of Proceedings)
- 09/06/2017

 Recorders Transcript of Hearing
Amended Transcript of Proceedings: Sentencing, Thursday, February 7, 2013
- 10/20/2017

 Ex Parte Order
 Filed By: Defendant Grimes, Bennett

CASE SUMMARY
CASE NO. C-11-276163-1

Ex Parte Order Appointing Counsel for Purposes of Appeal

- 11/02/2017  Notice of Appeal (criminal)
Party: Defendant Grimes, Bennett
Motion to Appeal Denial of Habeas Corpus (Writ for Post-Conviction)
- 11/07/2017  Case Appeal Statement
Case Appeal Statement
- 11/20/2017  Findings of Fact, Conclusions of Law and Order
- 11/27/2017  Notice of Entry
Notice of Entry of Findings of Fact, Conclusions of Law and Order
- 01/10/2018  Recorders Transcript of Hearing
Recorder's Transcript Re: Petition for Writ of Habeas Corpus (Post-Conviction), Thursday, August 24, 2017
- 01/10/2018  Recorders Transcript of Hearing
Recorder's Transcript of Hearing: Evidentiary Hearing, Petition for Writ of Habeas Corpus [Post-Conviction], Thursday, October 5, 2017
- 05/03/2019  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Review Denied
- 02/03/2020  Motion
Filed By: Defendant Grimes, Bennett
Motion to Remove Firearm and Correct All Court Records
- 03/09/2020  Motion to Modify Sentence
Filed By: Defendant Grimes, Bennett
Motion to Modify and or Correct Illegal Sentence
- 03/10/2020  Notice of Motion
Filed By: Defendant Grimes, Bennett
- 04/10/2020  Order Denying Motion
Order Denying Defendants Pro Per Motion to Modify and/or Correct Illegal Sentence
- 04/10/2020  Notice of Appeal (criminal)
Party: Defendant Grimes, Bennett
Notice of Appeal
- 04/17/2020  Case Appeal Statement
Filed By: Defendant Grimes, Bennett
Case Appeal Statement

DISPOSITIONS

- 09/20/2011 **Plea** (Judicial Officer: Leavitt, Michelle)
 1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF TEMPORARY PROTECTIVE ORDER
Not Guilty
PCN: Sequence:
 2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF PROTECTIVE ORDER

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Not Guilty
PCN: Sequence:

3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..

Not Guilty
PCN: Sequence:

02/12/2013 **Disposition** (Judicial Officer: Leavitt, Michelle)

1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

Guilty
PCN: Sequence:

2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

Guilty
PCN: Sequence:

3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..

Guilty
PCN: Sequence:

02/12/2013 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

07/22/2011 (F) 200.030 (5045A)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:8 Years, Maximum:20 Years

Consecutive Enhancement:for Use of Deadly Weapon, Minimum:5 Years, Maximum:15 Years

02/12/2013 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

07/22/2011 (F) 205.060 (5506P)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:8 Years, Maximum:20 Years

Concurrent: Charge 1

Comments: Deft Sentenced Under the Small Habitual Criminal Statute

02/12/2013 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..

07/22/2011 (F) 200.481 (4932)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:8 Years, Maximum:20 Years

Consecutive: Charge 1 & 2

Credit for Time Served: 581 Days

Comments: Deft Sentenced Under the Small Habitual Criminal Statute

Fee Totals:

Administrative Assessment Fee 25.00
\$25

DNA Analysis Fee

CASE SUMMARY

CASE NO. C-11-276163-1

\$150
Fee Totals \$

150.00
175.00

HEARINGS

- 09/20/2011  **Initial Arraignment** (1:30 PM) (Judicial Officer: Togliatti, Jennifer)
 Events: 09/13/2011 Criminal Bindover
 Trial Date Set;
 Journal Entry Details:
ALSO PRESENT: Shawn Morgan, Assistant District Attorney. Upon Deft's questioning, Mr. Morgan stated that an Enhancements had been added to Count 2 and the spelling of the victim's name has been corrected on the Information. DEFT. GRIMES ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. CUSTODY 12/6/11 8:30 AM CALENDAR CALL (DEPT 12) 12/13/11 1:30 PM JURY TRIAL (DEPT 12) ;
- 11/03/2011  **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
 Events: 10/12/2011 Petition for Writ of Habeas Corpus
Petition for Writ of Habeas Corpus
 Matter Heard;
 Journal Entry Details:
DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS COURT noted Deft's Petition for Writ of Habeas Corpus is on in error and ORDERED, matter OFF CALENDAR. At the request of counsel, COURT ORDERED, trial date VACATED and RESET. Upon Court's inquiry, Deft. WAIVED the 60-Day Rule. CUSTODY 3/20/12 8:30 A.M. CALENDAR CALL 3/27/12 1:30 P.M. JURY TRIAL ;
- 12/06/2011 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Vacated
- 12/13/2011 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated
- 03/20/2012 **Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
 Matter Heard;
- 03/20/2012 **Motion to Continue Trial** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
 Events: 02/27/2012 Motion to Continue Trial
Motion to Continue Trial Date
 Granted;
- 03/20/2012  **All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
 Matter Heard;
 Journal Entry Details:
CALENDAR CALL...DEFENDANT'S MOTION TO CONTINUE TRIAL DATE COURT ORDERED, Motion GRANTED as unopposed; trial date VACATED AND RESET. CUSTODY 6/12/12 8:30 A.M. CALENDAR CALL 6/19/12 1:30 P.M. TRIAL BY JURY ;
- 03/27/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge
- 06/07/2012  **Motion for Discovery** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Defendant's Motion for Discovery
 Granted in Part;
 Journal Entry Details:
Deft. not present. Mr. Hillman advised Deft. refused to be transported to Court today. SO NOTED. Statements by counsel. COURT ORDERED, as follows: As to: 1. Any and all notes and records of any physical examinations, scientific tests, or specific experiments done in connection with this case. Motion GRANTED to the extent that the material exists, as State has already handed over all of this discovery to the defense. As to: 2. Any and all records and notes regarding any benefits or assistance given to any informant or witness related to the case, as well as any other evidence of bias of State informants or witnesses. Motion GRANTED. As to: 3. Any and all notes of interviews of any witnesses and any potential witnesses in the case. Motion GRANTED to the extent the material exists, as the State filed a response to this issue stating they have complied with the request. As to: 4. Any evidence that any State informant or

CASE SUMMARY

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witness was intoxicated or impaired at the time of the incident about which the witness will testify. Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available. As to: 5. Any information that the alleged victim or any State witness was or is a police informant. Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available. As to: 6. Any information related to the case given by anyone to any police department or crime tip organization such as Crime Stoppers, and any reward or benefit received for such tip. Motion GRANTED. As to: 7. The State must disclose whether its attorneys, officers or any other witnesses have cooperated with or been interviewed by any media organizations, the extent of the cooperation, and whether the cooperation is ongoing or planned for the future. Motion GRANTED to the extent that the material exists. Ms. Hojjat argued in support of relief requested on any information regarding criminal history of the alleged victim, citing Brady and the Kyles case law. Further arguments as to admissibility and relevancy. Following colloquy, counsel advised defense is seeking to have the State run the NCIC scope on the alleged victim, pursuant to the Kyles and Giglio cases. As to: 8. Any information regarding criminal history of the alleged victim and / or any material witness in the case. Motion GRANTED IN PART only as to prior felonies or crimes involving honesty, including truthful or untruthfulness, to the extent that the material exists; Motion DENIED IN PART on the remaining relief. As to: 9. Any notes of any statements by the Deft. to include any notes of patrol officers or other agents of the State who have had contact with the Deft. in this case. Motion DENIED as the State had informed the Court these notes do not exist. As to: 10. All relevant reports of chain of custody and all reports of any destruction of evidence or failure to collect and / or preserve evidence in the case. Motion GRANTED to the extent that the material exists. As to: 11. All statements made by any material witnesses in the case, and any inconsistent statements made by a material witness. Motion GRANTED. Following arguments by counsel, COURT FURTHER ORDERED, Motion No. 11 DENIED as to the State having to issue a subpoena for this material, as the defense may issue one. As to: 12. Any information tending to show the unreliability of a State informant or witness in the case. Motion GRANTED. As to: 13. Any and all notes and reports of any experts in the case, to include mental health workers and crime scene investigators. Motion GRANTED only to the extent it is required by statute only. As to: 14. All updated witness contact information in the case, including the witnesses' last known address and phone number. Motion DENIED; the defense may contact the witness through the State, and schedule an appointment to have an interview with the witness, if necessary. As to: 15. Any and all books, papers, documents, and tangible objects related to the case. Motion GRANTED. As to: 16. Any and all electronic communications in the case, as well as any reports related to those communications. Motion GRANTED. As to: 17. Any and all photographs, video recordings, and / or audio recordings related to the case within the possession, control, or control of the State. Motion GRANTED to the extent that the material exists. As to: 18. Any and all documents and notes pertaining to the identification of Deft. as a suspect. Motion GRANTED. Moving counsel to prepare the orders. CUSTODY ;

06/12/2012  **Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

Mr. Hillman requested the trial date be continued. Deft's Motion To Continue Trial Date FILED IN OPEN COURT. Arguments by State in opposition to the continuance. Mr. Hillman argued as to additional discovery being sought on Deft's medical condition, text messages being sought, and self-defense scenario. Mr. Morgan argued no mitigation evidence was submitted. Following further arguments, COURT ORDERED, Deft's Motion GRANTED; trial date VACATED AND RESET. Court advised Deft. to let his attorney know where to obtain the medical records being sought. Deft. acknowledged. CUSTODY 8/21/12 8:30 A.M. CALENDAR CALL 8/28/12 1:30 P.M. TRIAL BY JURY ;

06/19/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

07/19/2012  **Motion to Dismiss** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
07/19/2012, 07/31/2012, 08/14/2012, 08/23/2012, 09/13/2012

Defendant's Motion to Dismiss for Failure to Gather Evidence

Continued;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

Ms. Hojjat argued regarding visible blood on the weapon in question, being a knife. Upon Court's inquiry, counsel advised defense is not seeking to test the weapon. Arguments by counsel as to burden shifting, fingerprints on the weapon, and the State having had the obligation to test the knife. Ms. Hojjat argued defense was seeking what the test results would have been, if the weapon was tested one year ago. Further arguments. Thereafter, Ms. Hojjat requested a jury instruction be given. Court advised counsel this issue can be presented at time of trial; and stated there is no rule indicating that State is required to test every single piece of evidence. Ms. Hojjat advised defense believes the fingerprints on the knife belong to the victim. Ms. Botelho argued in opposition to the motion, and noted the State has no obligation to test every single piece of evidence, as this is basically an assumption that the defense believes this knife needed to be tested by the State. Additionally, if the defense wanted to test the weapon, they could have done so.

CASE SUMMARY
CASE NO. C-11-276163-1

Further arguments by counsel regarding Brady evidence State has obligation to collect. COURT ORDERED, Motion DENIED. State to prepare the order. Ms. Hojjat requested to make a record on this issue for preservation; and COURT SO ORDERED. Counsel noted, defense had no knowledge that the knife was available, and that testing was not done on this knife, as the defense was under the impression that testing was already completed on all of the items collected, based on the evidence list report. SO NOTED. CUSTODY ;

Continued;
 Continued;
 Continued;
 Continued;
 Denied;

Journal Entry Details:

Ms. Diefenbach advised this case is assigned to Ms. Hojjat, who is seeking to be present to handle these proceedings, and requested a continuance. Additionally, Mr. Hillman is currently out of the office. Statements by Deft. Colloquy. Mr. Morgan advised State is seeking to discuss the issues with opposing counsel, and also requested a continuance. COURT SO ORDERED. CUSTODY 9/13/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE ;

Continued;
 Continued;
 Continued;
 Continued;
 Denied;

Journal Entry Details:

CONFERENCE AT BENCH. Based on representations made by counsel at the Bench, COURT ORDERED, matter CONTINUED for determination to be made to the Court as to whether or not the defense is seeking to have the alleged weapon tested. FURTHER, trial date VACATED AND RESET on the next criminal stack, due to Mr. Hillman being assigned to this case, and currently out of the office. CUSTODY 8/23/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS OR FAILURE TO GATHER EVIDENCE 10/02/12 8:30 A.M. CALENDAR CALL 10/09/12 1:30 P.M. TRIAL BY JURY ;

Continued;
 Continued;
 Continued;
 Continued;
 Denied;

Journal Entry Details:

Ms. Diefenbach advised parties stipulated to continue this matter. COURT SO ORDERED. CUSTODY 8/9/12 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE ;

Continued;
 Continued;
 Continued;
 Continued;
 Denied;

Journal Entry Details:

Mr. Hillman requested an opportunity to file a Reply and review the Opposition filed by the State. Court ORDERED, matter CONTINUED. CUSTODY 7/31/2012 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE ;

08/21/2012 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

08/28/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

10/02/2012  **Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

Defendant's Motion in Limine To Preclude Introduction Of Temporary Protective Order At Trial FILED IN OPEN COURT. Ms. Botelho announced ready for trial on behalf of State, and estimated 3-4 days, with 12-14 witnesses. Upon Court's inquiry, Ms. Botelho advised this case is Overflow eligible. Mr. Hillman indicated the Motion in limine can be heard at time of trial. SO ORDERED. Court TRAILED matter to hear the remaining cases on for Calendar Call. RECALLED. Ms. Botelho clarified there are 2 out-of-state witnesses in this case. Following colloquy, COURT ORDERED, trial date RESET. CUSTODY 10/10/12 10:30 A.M. TRIAL BY JURY...DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL ;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

10/09/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

10/10/2012  **Jury Trial** (10:30 AM) (Judicial Officer: Leavitt, Michelle)

10/10/2012-10/12/2012, 10/15/2012

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY PRESENT: State and defense rested. Instructions To The Jury FILED IN OPEN COURT. Court instructed Jury on the law. Closing arguments by Mr. Burns, Mr. Hillman, and by Ms. Botelho. Court Marshal and Matron sworn by Clerk, and took charge of Jury. Alternate identified, and instructed by Court. At the hour of 11:52 a.m., Jury retired to deliberate. JURY DELIBERATING. 2:55 P.M.--JURY PRESENT: Court reconvened with all parties present from before. JURY RETURNED VERDICTS as follows: COUNT 1 - GUILTY OF ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - GUILTY OF BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); AND, COUNT 3 - GUILTY OF BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Jury polled at request of Mr. Hillman. Court thanked and excused the Jury from trial proceedings. OUTSIDE PRESENCE OF JURY: COURT ORDERED, current bail setting REVOKED; Deft. REMANDED into CUSTODY WITHOUT BAIL. FURTHER, matter REFERRED to Division of Parole and Probation (P&P), and SET for Sentencing. Court advised parties Juror Foreperson submitted a note to the Court Marshal for the Court, during deliberations. Court stated it did not respond to the note, as the Jury needed to review their Instructions on finding the answer, during their deliberations. Parties acknowledged, and made no objections. Court read the note as follows: "Does criminal intent have to be established before entering the structure, or can intent change during the chain of events, for the charge of burglary?" Court Exhibit 13 MARKED AND ADMITTED. Court adjourned. TRIAL ENDS. CUSTODY 12/18/12 8:30 A.M. SENTENCING (JURY VERDICT) ;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY PRESENT: Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: Witness excused from courtroom. Defense counsel summarized objection at conference at the bench regarding testimony of crime scene analyst regarding nature of wounds and notice objection. Arguments by counsel. Court noted it believes the testimony already came in from doctor at UMC. Discussion regarding notice. Court stated its findings and ORDERED, objection sustained. Jury will be told to disregard last question about defensive wounds and any response from the witness. JURY PRESENT: Court instructed the jury to disregard last question and any response. Further testimony and exhibits. Lunch recess. Court and counsel met in chambers to discuss jury instructions. OUTSIDE THE PRESENCE OF THE JURY: Court informed Deft. of his right not to testify. Mr. Hillman noted when Court and counsel were reviewing jury instructions and came across self-defense proposed instruction Court indicated there was no evidence shown of that. Court asked Mr. Hillman to put on the record theory of how Ms. Grimes received wounds. Mr. Hillman and Ms. Hojjat advised what the argument would be. Court stated its findings regarding state of the record and advised it is not going to give self-defense instruction. Court and counsel met in chambers to continue discussing jury instructions. Jury released for the weekend, to return Monday, 10/15 at 10:30 a.m. OUTSIDE PRESENCE OF JURY: Jury instructions settled on the record. CUSTODY CONTINUED TO: 10/15/12 10:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Ms. Botelho placed a stipulation on the record, stating both parties agreed to not have bad acts presented in this case, without having a Petrocelli hearing, and no details of the TPO will be discussed during trial. SO NOTED. JURY PRESENT: Opening statements by Ms. Botelho and Ms. Hojjat. Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Colloquy regarding witness line up. Upon Court's inquiry, Mr. Hillman advised he will speak with Deft. further regarding the case, including his rights to testify, and this Court may canvass the Deft. tomorrow morning on those rights. SO NOTED. Ms. Botelho requested a Hernandez hearing. Following colloquy, Mr. Hillman provided stipulations made by parties regarding specific witnesses to not be called to testify, including the witness who took the DNA sample from Deft, through search warrant, as State will make representations to the Jury that a DNA sample was taken in this case. SO NOTED. Deft. concurred on the stipulations. Evening recess. TRIAL CONTINUES. CUSTODY 10/12/12 8:15 A.M. TRIAL BY JURY ;

Trial Continues;

Trial Continues;

CASE SUMMARY

CASE NO. C-11-276163-1

Trial Continues;
Verdict;

- 10/10/2012 **Motion in Limine** (10:30 AM) (Judicial Officer: Leavitt, Michelle)
Defendant's Motion in Limine to Preclude Introduction of Temporary Protective Order at Trial
Denied;
- 10/10/2012 **All Pending Motions** (10:30 AM) (Judicial Officer: Leavitt, Michelle)
Matter Heard;
Journal Entry Details:
DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL...JURY TRIAL OUTSIDE PRESENCE OF JURY: Ms. Botelho advised State has not filed an Opposition to Deft's Motion, further noting she spoke with Mr. Hillman during file review, and State is in agreement to not bring in underlined facts of the temporary restraining order (TPO). Ms. Hojjat argued in support of Motion, stating defense is not seeking to have the Jury hear about the TPO, as it is prejudicial. Following additional arguments, Court stated it is just an enhancement. Upon Court's inquiry, Mr. Botelho advised Deft. and alleged victim were married, but separated at time of alleged incident. Further arguments. Ms. Hojjat argued there is a dispute on facts of what Deft's intension was, while at the apartment. COURT ORDERED, Motion DENIED. Both parties stipulated that the facts that led up to the TPO will not be allowed to be presented to the Jury. SO NOTED. PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court and by Counsel. Clerk called roll. Prospective Jury Panel sworn. Voir Dire commenced. Lunch recess. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court admonished Deft. to stand when jury members appear in the Courtroom. Mr. Hillman requested Court to remind the Jury members that trial attorneys are not permitted to speak to the members of the jury venire, during trial, as one of the Jury members was ignored by defense counsel, during the lunch break, while waiting for the elevators. Mr. Hillman stated that nothing happened, and he just wanted to make the Court aware. SO NOTED. Court stated it will be sure to remind the Jury members. PROSPECTIVE JURY PANEL PRESENT: Voir dire continues. CONFERENCE AT BENCH. During the conference, State made a Batson challenge. Further discussions at the Bench. JURY SELECTED. Court thanked and excused the remaining jury panel members. Court instructed the Jury. Clerk read the Third Amended Information. Further instructions were given by the Court. OUTSIDE PRESENCE OF JURY: Court stated it amended the Third Amended Information, to reflect Steven B. Wolfson as the District Attorney, and not David Roger. Parties acknowledged and agreed. Court admonished Deft. to cooperate with directives from Court Services, and to not give Court Services staff members a hard time, due to not wanting to get up early in the mornings. Court stated it received notification from the jail, that Deft. complained about not wanting to get up early in the mornings for transport. Deft. acknowledged. Evening recess. TRIAL CONTINUES. CUSTODY 10/11/12 10:30 A.M. TRIAL BY JURY ;
- 11/06/2012  **Motion for New Trial** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Defendant's Motion for New Trial
Denied;
Journal Entry Details:
Matter submitted on the pleadings. COURT ORDERED, Motion DENIED. State to prepare the order. CUSTODY ;
- 12/18/2012  **Sentencing** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
12/18/2012, 02/07/2013, 02/12/2013
SENTENCING (JURY VERDICT)
- MINUTES**
Continued;
Continued;
Defendant Sentenced;
Journal Entry Details:
Colloquy regarding case law from the Jackson matter, and discussions made during settlement of jury instructions at time of trial, on Count 3 merging. Arguments by counsel regarding law from various cases, including Strickland and Morales. Mr. Burns further argued quantum of punishment has not changed. Following further colloquy, Court stated it needs to sentence Deft. today, prior to any additional claims on appeal being filed with the Nevada Supreme Court. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Arguments by State. Statements by Deft. Arguments by counsel. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED on COUNT 1 - to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of FIVE (5) YEARS and a MAXIMUM of FIFTEEN (15) YEARS in the Nevada Department of Corrections (NDC), for use of deadly weapon, and Court considered the factors outlined in NRS

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

193.165 Subsection 1; COUNT 2 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 2 to run CONCURRENT to COUNT 1; and COUNT 3 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 3 to run CONSECUTIVE to COUNT 2 and COUNT 1, with FIVE HUNDRED EIGHTY ONE (581) DAYS CREDIT FOR TIME SERVED. BOND, if any, EXONERATED. NDC ;

Continued;

Continued;

Defendant Sentenced;

Journal Entry Details:

Ms. Hojjat advised the Pre Sentence Investigation (PSI) report indicates P&P is recommending that Deft. receive large habitual treatment, and the PSI is incorrect, as Deft. is not qualified for large habitual treatment. Ms. Botelho responded State is only seeking small habitual criminal treatment. Deft. provided a written statement to the Court, for review, and inquired if the proposition 36 halfway house program is available for him. Following colloquy between Court and Deft, Court stated it will not impose the program in this case. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Ms. Botelho argued as to imposition of sentence, and requested small habitual criminal treatment be imposed, for use of deadly weapon enhancement, on Counts 2 and 3. State's Exhibits presented (See Worksheets.). Ms. Hojjat made no objections to the Exhibits. Court reviewed Deft's written statements. Ms. Hojjat objected to adjudication of Count 3, based on trial proceedings. Ms. Botelho argued in support of adjudication; and provided case law from Jackson vs. State, to the Court. Upon review, Court stated it needs more time to finish reviewing the supporting case law, before making a decision. COURT ORDERED, matter CONTINUED. Court provided a copy of the case law to Ms. Hojjat. CASE RECALLED. Ms. Hojjat requested to a transcript from trial, to verify if a record was made on dismissal of Count 3, as State may have agreed to it. Court advised counsel to request a CD recording of the trial from the Recorder, and listen to the trial proceedings, to verify. CUSTODY 2/12/13 8:30 A.M. SENTENCING ;

Continued;

Continued;

Defendant Sentenced;

Journal Entry Details:

Ms. Botelho not present. Ms. Diefenbach requested a continuance, further noting this case is assigned to Mr. Hillman and Ms. Hojjat, who handled trial proceedings. Following colloquy, Court TRAILED and RECALLED matter for all parties to appear. Ms. Botelho now present. Statements by counsel. At request of State, COURT ORDERED, victim impact statements will be given today. COURT FURTHER ORDERED, Deft's sentencing will be continued at a later date, for Judge Leavitt to handle the proceedings, as she heard the entire trial, and she knows the factual basis of the case. Court NOTED, Judge Leavitt can review the victim impact statements on JAVS video, prior to sentencing Deft. Earl Newman provided sworn statements. COURT ORDERED, matter CONTINUED. CUSTODY 2/07/13 8:30 A.M. SENTENCING (JURY VERDICT) ;

09/26/2013 **Motion to Correct Sentence** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

09/26/2013, 10/03/2013

Defendant's Motion To Correct Illegal Sentence

Continued;

Denied;

Continued;

Denied;

09/26/2013 **Motion to Strike** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

09/26/2013, 10/03/2013

Defendant's Motion To Strike As Untimely The State's Opposition To Defendant's Motion To Correct Illegal Sentence

Continued;

Denied;

Continued;

Denied;

09/26/2013  **All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE...DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE Deft. not present; incarcerated

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

in Nevada Department of Corrections (NDC). At request of parties, COURT ORDERED, matters are CONTINUED. NDC 10/03/13 8:30 A.M. DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE...DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE ;

10/03/2013

 **All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Deft's Reply In Support Of Motion To Correct Illegal Sentence FILED IN OPEN COURT. DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE Mr. Westbrook objected to State's Opposition having been filed untimely, and argued as to Rule 3.20 (c). Court stated it will consider the issue, based on substance. Mr. Westbrook advised he did not receive the written response from State. COURT ORDERED, Motion to strike DENIED. DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE Arguments by counsel in support of Motion. Further arguments regarding DCR 13, Jackson and Edwards cases, NRS 176.555, dicta in Edwards, Anderson vs. State, foreseeability, ex post facto, Blockburger case, redundancy no longer being applicable in double jeopardy, and fundamental of fairness. Mr. Westbrook additionally argued as to the Salazar Skiba case, Barton case, Stevens vs. Warden standard, and there being prejudice on an illegal sentence. Arguments regarding Calder vs. Bull. Mr. Westbrook requested the Battery with Use of Deadly Weapon felony charge be dismissed, and argued as to the 5th Amendment Due Process clause. Colloquy as to Judgment of Conviction. Mr. Burns opposed the Motion, and argued regarding jurisprudence. Thereafter, Mr. Burns submitted on the pleadings. Mr. Westbrook made reply arguments. Upon Court's inquiry, Mr. Westbrook requested Count 3 be dismissed, as illegal. COURT ORDERED, the Reply will be reviewed, and a decision by Minute Order will issue from Chambers. Mr. Westbrook objected to consecutive time being imposed on Count 3, and not concurrent time. Court stated it reviewed the Judgment of Conviction, and Count 3 is to run consecutive, therefore, the Judgment of Conviction was correct. NDC ;

02/10/2015

 **Request** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

02/10/2015, 02/17/2015

Defendants Status Check on Court's Order (Defendant's Motion to Correct Illegal Sentence)

Continued;

Off Calendar;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Westbrook not present. COURT ORDERED, matter OFF CALENDAR. Court to issue a decision by written order or minute order. NDC ;

Continued;

Off Calendar;

Journal Entry Details:

Defendant not present. Colloquy regarding what specific motion was to be addressed. Mr. Westbrook requested a continuance. COURT SO ORDERED. NDC 2/17/15; 8:30 AM: DEFENDANT'S STATUS CHECK ON COURT'S ORDER (DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE) ;

02/26/2015

 **Minute Order** (3:00 AM) (Judicial Officer: Leavitt, Michelle)

Minute Order - No Hearing Held;

Journal Entry Details:

Minute Order Re: Deft s Motion To Correct Illegal Sentence The Court, having reviewed the Motion To Correct Illegal Sentence, hereby DENIES the Motion. The State to prepare the order. CLERK'S NOTE: A copy of the above minute order has been provided to Deputy District Attorney Patrick Burns, Esq., and Deputy Public Defender P. David Westbrook, Esq. /// sj ;

03/19/2015

 **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Defendant's Motion to Withdraw Due to Conflict and Motion to Appoint New Counsel

Granted;

Journal Entry Details:

Deft. not present. Ms. Westbrook argued in support of the Motion. There being no objection from the State, COURT ORDERED, Motion GRANTED, counsel WITHDRAWN; and a Status Check SET. NDC 04/02/15 8:30 A.M. STATUS CHECK: DEFENDANTS PRESENCE CLERK S NOTE: A copy of this Minute Order was mailed to Deft. at: Bennett Grimes #2762267 PO BOX 208 Indian Springs, NV 89070 CLERK'S NOTE: Deft's address was updated and a copy of this Minute Order mailed to Deft. / sb 04/08/15;

04/02/2015

 **Status Check** (8:30 AM) (Judicial Officer: Barker, David)

Status Check: Deft's Presence

Matter Heard; Status Check: Deft's Presence

CASE SUMMARY

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Journal Entry Details:

Deft. present in custody, and appearing in proper person. Court reviewed the case, including the prior Motion to withdraw as counsel being the Public Defender, which was granted. Discussions between Court and Deft. regarding history of the case, pending appeal on the denial of Deft's Motion to correct illegal sentence, and appointment of counsel being sought by Deft. in this case for post-conviction proceedings. Court stated it could not find the remittitur in the file. Mr. Shaygan advised he can look into this for the Court. Deft. stated he already has legal counsel for the Supreme Court case, being Ms. Westbrook, this is post-conviction relief (PCR) in the instant case, and he needs a lawyer for the PCR. CONFERENCE AT BENCH. Court advised Deft. regarding the conversation made during the Bench Conference; and further advised Deft. parties believe the procedural problem is Judge Leavitt already granted the Motion to withdraw for the Public Defender, he cannot have one lawyer appointed and handling the appeal aspect of the case, and have a different lawyer appointed for the aspect in the District Court case. Mr. Shaygan requested two weeks to look into this further and get in touch with Ms. Westbrook to make better representations to the Court. COURT ORDERED, matter SET for status check; Deft. does not need to appear for the next scheduled hearing. Court noted, Deft. will be kept informed by minute orders sent by Clerk, or by his attorney. FURTHER, Deft. will have counsel appointed for the post-conviction relief by Judge Leavitt, and Judge Leavitt can make a decision on this, when the concerns get cleared up. Deft. inquired if a video conference can be done. Court stated there is no mechanism for this and the Court cannot do that. NDC 4/14/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT. CLERK'S NOTE: A copy of the above minute order, including a copy of the minute order dated March 19, 2015 was delivered by regular mail to: Bennett Grimes, #1098810, P.O. Box 208, Indian Springs, Nevada 89070. /// 4/08/15 sj;

04/14/2015



Status Check: Status of Case (8:30 AM) (Judicial Officer: Leavitt, Michelle)
04/14/2015, 04/21/2015

Status Check: Status Of Case / New Counsel For Deft. & Confirmation Of Appointed Counsel

Matter Continued;

Counsel Confirmed;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Presence WAIVED. Mr. Gamage advised he will accept the appointment and confirm. Discussions as to two appeals having been filed with the Nevada Supreme Court, one being from the Public Defender's office on this Court's decision on the Motion to correct illegal sentence, and the other appeal having been filed by Deft. in proper person. At request of Mr. Gamage, COURT ORDERED, Mr. Gamage APPOINTED as counsel of record for Deft; Mr. Gamage will be allowed to take over both appeals. FURTHER, Public Defender is officially WITHDRAWN by Court on all matters as to Deft. Mr. Gamage requested Public Defender to prepare a copy of the entire case file; and COURT SO ORDERED. At request of counsel, COURT ADDITIONALLY ORDERED, status check hearing SET for Mr. Gamage to meet with Deft. on the case, and provide the Court a status on file review; Mr. Gamage may also seek additional relief, including a briefing schedule to file pleadings addressing post-conviction relief, if appropriate. NDC 5/19/15 8:30 A.M. STATUS CHECK: FILE REVIEW ;

Matter Continued;

Counsel Confirmed;

Journal Entry Details:

Mr. Westbrook advised Public Defender had a conflict in the case, further noting Public Defender filed the Notice of Appeal and the Supreme Court has defense counsel on record. Additionally, Deft. filed his own Notice of Appeal, and this Court did not prepare the written order yet on the denial of Deft's Motion to correct illegal sentence. Court stated Deft. appealed the Court's decision on the Motion to correct, and also filed a pro per Petition for writ of habeas corpus, claiming Public Defender was ineffective. Upon Court's inquiry, Mr. Westbrook requested new counsel be appointed before the Order denying the Motion to correct illegal sentence is prepared and filed. Following discussions, Mr. Laurent advised State can get the Order denying Deft's Motion to correct done, and Mr. Burns can handle this. Mr. Westbrook requested the case be continued for new counsel to be substituted in from Mr. Christensen's office, and for the Public Defender to be released from this case. Statements by Deft. Mr. Westbrook advised Public Defender filed a Motion to withdraw with the Supreme Court, which was denied, and thereafter, the written order was prepared indicating Supreme Court had no jurisdiction on the case, as the jurisdiction is still in District Court. Deft. indicated the ineffective assistance of counsel claim is from the direct appeal not being filed from the Petition for writ of habeas corpus. Court advised Deft. when ineffective assistance of counsel claims are raised during sentencing or trial, a conflict is created with the Public Defender. Thereafter, Court NOTED, a ruling was made that Deft. will need new counsel appointed for post-conviction proceedings. COURT ORDERED, Public Defender REMOVED from the case; matter CONTINUED for new counsel to be appointed from Drew Christensen's office; hearing SET for confirmation. Deft. will not need to appear at the next scheduled hearing. CASE RECALLED after Court concluded the calendar. Mr. Westbrook not present. Deft. inquired on issues with the Judgment of Conviction, stating if the Court imposed concurrent time on his sentence, due to the Judgment of Conviction stating the sentence differently from the Court's notes. Court clarified to Deft. he has no access to this Court's notes, and the Judgment of Conviction stands. NDC 4/21/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT. & CONFIRMATION OF APPOINTED COUNSEL CLERK'S NOTE: A copy of the above minute order has been delivered by facsimile to the office of Drew Christensen, Esq., for counsel to be appointed. /// sj CLERK'S NOTE: Clerk reviewed Judgment of Conviction and the record; and determined the Judgment of Conviction clearly reflects the sentence imposed by Court

CASE SUMMARY
CASE NO. C-11-276163-1

at time of sentencing. /// sj ;

05/19/2015  **Status Check** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

05/19/2015, 06/18/2015, 07/23/2015

FILE REVIEW

MINUTES

Continued;

Continued;

Set Status Check;

Journal Entry Details:

Mr. Gamage advised the appeal is moving forward, and one appeal was dismissed. At request of counsel, COURT ORDERED, matter SET for status check on the supplement and appeal. Deft. does not need to be transported to the next scheduled hearing. NDC 1/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT ;

Continued;

Continued;

Set Status Check;

Journal Entry Details:

Defense counsel not present. COURT ORDERED, matter CONTINUED. Court NOTED, Deft. does not need to be present at the next scheduled hearing. NDC 7/23/15 8:30 A.M. STATUS CHECK: FILE REVIEW CLERK'S NOTE: Deft's attorney Mr. Gamage was notified by JEA regarding continuance date. /// sj;

Continued;

Continued;

Set Status Check;

Journal Entry Details:

At request of counsel, COURT ORDERED, matter CONTINUED for another status check. NDC 6/18/15 8:30 A.M. STATUS CHECK: FILE REVIEW ;

SCHEDULED HEARINGS

 **Status Check** (01/21/2016 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)

01/21/2016, 07/21/2016

01/21/2016  **Status Check** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

01/21/2016, 07/21/2016

Continued;

Briefing Schedule Set;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage advised the appeal has resolved; and requested a briefing schedule be set for the Petition. COURT ORDERED, briefing schedule SET as follows: Deft's Petition due August 18, 2016; State's response due October 29, 2016, and Deft's reply due November 9, 2016. FURTHER, matter SET for hearing. NDC 11/15/16 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);

Continued;

Briefing Schedule Set;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). At request of counsel, COURT ORDERED, matter CONTINUED for next status check in six months, pending appellate proceedings. NDC 7/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT;

09/15/2016 **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Petitioner's Pro Per Motion to Request Evidentiary Hearing

Off Calendar;

09/15/2016 **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Petitioner's Pro Per Motion to Add an Additional Gound; i.e. Ground Five Counsel Stipulated to Use of Deadly Weapon and Failed to object to Deadly Weapon Instruction

Off Calendar;

09/15/2016 **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Petitioner's Pro Per Motion to Add an Additional Ground i.e. Ground Four

Off Calendar;

CASE SUMMARY
CASE NO. C-11-276163-1

09/15/2016  **All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
 Matter Heard;
 Journal Entry Details:
PETITIONER'S PRO PER MOTION TO REQUEST EVIDENTIARY HEARING...PETITIONER'S PRO PER MOTION TO ADD AN ADDITIONAL GROUND, I.E. GROUND FIVE COUNSEL STIPULATED TO USE OF DEADLY WEAPON AND FAILED TO OBJECT TO DEADLY WEAPON INSTRUCTIONS...PETITIONER'S PRO PER MOTION TO ADD AN ADDITIONAL GROUND, I.E. GROUND FOUR Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Court stated these Motions are fugitive documents, counsel has been appointed to represent Deft. in this matter, and all of these motions were forwarded to Deft's attorney for review. **COURT ORDERED, Matter OFF CALENDAR. NDC ;**

10/04/2016  **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Petitioner's Pro Per Motion for Leave of Court to File Amended Petition
 Off Calendar;
 Journal Entry Details:
Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. Court noted Deft. has an attorney in this matter, and Deft. keeps filing motions in proper person. Court stated it will forward the Motion to Deft's attorney, for review. COURT ORDERED, matter OFF CALENDAR. NDC;

10/18/2016  **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Defendant's Motion to Discharge Mr. William H. Gamage as Attorney Pursuant to Nevada R.P.C 1.16
 Denied;
 Journal Entry Details:
Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. COURT ORDERED, Deft's Motion DENIED, as Deft. has a court appointed lawyer. State to prepare order. NDC CLERK'S NOTE: A copy of above minute order was delivered by e-mail to Attorney William Gamage. /// sj;

11/15/2016  **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Petition For Writ Of Habeas Corpus (Post-Conviction)
MINUTES
 Set Status Check;
 Journal Entry Details:
Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Attorney Jamie Resch, Esq., is present; and accepted the appointment as new counsel for Deft. CONFERENCE AT BENCH. COURT ORDERED, Mr. Gamage WITHDRAWN from the case; matter SET for status check for a briefing schedule, and for new counsel to do a file review and notify Deft. NDC 1/17/17 8:30 A.M. STATUS CHECK: FILE REVIEW / SET BRIEFING SCHEDULE;

SCHEDULED HEARINGS

 **Status Check** (01/17/2017 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)
Status Check: File Review / Set Briefing Schedule

01/17/2017  **Status Check** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Status Check: File Review / Set Briefing Schedule

MINUTES

Briefing Schedule Set;
 Journal Entry Details:
Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Upon Court's inquiry, Ms. Resch confirmed he reviewed the case, and he got to go see Deft. at the prison. Mr. Resch requested a briefing schedule and a hearing for the Petition. COURT SO ORDERED; briefing schedule SET as follows: Deft's supplemental Petition due May 16, 2017; State's response to Petition due July 18, 2017, and Deft's reply due August 17, 2017. NDC 8/24/17 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);

SCHEDULED HEARINGS

 **Petition for Writ of Habeas Corpus** (08/24/2017 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)
08/24/2017, 10/05/2017
Petition For Writ Of Habeas Corpus (Post-Conviction)

08/24/2017  **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

08/24/2017, 10/05/2017

Petition For Writ Of Habeas Corpus (Post-Conviction)

Evidentiary Hearing;

Denied;

Evidentiary Hearing;

Denied;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Resch addressed the Petition; and argued as to the four claims, affidavit explaining what happened, and redundant count not having been dismissed. Discussions as to case law from Salazar and Jackson, and State's arguments. Further arguments by counsel as to error having occurred. Further discussions as to relief being sought by defense counsel, and claims being raised about trial and appellate counsel. Mr. Resch requested Count 3 be dismissed or an evidentiary hearing be set. State submitted to Court's discretion. COURT ORDERED, Petition CONTINUED; evidentiary hearing SET as to issue regarding Count 3. Court noted parties may need to expand the record, but this issue is important, and it may need to be adjudicated on the merits, and not based on procedural grounds. Upon Court's inquiry, Mr. Resch estimated needing a half a day or less for evidentiary hearing. NDC 10/05/17 8:30 A.M. EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS;

10/05/2017 **Evidentiary Hearing** (10:30 AM) (Judicial Officer: Leavitt, Michelle)

Decision Made;

10/05/2017  **All Pending Motions** (10:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS Deft. present in custody. EXCLUSIONARY RULE INVOKED. Roger Hillman, Esq., Nadia Hojjat, Esq., and Deborah Westbrook, Esq., all sworn and testified. Exhibits presented (See Worksheets.). Arguments by counsel regarding transcript issue, Hallmark standard for evidentiary hearing, mistakes having gone around, Count 3, defense counsel's meeting with State and Court in Chambers when jury instructions were discussed, testimony provided today, Ex Post Facto, evidence not having been available at time of direct appeal, prejudice having occurred, Count 3 needing to have been dismissed based on double jeopardy, and Byars vs. State. Discussions as to Jackson case law. Further arguments by counsel as to sentence having been unfair, and reconstruction of record having been done. State argued as to strategic decision having been made by former defense counsel, request for relief for dismissing count 3 having been uncognizable until jury verdict, State disagreeing with appellate counsel's analysis about the issue not being properly preserved, assessment having been made by counsel for Deft. and this not having fallen below competency, appellate counsel having been diligent, the issue having been fully briefed, and prong for dismissing Count 3 not having been met by defense. Further arguments as to strategy having been made on a request to correct illegal sentence, and there having been individual ineffectiveness of counsel here. COURT ORDERED, Petition DENIED. State to prepare order. At request of Mr. Resch, COURT FURTHER ORDERED, Mr. Resch is APPOINTED as counsel for appeal purposes. Mr. Resch to submit an order. NDC;

02/25/2020  **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Defendant's Pro Per Motion to Remove Firearm and Correct All Court Records

Off Calendar; Defendant's Pro Per Motion to Remove Firearm and Correct All Court Records

Journal Entry Details:

Defendant not present. Court stated it is unsure what the Motion is seeking in removing "firearm" and ORDERED, Motion OFF CALENDAR. NDC;

03/31/2020  **Motion to Modify Sentence** (12:00 PM) (Judicial Officer: Becker, Nancy)

Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence

Denied;

Journal Entry Details:

Defendant not present. Without hearing oral argument, COURT STATED this issue was first raised at Sentencing and could have been raised at the direct appeal and was not; the State of Nevada has indicated that the redundancy doctrine was prior to Sentencing and had been rejected in State v Jackson; therefore, the redundancy doctrine would not apply in this case and there is no double jeopardy issues. In addition, COURT STATED the Supreme Court already ruled on a previous motion in March of 2015 where the Court dismissed an appeal from a denial from such motion finding that this issue is not properly raised in the Motion to Modify or Correct an Illegal Sentence; therefore, ORDERED, Motion DENIED; State to prepare the Order; Minutes are to go to the Defendant in custody. NDC CLERK'S NOTE: The above minute order has been distributed to: BENNETT GRIMES # 1098810 POST OFFICE BOX 650 INDIAN SPRINGS, NEVADA 89018 hyp/4/2/20 ;

DATE

FINANCIAL INFORMATION

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

Defendant Grimes, Bennett

Total Charges

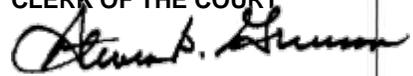
175.00

Total Payments and Credits

0.00

Balance Due as of 4/17/2020

175.00



1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 TINA TALIM
6 Chief Deputy District Attorney
7 Nevada Bar #009286
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 BENNETT GRIMES, #2762267,

14 Defendant.

CASE NO: C-11-276163-1

DEPT NO: XII

15
16 **ORDER DENYING DEFENDANT'S PRO PER MOTION TO MODIFY AND/OR**
17 **CORRECT ILLEGAL SENTENCE**

18 DATE OF HEARING: 03/31/2020

19 TIME OF HEARING: 12:00 P.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 31st day of March, 2020, the Defendant not being present, IN PROPER PERSON, the
22 Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through HAGAR
23 TRIPPIEDI, Chief Deputy District Attorney, without argument, based on the pleadings and
24 good cause appearing therefor,

25 //

26 //

27 //

28 //

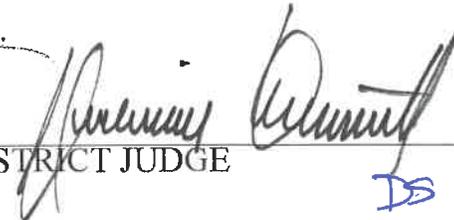
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001.DOCX

1 //

2 IT IS HEREBY ORDERED that the Defendant's Pro Per Motion to Modify and/or
3 Correct Illegal Sentence, shall be, and it is Denied.

4 DATED this 7 day of April, 2020.

5
6 
DISTRICT JUDGE DS

7 STEVEN B. WOLFSON
8 Clark County District Attorney
9 Nevada Bar #001565

10 BY /s/HAGAR TRIPPIEDI
11 HAGAR TRIPPIEDI
12 Chief Deputy District Attorney
13 Nevada Bar #010114

14
15
16 CERTIFICATE OF SERVICE

17 I certify that on the _____ day of April, 2020, I mailed a copy of the foregoing Order

18 to: Bennett Grimes, #1098810
19 P.O. Box 650
20 Indian Springs, NV 89018

21 BY _____
22 Zem Martinez,
23 Secretary for the District Attorney's Office
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26
27
28

1 zm/DVU

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 03, 2011

C-11-276163-1 State of Nevada
vs
Bennett Grimes

**November 03, 2011 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Monique Alberto

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Grimes, Bennett	Defendant
	Ponticello, Frank M.	Attorney
	Public Defender	Attorney
	Saxe, Benjamin	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

COURT noted Deft's Petition for Writ of Habeas Corpus is on in error and ORDERED, matter OFF CALENDAR. At the request of counsel, COURT ORDERED, trial date VACATED and RESET. Upon Court's inquiry, Deft. WAIVED the 60-Day Rule.

CUSTODY

3/20/12 8:30 A.M. CALENDAR CALL

3/27/12 1:30 P.M. JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 20, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

March 20, 2012 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Public Defender	Attorney
	Schifalacqua, Marc M.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CALENDAR CALL...DEFENDANT'S MOTION TO CONTINUE TRIAL DATE

COURT ORDERED, Motion GRANTED as unopposed; trial date VACATED AND RESET.

CUSTODY

6/12/12 8:30 A.M. CALENDAR CALL

6/19/12 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 07, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

June 07, 2012 8:30 AM Motion for Discovery

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Hojjat, Nadia	Attorney
	Imlay, Darin F.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present. Mr. Hillman advised Deft. refused to be transported to Court today. SO NOTED. Statements by counsel. COURT ORDERED, as follows:

As to: 1. Any and all notes and records of any physical examinations, scientific tests, or specific experiments done in connection with this case.

Motion GRANTED to the extent that the material exists, as State has already handed over all of this discovery to the defense.

As to: 2. Any and all records and notes regarding any benefits or assistance given to any informant or witness related to the case, as well as any other evidence of bias of State informants or witnesses.

Motion GRANTED.

As to: 3. Any and all notes of interviews of any witnesses and any potential witnesses in the case.

Motion GRANTED to the extent the material exists, as the State filed a response to this issue stating they have complied with the request.

As to: 4. Any evidence that any State informant or witness was intoxicated or impaired at the time of the incident about which the witness will testify.

Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available.

As to: 5. Any information that the alleged victim or any State witness was or is a police informant.

Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available.

As to: 6. Any information related to the case given by anyone to any police department or crime tip organization such as Crime Stoppers, and any reward or benefit received for such tip.

Motion GRANTED.

As to: 7. The State must disclose whether its attorneys, officers or any other witnesses have cooperated with or been interviewed by any media organizations, the extent of the cooperation, and whether the cooperation is ongoing or planned for the future.

Motion GRANTED to the extent that the material exists.

Ms. Hojjat argued in support of relief requested on any information regarding criminal history of the alleged victim, citing Brady and the Kyles case law. Further arguments as to admissibility and relevancy. Following colloquy, counsel advised defense is seeking to have the State run the NCIC scope on the alleged victim, pursuant to the Kyles and Giglio cases.

As to: 8. Any information regarding criminal history of the alleged victim and / or any material witness in the case.

Motion GRANTED IN PART only as to prior felonies or crimes involving honesty, including truthful or untruthfulness, to the extent that the material exists; Motion DENIED IN PART on the remaining relief.

As to: 9. Any notes of any statements by the Deft. to include any notes of patrol officers or other agents of the State who have had contact with the Deft. in this case.

Motion DENIED as the State had informed the Court these notes do not exist.

As to: 10. All relevant reports of chain of custody and all reports of any destruction of evidence or failure to collect and / or preserve evidence in the case.

Motion GRANTED to the extent that the material exists.

As to: 11. All statements made by any material witnesses in the case, and any inconsistent statements made by a material witness.

Motion GRANTED. Following arguments by counsel, COURT FURTHER ORDERED, Motion No. 11 DENIED as to the State having to issue a subpoena for this material, as the defense may issue one.

As to: 12. Any information tending to show the unreliability of a State informant or witness in the case.

Motion GRANTED.

As to: 13. Any and all notes and reports of any experts in the case, to include mental health workers and crime scene investigators.

Motion GRANTED only to the extent it is required by statute only.

As to: 14. All updated witness contact information in the case, including the witnesses' last known address and phone number.

Motion DENIED; the defense may contact the witness through the State, and schedule an appointment to have an interview with the witness, if necessary.

As to: 15. Any and all books, papers, documents, and tangible objects related to the case.

Motion GRANTED.

As to: 16. Any and all electronic communications in the case, as well as any reports related to those communications.

Motion GRANTED.

As to: 17. Any and all photographs, video recordings, and / or audio recordings related to the case within the possession, control, or control of the State.

Motion GRANTED to the extent that the material exists.

As to: 18. Any and all documents and notes pertaining to the identification of Deft. as a suspect.

C-11-276163-1

Motion GRANTED.

Moving counsel to prepare the orders.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 12, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

June 12, 2012 8:30 AM Calendar Call

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Hillman requested the trial date be continued. Deft's Motion To Continue Trial Date FILED IN OPEN COURT. Arguments by State in opposition to the continuance. Mr. Hillman argued as to additional discovery being sought on Deft's medical condition, text messages being sought, and self-defense scenario. Mr. Morgan argued no mitigation evidence was submitted. Following further arguments, COURT ORDERED, Deft's Motion GRANTED; trial date VACATED AND RESET. Court advised Deft. to let his attorney know where to obtain the medical records being sought. Deft. acknowledged.

CUSTODY

8/21/12 8:30 A.M. CALENDAR CALL

8/28/12 1:30 P.M. TRIAL BY JURY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 19, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

July 19, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Sharon Coffman
Aaron Carbajal
Vanessa Ward
Ying Pan

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Hillman requested an opportunity to file a Reply and review the Opposition filed by the State.
Court ORDERED, matter CONTINUED.

CUSTODY

7/31/2012 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 31, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

July 31, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Sharon Coffman
Vanessa Ward
Aaron Carbajal
Ying Pan

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Morgan, Shawn A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Diefenbach advised parties stipulated to continue this matter. COURT SO ORDERED.

CUSTODY

8/9/12 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

August 14, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hojjat, Nadia	Attorney
	Imlay, Darin F.	Attorney
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CONFERENCE AT BENCH. Based on representations made by counsel at the Bench, COURT ORDERED, matter CONTINUED for determination to be made to the Court as to whether or not the defense is seeking to have the alleged weapon tested. FURTHER, trial date VACATED AND RESET on the next criminal stack, due to Mr. Hillman being assigned to this case, and currently out of the office.

CUSTODY

8/23/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS OR FAILURE TO GATHER EVIDENCE

10/02/12 8:30 A.M. CALENDAR CALL

C-11-276163-1

10/09/12 1:30 P.M. TRIAL BY JURY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

August 23, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

August 23, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Diefenbach advised this case is assigned to Ms. Hojjat, who is seeking to be present to handle these proceedings, and requested a continuance. Additionally, Mr. Hillman is currently out of the office. Statements by Deft. Colloquy. Mr. Morgan advised State is seeking to discuss the issues with opposing counsel, and also requested a continuance. COURT SO ORDERED.

CUSTODY

9/13/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

to prepare the order. Ms. Hojjat requested to make a record on this issue for preservation; and COURT SO ORDERED. Counsel noted, defense had no knowledge that the knife was available, and that testing was not done on this knife, as the defense was under the impression that testing was already completed on all of the items collected, based on the evidence list report. SO NOTED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 02, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 02, 2012 8:30 AM Calendar Call

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Motion in Limine To Preclude Introduction Of Temporary Protective Order At Trial FILED IN OPEN COURT. Ms. Botelho announced ready for trial on behalf of State, and estimated 3-4 days, with 12-14 witnesses. Upon Court's inquiry, Ms. Botelho advised this case is Overflow eligible. Mr. Hillman indicated the Motion in limine can be heard at time of trial. SO ORDERED. Court TRAILED matter to hear the remaining cases on for Calendar Call. RECALLED. Ms. Botelho clarified there are 2 out-of-state witnesses in this case. Following colloquy, COURT ORDERED, trial date RESET.

CUSTODY

10/10/12 10:30 A.M. TRIAL BY JURY...DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

October 10, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 10, 2012 10:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL...JURY TRIAL

OUTSIDE PRESENCE OF JURY: Ms. Botelho advised State has not filed an Opposition to Deft's Motion, further noting she spoke with Mr. Hillman during file review, and State is in agreement to not bring in underlined facts of the temporary restraining order (TPO). Ms. Hojjat argued in support of Motion, stating defense is not seeking to have the Jury hear about the TPO, as it is prejudicial. Following additional arguments, Court stated it is just an enhancement. Upon Court's inquiry, Mr. Botelho advised Deft. and alleged victim were married, but separated at time of alleged incident. Further arguments. Ms. Hojjat argued there is a dispute on facts of what Deft's intension was, while at the apartment. COURT ORDERED, Motion DENIED. Both parties stipulated that the facts that led up to the TPO will not be allowed to be presented to the Jury.

SO NOTED.

PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court and by Counsel. Clerk called roll. Prospective Jury Panel sworn. Voir Dire commenced.

Lunch recess.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court admonished Deft. to stand when jury members appear in the Courtroom. Mr. Hillman requested Court to remind the Jury members that trial attorneys are not permitted to speak to the members of the jury venire, during trial, as one of the Jury members was ignored by defense counsel, during the lunch break, while waiting for the elevators. Mr. Hillman stated that nothing happened, and he just wanted to make the Court aware. SO NOTED. Court stated it will be sure to remind the Jury members.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continues. CONFERENCE AT BENCH. During the conference, State made a Batson challenge. Further discussions at the Bench. JURY SELECTED. Court thanked and excused the remaining jury panel members. Court instructed the Jury. Clerk read the Third Amended Information. Further instructions were given by the Court.

OUTSIDE PRESENCE OF JURY: Court stated it amended the Third Amended Information, to reflect Steven B. Wolfson as the District Attorney, and not David Roger. Parties acknowledged and agreed. Court admonished Deft. to cooperate with directives from Court Services, and to not give Court Services staff members a hard time, due to not wanting to get up early in the mornings. Court stated it received notification from the jail, that Deft. complained about not wanting to get up early in the mornings for transport. Deft. acknowledged.

Evening recess. TRIAL CONTINUES.

CUSTODY

10/11/12 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 11, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 11, 2012 10:30 AM Jury Trial

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Ms. Botelho placed a stipulation on the record, stating both parties agreed to not have bad acts presented in this case, without having a Petrocelli hearing, and no details of the TPO will be discussed during trial. SO NOTED.

JURY PRESENT: Opening statements by Ms. Botelho and Ms. Hojjat. Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Colloquy regarding witness line up. Upon Court's inquiry, Mr. Hillman advised he will speak with Deft. further regarding the case, including his rights to testify, and this Court may canvass the Deft. tomorrow morning on those rights. SO NOTED. Ms. Botelho requested a Hernandez hearing. Following colloquy, Mr. Hillman provided stipulations made by parties regarding specific witnesses to not be called to testify, including the witness who took the

C-11-276163-1

DNA sample from Deft, through search warrant, as State will make representations to the Jury that a DNA sample was taken in this case. SO NOTED. Deft. concurred on the stipulations.

Evening recess. TRIAL CONTINUES.

CUSTODY

10/12/12 8:15 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 12, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 12, 2012 8:15 AM Jury Trial

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Carol Foley

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Witness excused from courtroom. Defense counsel summarized objection at conference at the bench regarding testimony of crime scene analyst regarding nature of wounds and notice objection. Arguments by counsel. Court noted it believes the testimony already came in from doctor at UMC. Discussion regarding notice. Court stated its findings and ORDERED, objection sustained. Jury will be told to disregard last question about defensive wounds and any response from the witness.

JURY PRESENT: Court instructed the jury to disregard last question and any response. Further testimony and exhibits.

Lunch recess.

Court and counsel met in chambers to discuss jury instructions.

OUTSIDE THE PRESENCE OF THE JURY: Court informed Deft. of his right not to testify.

Mr. Hillman noted when Court and counsel were reviewing jury instructions and came across self-defense proposed instruction Court indicated there was no evidence shown of that. Court asked Mr. Hillman to put on the record theory of how Ms. Grimes received wounds. Mr. Hillman and Ms. Hojjat advised what the argument would be. Court stated its findings regarding state of the record and advised it is not going to give self-defense instruction.

Court and counsel met in chambers to continue discussing jury instructions.

Jury released for the weekend, to return Monday, 10/15 at 10:30 a.m.

OUTSIDE PRESENCE OF JURY: Jury instructions settled on the record.

CUSTODY

CONTINUED TO: 10/15/12 10:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

October 15, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 15, 2012 10:30 AM Jury Trial

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: State and defense rested. Instructions To The Jury FILED IN OPEN COURT. Court instructed Jury on the law. Closing arguments by Mr. Burns, Mr. Hillman, and by Ms. Botelho. Court Marshal and Matron sworn by Clerk, and took charge of Jury. Alternate identified, and instructed by Court. At the hour of 11:52 a.m., Jury retired to deliberate.

JURY DELIBERATING.

2:55 P.M.--JURY PRESENT: Court reconvened with all parties present from before. JURY RETURNED VERDICTS as follows: COUNT 1 - GUILTY OF ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - GUILTY OF BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); AND, COUNT 3 - GUILTY OF BATTERY WITH USE OF A

DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F).

Jury polled at request of Mr. Hillman. Court thanked and excused the Jury from trial proceedings.

OUTSIDE PRESENCE OF JURY: COURT ORDERED, current bail setting REVOKED; Deft. REMANDED into CUSTODY WITHOUT BAIL. FURTHER, matter REFERRED to Division of Parole and Probation (P&P), and SET for Sentencing. Court advised parties Juror Foreperson submitted a note to the Court Marshal for the Court, during deliberations. Court stated it did not respond to the note, as the Jury needed to review their Instructions on finding the answer, during their deliberations. Parties acknowledged, and made no objections. Court read the note as follows: "Does criminal intent have to be established before entering the structure, or can intent change during the chain of events, for the charge of burglary?" Court Exhibit 13 MARKED AND ADMITTED. Court adjourned.

TRIAL ENDS.

CUSTODY

12/18/12 8:30 A.M. SENTENCING (JURY VERDICT)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 06, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

November 06, 2012 8:30 AM Motion for New Trial

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Cooper, Jonathan	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Matter submitted on the pleadings. COURT ORDERED, Motion DENIED. State to prepare the order.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

December 18, 2012

C-11-276163-1 State of Nevada
vs
Bennett Grimes

December 18, 2012 8:30 AM Sentencing

HEARD BY: Barker, David COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Trippiedi, Hagar	Attorney

JOURNAL ENTRIES

- Ms. Botelho not present. Ms. Diefenbach requested a continuance, further noting this case is assigned to Mr. Hillman and Ms. Hojjat, who handled trial proceedings. Following colloquy, Court TRAILED and RECALLED matter for all parties to appear. Ms. Botelho now present. Statements by counsel. At request of State, COURT ORDERED, victim impact statements will be given today. COURT FURTHER ORDERED, Deft's sentencing will be continued at a later date, for Judge Leavitt to handle the proceedings, as she heard the entire trial, and she knows the factual basis of the case. Court NOTED, Judge Leavitt can review the victim impact statements on JAVS video, prior to sentencing Deft. Earl Newman provided sworn statements. COURT ORDERED, matter CONTINUED.

CUSTODY

2/07/13 8:30 A.M. SENTENCING (JURY VERDICT)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 07, 2013

C-11-276163-1 State of Nevada
vs
Bennett Grimes

February 07, 2013 8:30 AM Sentencing

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Hojjat advised the Pre Sentence Investigation (PSI) report indicates P&P is recommending that Deft. receive large habitual treatment, and the PSI is incorrect, as Deft. is not qualified for large habitual treatment. Ms. Botelho responded State is only seeking small habitual criminal treatment. Deft. provided a written statement to the Court, for review, and inquired if the proposition 36 halfway house program is available for him. Following colloquy between Court and Deft, Court stated it will not impose the program in this case. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Ms. Botelho argued as to imposition of sentence, and requested small habitual criminal treatment be imposed, for use of deadly weapon enhancement, on Counts 2 and 3.

State's Exhibits presented (See Worksheets.). Ms. Hojjat made no objections to the Exhibits. Court reviewed Deft s written statements. Ms. Hojjat objected to adjudication of Count 3, based on trial proceedings. Ms. Botelho argued in support of adjudication; and provided case law from Jackson vs. State, to the Court. Upon review, Court stated it needs more time to finish reviewing the supporting case law, before making a decision. COURT ORDERED, matter CONTINUED. Court provided a copy of the case law to Ms. Hojjat. CASE RECALLED. Ms. Hojjat requested to a transcript from trial, to verify if a record was made on dismissal of Count 3, as State may have agreed to it. Court advised counsel to request a CD recording of the trial from the Recorder, and listen to the trial proceedings, to verify.

CUSTODY

2/12/13 8:30 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2013

C-11-276163-1 State of Nevada
vs
Bennett Grimes

February 12, 2013 8:30 AM Sentencing

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Colloquy regarding case law from the Jackson matter, and discussions made during settlement of jury instructions at time of trial, on Count 3 merging. Arguments by counsel regarding law from various cases, including Strickland and Morales. Mr. Burns further argued quantum of punishment has not changed. Following further colloquy, Court stated it needs to sentence Deft. today, prior to any additional claims on appeal being filed with the Nevada Supreme Court. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Arguments by State. Statements by Deft. Arguments by counsel. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED on COUNT 1 - to a

MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of FIVE (5) YEARS and a MAXIMUM of FIFTEEN (15) YEARS in the Nevada Department of Corrections (NDC), for use of deadly weapon, and Court considered the factors outlined in NRS 193.165 Subsection 1; COUNT 2 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 2 to run CONCURRENT to COUNT 1; and COUNT 3 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 3 to run CONSECUTIVE to COUNT 2 and COUNT 1, with FIVE HUNDRED EIGHTY ONE (581) DAYS CREDIT FOR TIME SERVED. BOND, if any, EXONERATED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 03, 2013

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 03, 2013 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Burns, J Patrick	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC).

Deft's Reply In Support Of Motion To Correct Illegal Sentence FILED IN OPEN COURT.

DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE

Mr. Westbrook objected to State's Opposition having been filed untimely, and argued as to Rule 3.20 (c). Court stated it will consider the issue, based on substance. Mr. Westbrook advised he did not receive the written response from State. COURT ORDERED, Motion to strike DENIED.

DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE

Arguments by counsel in support of Motion. Further arguments regarding DCR 13, Jackson and Edwards cases, NRS 176.555, dicta in Edwards, Anderson vs. State, foreseeability, ex post facto,

Blockburger case, redundancy no longer being applicable in double jeopardy, and fundamental of fairness. Mr. Westbrook additionally argued as to the Salazar Skiba case, Barton case, Stevens vs. Warden standard, and there being prejudice on an illegal sentence. Arguments regarding Calder vs. Bull. Mr. Westbrook requested the Battery with Use of Deadly Weapon felony charge be dismissed, and argued as to the 5th Amendment Due Process clause. Colloquy as to Judgment of Conviction. Mr. Burns opposed the Motion, and argued regarding jurisprudence. Thereafter, Mr. Burns submitted on the pleadings. Mr. Westbrook made reply arguments. Upon Court's inquiry, Mr. Westbrook requested Count 3 be dismissed, as illegal. COURT ORDERED, the Reply will be reviewed, and a decision by Minute Order will issue from Chambers. Mr. Westbrook objected to consecutive time being imposed on Count 3, and not concurrent time. Court stated it reviewed the Judgment of Conviction, and Count 3 is to run consecutive, therefore, the Judgment of Conviction was correct.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 10, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

February 10, 2015 8:30 AM Request

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Keri Cromer

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Schwartz, Michael J. Attorney
State of Nevada Plaintiff
Westbrook, P. David Attorney

JOURNAL ENTRIES

- Defendant not present. Colloquy regarding what specific motion was to be addressed. Mr. Westbrook requested a continuance. COURT SO ORDERED.

NDC

2/17/15; 8:30 AM: DEFENDANT'S STATUS CHECK ON COURT'S ORDER (DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

February 26, 2015 3:00 AM Minute Order

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Minute Order Re: Deft s Motion To Correct Illegal Sentence

The Court, having reviewed the Motion To Correct Illegal Sentence, hereby DENIES the Motion. The State to prepare the order.

CLERK'S NOTE: A copy of the above minute order has been provided to Deputy District Attorney Patrick Burns, Esq., and Deputy Public Defender P. David Westbrook, Esq. /// sj

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 19, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

March 19, 2015 8:30 AM Motion to Withdraw as
Counsel

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Shelley Boyle

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: O'Halloran, Rachel Attorney
State of Nevada Plaintiff
Westbrook, Deborah L., ESQ Attorney

JOURNAL ENTRIES

- Deft. not present. Ms. Westbrook argued in support of the Motion. There being no objection from the State, COURT ORDERED, Motion GRANTED, counsel WITHDRAWN; and a Status Check SET.

NDC

04/02/15 8:30 A.M. STATUS CHECK: DEFENDANTS PRESENCE

CLERK S NOTE: A copy of this Minute Order was mailed to Deft. at:
Bennett Grimes #2762267
PO BOX 208
Indian Springs, NV 89070

CLERK'S NOTE: Deft's address was updated and a copy of this Minute Order mailed to Deft. / sb
04/08/15

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 02, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

April 02, 2015 8:30 AM Status Check Status Check: Deft's Presence

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Shelley Boyle

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Grimes, Bennett	Defendant
	O'Halloran, Rachel	Attorney
	Public Defender	Attorney
	Shaygan-Fatemi, Kambiz	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. present in custody, and appearing in proper person. Court reviewed the case, including the prior Motion to withdraw as counsel being the Public Defender, which was granted. Discussions between Court and Deft. regarding history of the case, pending appeal on the denial of Deft's Motion to correct illegal sentence, and appointment of counsel being sought by Deft. in this case for post-conviction proceedings. Court stated it could not find the remittitur in the file. Mr. Shaygan advised he can look into this for the Court. Deft. stated he already has legal counsel for the Supreme Court case, being Ms. Westbrook, this is post-conviction relief (PCR) in the instant case, and he needs a lawyer for the PCR. CONFERENCE AT BENCH. Court advised Deft. regarding the conversation made during the Bench Conference; and further advised Deft. parties believe the procedural problem is Judge Leavitt already granted the Motion to withdraw for the Public Defender, he cannot have one lawyer appointed and handling the appeal aspect of the case, and have a different lawyer appointed for the aspect in the District Court case. Mr. Shaygan requested two weeks to look into this further

and get in touch with Ms. Westbrook to make better representations to the Court. COURT ORDERED, matter SET for status check; Deft. does not need to appear for the next scheduled hearing. Court noted, Deft. will be kept informed by minute orders sent by Clerk, or by his attorney. FURTHER, Deft. will have counsel appointed for the post-conviction relief by Judge Leavitt, and Judge Leavitt can make a decision on this, when the concerns get cleared up. Deft. inquired if a video conference can be done. Court stated there is no mechanism for this and the Court cannot do that.

NDC

4/14/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT.

CLERK'S NOTE: A copy of the above minute order, including a copy of the minute order dated March 19, 2015 was delivered by regular mail to: Bennett Grimes, #1098810, P.O. Box 208, Indian Springs, Nevada 89070. /// 4/08/15 sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 14, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

April 14, 2015 8:30 AM Status Check: Status of Case

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Shelley Boyle

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Grimes, Bennett	Defendant
	Laurent, Christopher J	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- Mr. Westbrook advised Public Defender had a conflict in the case, further noting Public Defender filed the Notice of Appeal and the Supreme Court has defense counsel on record. Additionally, Deft. filed his own Notice of Appeal, and this Court did not prepare the written order yet on the denial of Deft's Motion to correct illegal sentence. Court stated Deft. appealed the Court's decision on the Motion to correct, and also filed a pro per Petition for writ of habeas corpus, claiming Public Defender was ineffective. Upon Court's inquiry, Mr. Westbrook requested new counsel be appointed before the Order denying the Motion to correct illegal sentence is prepared and filed. Following discussions, Mr. Laurent advised State can get the Order denying Deft's Motion to correct done, and Mr. Burns can handle this. Mr. Westbrook requested the case be continued for new counsel to be substituted in from Mr. Christensen's office, and for the Public Defender to be released from this case. Statements by Deft. Mr. Westbrook advised Public Defender filed a Motion to withdraw with the Supreme Court, which was denied, and thereafter, the written order was prepared indicating

Supreme Court had no jurisdiction on the case, as the jurisdiction is still in District Court. Deft. indicated the ineffective assistance of counsel claim is from the direct appeal not being filed from the Petition for writ of habeas corpus. Court advised Deft. when ineffective assistance of counsel claims are raised during sentencing or trial, a conflict is created with the Public Defender. Thereafter, Court NOTED, a ruling was made that Deft. will need new counsel appointed for post-conviction proceedings. COURT ORDERED, Public Defender REMOVED from the case; matter CONTINUED for new counsel to be appointed from Drew Christensen's office; hearing SET for confirmation. Deft. will not need to appear at the next scheduled hearing.

CASE RECALLED after Court concluded the calendar. Mr. Westbrook not present. Deft. inquired on issues with the Judgment of Conviction, stating if the Court imposed concurrent time on his sentence, due to the Judgment of Conviction stating the sentence differently from the Court's notes. Court clarified to Deft. he has no access to this Court's notes, and the Judgment of Conviction stands.

NDC

4/21/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT. & CONFIRMATION OF APPOINTED COUNSEL

CLERK'S NOTE: A copy of the above minute order has been delivered by facsimile to the office of Drew Christensen, Esq., for counsel to be appointed. /// sj

CLERK'S NOTE: Clerk reviewed Judgment of Conviction and the record; and determined the Judgment of Conviction clearly reflects the sentence imposed by Court at time of sentencing. /// sj

C-11-276163-1

5/19/15 8:30 A.M. STATUS CHECK: FILE REVIEW

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 19, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

May 19, 2015 8:30 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen	Attorney
	Gamage, William H.	Attorney
	Grimes, Bennett	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- At request of counsel, COURT ORDERED, matter CONTINUED for another status check.

NDC

6/18/15 8:30 A.M. STATUS CHECK: FILE REVIEW

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 18, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

June 18, 2015 8:30 AM Status Check

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Christensen, Nell E.	Attorney
	Grimes, Bennett	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defense counsel not present. COURT ORDERED, matter CONTINUED. Court NOTED, Deft. does not need to be present at the next scheduled hearing.

NDC

7/23/15 8:30 A.M. STATUS CHECK: FILE REVIEW

CLERK'S NOTE: Deft's attorney Mr. Gamage was notified by JEA regarding continuance date. ///
sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 23, 2015

C-11-276163-1 State of Nevada
vs
Bennett Grimes

July 23, 2015 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Gamage, William H.	Attorney
	Grimes, Bennett	Defendant
	O'Halloran, Rachel	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Gamage advised the appeal is moving forward, and one appeal was dismissed. At request of counsel, COURT ORDERED, matter SET for status check on the supplement and appeal. Deft. does not need to be transported to the next scheduled hearing.

NDC

1/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 21, 2016

C-11-276163-1 State of Nevada
vs
Bennett Grimes

January 21, 2016 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Burton, Chris	Attorney
	Gamage, William H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). At request of counsel, COURT ORDERED, matter CONTINUED for next status check in six months, pending appellate proceedings.

NDC

7/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 21, 2016

C-11-276163-1 State of Nevada
vs
Bennett Grimes

July 21, 2016 8:30 AM Status Check

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Gamage, William H. Attorney
 Mendoza, Erika Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage advised the appeal has resolved; and requested a briefing schedule be set for the Petition. COURT ORDERED, briefing schedule SET as follows: Deft's Petition due August 18, 2016; State's response due October 29, 2016, and Deft's reply due November 9, 2016. FURTHER, matter SET for hearing.

NDC

11/15/16 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 04, 2016

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 04, 2016 8:30 AM Motion

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Rogan, Jeffrey Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. Court noted Deft. has an attorney in this matter, and Deft. keeps filing motions in proper person. Court stated it will forward the Motion to Deft's attorney, for review. **COURT ORDERED, matter OFF CALENDAR.**

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 18, 2016

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 18, 2016 8:30 AM Motion

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Demonte, Noreen Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. COURT ORDERED, Deft's Motion DENIED, as Deft. has a court appointed lawyer. State to prepare order.

NDC

CLERK'S NOTE: A copy of above minute order was delivered by e-mail to Attorney William Gamage. /// sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 15, 2016

C-11-276163-1 State of Nevada
vs
Bennett Grimes

**November 15, 2016 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Gamage, William H.	
	Mendoza, Erika	Attorney
	Resch, Jamie J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Attorney Jamie Resch, Esq., is present; and accepted the appointment as new counsel for Deft. CONFERENCE AT BENCH. COURT ORDERED, Mr. Gamage WITHDRAWN from the case; matter SET for status check for a briefing schedule, and for new counsel to do a file review and notify Deft.

NDC

1/17/17 8:30 A.M. STATUS CHECK: FILE REVIEW / SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 17, 2017

C-11-276163-1 State of Nevada
vs
Bennett Grimes

January 17, 2017 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Resch, Jamie J.	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Upon Court's inquiry, Ms. Resch confirmed he reviewed the case, and he got to go see Deft. at the prison. Mr. Resch requested a briefing schedule and a hearing for the Petition. **COURT SO ORDERED;** briefing schedule SET as follows: Deft's supplemental Petition due May 16, 2017; State's response to Petition due July 18, 2017, and Deft's reply due August 17, 2017.

NDC

8/24/17 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 24, 2017

C-11-276163-1 State of Nevada
vs
Bennett Grimes

**August 24, 2017 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Resch, Jamie J.	Attorney
	Schwartz, Bryan A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Resch addressed the Petition; and argued as to the four claims, affidavit explaining what happened, and redundant count not having been dismissed. Discussions as to case law from Salazar and Jackson, and State's arguments. Further arguments by counsel as to error having occurred. Further discussions as to relief being sought by defense counsel, and claims being raised about trial and appellate counsel. Mr. Resch requested Count 3 be dismissed or an evidentiary hearing be set. State submitted to Court's discretion. COURT ORDERED, Petition CONTINUED; evidentiary hearing SET as to issue regarding Count 3. Court noted parties may need to expand the record, but this issue is important, and it may need to be adjudicated on the merits, and not based on procedural grounds. Upon Court's inquiry, Mr. Resch estimated needing a half a day or less for evidentiary hearing.

NDC

10/05/17 8:30 A.M. EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 05, 2017

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 05, 2017 10:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Resch, Jamie J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

Deft. present in custody. EXCLUSIONARY RULE INVOKED. Roger Hillman, Esq., Nadia Hojjat, Esq., and Deborah Westbrook, Esq., all sworn and testified. Exhibits presented (See Worksheets.). Arguments by counsel regarding transcript issue, Hallmark standard for evidentiary hearing, mistakes having gone around, Count 3, defense counsel's meeting with State and Court in Chambers when jury instructions were discussed, testimony provided today, Ex Post Facto, evidence not having been available at time of direct appeal, prejudice having occurred, Count 3 needing to have been dismissed based on double jeopardy, and Byars vs. State. Discussions as to Jackson case law. Further arguments by counsel as to sentence having been unfair, and reconstruction of record having been done. State argued as to strategic decision having been made by former defense counsel, request for relief for dismissing count 3 having been uncognizable until jury verdict, State disagreeing with appellate counsel's analysis about the issue not being properly preserved, assessment having been made by counsel for Deft. and this not having fallen below competency, appellate counsel having been diligent, the issue having been fully briefed, and prong for dismissing Count 3 not having been

met by defense. Further arguments as to strategy having been made on a request to correct illegal sentence, and there having been individual ineffectiveness of counsel here. COURT ORDERED, Petition DENIED. State to prepare order.

At request of Mr. Resch, COURT FURTHER ORDERED, Mr. Resch is APPOINTED as counsel for appeal purposes. Mr. Resch to submit an order.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

February 25, 2020

C-11-276163-1 State of Nevada
vs
Bennett Grimes

February 25, 2020 8:30 AM Motion Defendant's Pro Per
Motion to Remove
Firearm and Correct
All Court Records

HEARD BY: Leavitt, Michelle COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Orwoll, Andrea D. Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court stated it is unsure what the Motion is seeking in removing "firearm" and ORDERED, Motion OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 31, 2020

C-11-276163-1 State of Nevada
vs
Bennett Grimes

March 31, 2020 12:00 AM Motion to Modify Sentence

HEARD BY: Becker, Nancy **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Brooks, Parker Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present. Without hearing oral argument, COURT STATED this issue was first raised at Sentencing and could have been raised at the direct appeal and was not; the State of Nevada has indicated that the redundancy doctrine was prior to Sentencing and had been rejected in State v Jackson; therefore, the redundancy doctrine would not apply in this case and there is no double jeopardy issues. In addition, COURT STATED the Supreme Court already ruled on a previous motion in March of 2015 where the Court dismissed an appeal from a denial from such motion finding that this issue is not properly raised in the Motion to Modify or Correct an Illegal Sentence; therefore, ORDERED, Motion DENIED; State to prepare the Order; Minutes are to go to the Defendant in custody.

NDC

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

BENNETT GRIMES # 1098810

POST OFFICE BOX 650

INDIAN SPRINGS, NEVADA 89018

hvp/4/2/20

STATE'S EXHIBIT LIST

TRIAL DATES: 10/10/12 thru 10/

Case No. C-11-276163-1	Clerk: Susan Jovanovich
Dept. 12 Judge: Michelle Leavitt	Recorder: Kerry Esparza
Pltf(s): State of Nevada	Pltf's Counsel: Agnes Botelho and Patrick Burns
Def't(s): Bennett Grimes	Def't's Counsel: Roger Hillman and Nadia Hojjat

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
1	Photo: 9325 W. Desert Inn #173 - Exterior	10-11-12	no	✓	10-11-12
2	Photo: 9325 W. Desert Inn #173 - Walkway to Front Entrance	10-11-12	no	✓	10-11-12
3	Photo: 9325 W. Desert Inn #173 - Exterior Balcony/Patio	10-11-12	no	✓	10-11-12
4	Photo: 9325 W. Desert Inn #173 - Walkway to Front Entrance	10-11-12	no	✓	10-11-12
5	Photo: 9325 W. Desert Inn #173 - Front Door and Underside Stairwell	10-11-12	no	✓	10-11-12
6	Photo: 9325 W. Desert Inn #173 - Patio Area	10-11-12	no	✓	10-11-12
7	Photo: 9325 W. Desert Inn - Parking Lot w/ Patrol Vehicles	10-11-12	no	✓	10-11-12
8	Photo: 9325 W. Desert Inn - Parking Lot w/ Patrol Vehicles and Shoes	10/12/12	no	✓	10/12/12
9	Photo: Bennett Grimes's Shoes, Socks and Puddle of Blood	10/12/12	no	✓	10/12/12
10	Photo: 9325 W. Desert Inn #173 - Interior Balcony/Patio w/ Patrol Cars	10-11-12	no	✓	10-11-12
11	Photo: 9325 W. Desert Inn #173 - Interior Balcony/Patio	10-11-12	no	✓	10-11-12
12	Photo: 9325 W. Desert Inn #173 - Dining Room and Patio Sliding Glass	10-11-12	no	✓	10-11-12
13	Photo: 9325 W. Desert Inn #173 - Front Walkway w/ Blood Drops	10-12-12	no	✓	10/12/12
14	Photo: 9325 W. Desert Inn #173 - Blood Drops Near Front Door	10/12/12	no	✓	10/12/12
15	Photo: 9325 W. Desert Inn #173 - Front Door w/ Blood Drops	10-11-12	no	✓	10-11-12
16	Photo: 9325 W. Desert Inn #173 - Front Door Cracked	10-11-12	no	✓	10-11-12
17	Photo: 9325 W. Desert Inn #173 - Interior Living Room and Kitchen	10/12/12	no	✓	10/12/12
18	Photo: 9325 W. Desert Inn #173 - Living Room, Dining, Blue Cooler	10/12/12	no	✓	10/12/12
19	Photo: 9325 W. Desert Inn #173 - Kitchen, Front Entrance, Cooler, Fruit	10-11-12	no	✓	10-11-12

STATE'S EXHIBIT LIST

CASE NO.: C-11-276163-1

TRIAL DATES: 10/10/12 thru

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
20	Photo: 9325 W. Desert Inn #173 – Interior Doorway, Wig, Blood	10/12/12	no	✓	10/12/12
21	Photo: 9325 W. Desert Inn #173 – Wig, Entrance and Carpet Blood, Towel	10/12/12	no	✓	10/12/12
22	Photo: 9325 W. Desert Inn #173 – View from Doorway	10/12/12	no	✓	10/12/12
23	Photo: 9325 W. Desert Inn #173 – Entrance, Blood, Wig, Knife, Towel	10-11-12	no	✓	10-11-12
24	Photo: “ Detail – Entrance, Blood, Wig, Towel, Knife, Remote	10/12/12	no	✓	10/12/12
25	Photo: “ Front Entrance Closet w/ Blood	10/12/12	no	✓	10/12/12
26	Photo: “ View of Living Room, Buffet, Cooler, and Interior of Front Door	10-11-12	no	✓	10-11-12
27	Photo: “ Living Room, Back of Chaise Lounge, Knife, Blood, Wig,	10/12/12	no	✓	10/12/12
28	Photo: “ Detail of Blood Pooled on Carpet	10/12/12	no	✓	10/12/12
29	Photo: “ Blood Transfer on Chaise, Knife, and Remote	10-11-12	no	✓	10-11-12
30	Photo: Knife Detail w/ Ruler	10/12/12	no	✓	10/12/12
31	Photo: Knife Detail “Stainless Steel, China”	10-11-12	yes	✓	10-11-12
32	Photo: Knife Detail – Non-Engraved Side	10-11-12	yes	✓	10-11-12
33	Photo: Knife Detail – Bend in Knife Blade	10-11-12	yes	✓	10-11-12
34	Photo: Knife Tip Detail w/ Partial Bloody Fingerprint	10/12/12	no	✓	10/12/12
35	Photo: Knife Detail – Apparent Partial Fingerprint Near Hilt	10/12/12	no	✓	10/12/12
36	Photo: Blue Cooler – Opened w/ Pens, Etc. Visible	10/12/12	no	✓	10/12/12
37	Photo: Blue Cooler – Opened w/ DVDs and Bus Schedule Visible	10/12/12	no	✓	10/12/12
38	Photo: Wal-Mart New Associate Schedule in Name of Bennett Grimes	10/12/12	no	✓	10/12/12
39	Photo: Aneka Grimes Undergoing Surgery	10-11-12	no	✓	10-11-12
40	Photo: Detail Aneka Grimes’s Face During Surgery	10-11-12	no	✓	10-11-12
41	Photo: Aneka Grimes’s Injuries to Back/Side of Head	10-11-12	Stip	✓	10-11-12
42	Photo: Detail – Aneka Grimes’s Injuries to Back/Side of Head	10-11-12	no	✓	10-11-12
43	Photo: Aneka Grimes – Injuries to Left Arm Near Elbow	10-11-12	Stip	✓	10-11-12
44	Photo: Aneka Grimes – Injuries to Left Arm Near Elbow	10-11-12	Stip	✓	10-11-12
45	Photo: Aneka Grimes – Injuries to Left Forearm	10-11-12	Stip	✓	10-11-12
46	Photo: Detail – Aneka Grimes – Injuries to Left Forearm	10-11-12	Stip	✓	10-11-12
47	Photo: Aneka Grimes – Injury	10-11-12	no	✓	10-11-12
48	Photo: Aneka Grimes – Injury	10-11-12	no	✓	10-11-12
49	Photo: Aneka Grimes – Injuries to Left Arm Near Forearm and Elbow	10-11-12	no	✓	10-11-12
50	Photo: Detail Aneka Grimes – Injuries to Left Arm Near Elbow/Forearm	10-11-12	Stip	✓	10-11-12

51	Photo: Detail Aneka Grimes – Injuries to Left Arm Near Elbow/Forearm	10-11-12	Stip	✓	10-11-12
52	Photo: Orientation Shot of Aneka Grimes Left Upper Body/Arm Injuries	10-11-12	No	✓	10-11-12
53	Photo: Aneka Grimes – Injuries to Neck, Chest, Shoulder, and Face	10-11-12	No	✓	10-11-12
54	Photo: Detail – Aneka Grimes – Injuries to Neck, and Chest	10-11-12	Stip	✓	10-11-12
55	Photo: Detail – Aneka Grimes – Injuries to Chest	10-11-12	Stip	✓	10-11-12
56	Photo: Detail – Aneka Grimes – Injuries to Neck	10-11-12	Stip	✓	10-11-12
57	Photo: Detail – Aneka Grimes – Injury to Shoulder/Neck Area	10-11-12	No	✓	10-11-12
58	Photo: Detail – Aneka Grimes – Injuries to Arm Pit Area	10-11-12	No	✓	10-11-12
59	Photo: Bennett Grimes’s Cargo Pants – Front Side	10/12/12	No	✓	10/12/12
60	Photo: Bennett Grimes’s Cargo Pants – Back Side	10/12/12	No	✓	10/12/12
61	Photo: Bennett Grimes’s Tank Top – Front Side	10/12/12	No	✓	10/12/12
62	Photo: Bennett Grimes’s Tank Top – Back Side	10/12/12	No	✓	10/12/12
63	Photo: Aneka Grimes’s Blue Jumper and Underwear – Front Side	10/12/12	No	✓	10/12/12
64	Photo: Aneka Grimes’s Blue Jumper and Underwear – Back Side	10/12/12	No	✓	10/12/12
65	Photo: Aneka Grimes’s Blue Jumper – Perforations Designated	10/12/12	No	✓	10/12/12
66	Photo: Detail – Aneka Grimes’s Blue Jumper – Perforations Designated	10/12/12	No	✓	10/12/12
67	Photo: Detail – Aneka Grimes’s Blue Jumper – Perforations Designated	10/12/12	No	✓	10/12/12
68	Photo: Detail – Aneka Grimes’s Blue Jumper – Perforations Designated	10/12/12	No	✓	10/12/12
69	Photo: Detail – Aneka Grimes’s Blue Jumper – Perforations Designated	10/12/12	No	✓	10/12/12
70	Photo: Bennett Grimes in Hospital	10-11-12	No	✓	10-11-12
71	Photo: Close-Up Bennett Grimes’s Face	10-11-12	No	✓	10-11-12
72	Photo: Detail – Bennett Grimes – Hand <i>- withdrawn 10/12</i>				
73	Photo: Laceration to Bennett Grimes’s Right Index Finger	10-11-12	No	✓	10-11-12
74	Photo: Laceration to Bennett Grimes’s Right Index Finger	10/12/12	No	✓	10/12/12
75	Photo: Stephanie Newman – Front	10-11-12	No	✓	10-11-12
76	Photo: Stephanie Newman – Back	10-11-12	No	✓	10-11-12
77	Photographic Diagram from Julie Marschner’s DNA Analysis	10/12/12	No	✓	10/12/12
78	Audio CD: Earl Newman’s 911 Call – 7/22/11				
79	Audio CD: Stephanie Newman’s 911 Call – 7/22/11	10-11-12	No	✓	10-11-12
80	Audio CD: Aneka Grimes’s 911 Call – 7/22/11	10-11-12	No	✓	10-11-12
81	Knife Recovered from 9325 W. Desert Inn Road #173 <i>and box (knife strapped into box) - one exhibit</i>	10/12/12	No	✓	10/12/12
82	<i>Photo of victim</i>	10/11/12	No	✓	10/11/12
83	<i>Photo - withdrawn (marked & withdrawn 10/12) cf</i>				

85					
86					
87					
88					
89					
90					

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Page # _____ of _____



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

BENNETT GRIMES #1098810
P.O. BOX 650
INDIAN SPRINGS, NV 89070

DATE: April 17, 2020
CASE: C-11-276163-1

RE CASE: STATE OF NEVADA vs. BENNETT GRIMES

NOTICE OF APPEAL FILED: April 10, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- Case Appeal Statement
- NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

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):

AN APPEAL FROM THE DENIAL OF A MOTION TO CORRECT AN ILLEGAL SENTENCE; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; ORDER DENYING DEFENDANT'S PRO PER MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

BENNETT GRIMES,

Defendant(s).

Case No: C-11-276163-1

Dept No: XII

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 17 day of April 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

