

FILED

JUL 08 2021

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA BROWN
CLERK OF SUPREME COURT
BY: [Signature]
DEPUTY CLERK

BENNETT G. GRIMES

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Supreme Court No. 83088

District Court No. C276163, C276163-1
C11276163-1

APPELLANT'S INFORMAL BRIEF

INSTRUCTIONS: If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, see NRAP 28(k), with the Nevada Supreme Court on or before the due date, see NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

HOW TO FILL OUT THIS FORM: This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

WHERE TO FILE THE BRIEF: You may submit your brief for filing in person or by mail.

To file your brief in person: Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

Carson City: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

Las Vegas: Place your brief in the Clerk's Office Drop Box at the Las Vegas courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

21-19632

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
06-03-2021	DEFENDANT'S MOTION TO MODIFY AND/OR CORRECT SENTENCE

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 06-14-2021.

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
81697	GOOD CAUSE FOR DELAY IN FILING A SECOND OR SUCCESSFUL MOTION FOR WRIT OF HABEAS CORPUS	SUPREME COURT OF NEVADA
2:19-cv-00663-GAM-GWF	PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254	U.S. DISTRICT COURT OF NEVADA LLOYD D. GEORGE US COURTHOUSE
2:19-cv-00664-GAM-EST	28 USC § 2254	LLOYD D. GEORGE US COURTHOUSE

Pro Bono Counsel. Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

NOTE: If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

TRIAL COURT COUNSEL FAILED TO PREPARE ADEQUATELY BY RELYING ON A PROMISE BY THE STATE FOR DEFENDANT'S SENTENCING ON FEBRUARY 12, 2013. TRIAL COURT COUNSEL RELIED ON A PROMISE FROM THE STATE AND ON OUT DATED CASE LAW AND AUTHORITIES IN PREPARATION FOR GRIMES' TRIAL WHICH CAUSED HIM TO BE SENTENCED TO AN ADDITIONAL 8 TO 20 YEARS. SPECIFICALLY AFTER THE

DEFENSE COUNSEL'S RELIANCE FROM A PROMISE BY THE STATE TO CONCURRENT SENTENCES AND ON OUT DATED CASE AUTHORITY THE COURT PROCEEDED TO SENTENCE GRIMES ON BOTH COUNTS 1 AND 3. AS TO COUNT 1 (ATTEMPT MURDER), THE COURT SENTENCED GRIMES TO A TERM OF 8 TO 20 YEARS PLUS A CONSECUTIVE TERM OF 5 TO 15 YEARS FOR A WEAPON ENHANCEMENT. AS TO COUNTS 2 AND 3, THE COURT SENTENCED GRIMES PURSUANT TO THE SMALL HABITUAL CRIMINAL STATUTE. I.E., FOR COUNT 2, THE COURT SENTENCED GRIMES TO A TERM OF 8 TO 20 YEARS CONCURRENT TO COUNT 1. HOWEVER, FOR COUNT 3, THE COURT SENTENCED GRIMES TO A TERM OF 8 TO 20 YEARS CONSECUTIVE TO COUNTS 1 AND 2. FOR THE RECORD DEFENSE COUNSEL RELIED ON A PROMISE FROM THE STATE AND ADVISED THE DEFENDANT DURING TRIAL AND PRIOR TO TRIAL THAT HE COULD NOT AND WOULD NOT BE CONVICTED AND SENTENCED ON BOTH COUNTS 1 AND 3 BASED ON THE EXISTING AND CONTROLLING LAW. FURTHERMORE DURING TRIAL DEFENSE COUNSEL WAS INEFFECTIVE FOR NOT REQUESTING AND/OR OBJECTING TO THE VERDICT FORM AND THEREBY REQUESTING THAT COUNT 3 BE LISTED AS A LESSER INCLUDED OFFENSE OF COUNT 1. HAD DEFENSE COUNSEL OBJECTED FOR THE RECORD TO THE VERDICT FORM AND PUTTING ON THE RECORD THE AGREEMENT DURING THE MEETING IN CHAMBERS

THE COURT WOULD HAVE BEEN BOUND TO GRANTING
SUCH A REQUEST WHICH WOULD HAVE PREVENTED THE
DEFENDANT FROM BEING CONVICTED AND SENTENCED
ON BOTH COUNTS 1 AND 3 BASED ON THEN
EXISTING LAW.

ACTING CLARK COUNTY DISTRICT ATTORNEY
FROM 7/22/11:

DAVID ROGER #002781

MARY-ANNE MILLER, WAS INTERIM,
#001419

STEVEN B. WOLFSON #001565

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

I, BENNETT G. GRUBBS, ASKS THIS COURT FOR HIS IMMEDIATE
RELEASE AND THAT HIS CUSTODY BE TERMINATED. I BELIEVE I WAS
NOT ARRAIGNED IN A TIMELY MANNER. THAT ALSO "FIREARM"
TAINTED THE CHARGING INSTRUMENT. AS A POTENTIAL DEFENDANT
BEFORE THE SENTENCING COURT, I RELIED ON A PROMISE TO MY REPRESENT,
MADE BY THE PROSECUTOR TO RUN ALL CHARGES CONCURRENT ON THE THEORY
THAT THE JURY RETURNS A GUILTY VERDICT. I BELIEVE I WAS A VICTIM
OF COERCION ON SEVERAL OCCASIONS. WHERE I BECAME ADMITT TO
WAKE MY 60 DAY RULE TWICE. THEN THE MODUM OPERANDI OF BAIL
AND SWITCH BECAME THE OBJECTIVE. HILLMAN #3076 FIRST APPOINTED IN

JUSTICE COURT, ²⁾ BENJAMIN R. SAXE MADE APPEARANCES, ³⁾ HOSSAT ^{#12401} WAS ASSIGNED AS CO-COUNSEL FOR TRIAL WITH HILLMAN ^{#3076} FIRST CHAIR, ⁴⁾ DIEFENDACH, LAUREN R., ⁵⁾ MILAY, DARIN F., ALSO STOOD-IN, ALL LICENSED UNDER PHILIP J. KOLN ^{#0556} FOR THE PUBLIC DEFENDER'S OFFICE. IT SEEMED AT EVERY TURN, HILLMAN HAD MEDICAL LEAVE OR WAS OUT OF THE OFFICE WHEN MY INVOKED 60 DAY RULE PLAYED A FACTOR. SHAWN MORGAN ^{#10935} WAS JOINED BY AGNES BOTHELO ^{#11064} ON 6/7/12 UNTIL 9/14/12 SHAWN MORGAN'S ^{#10935} LAST DAY REPRESENTING FOR THE DISTRICT ATTORNEY. WHEN THE 8-20 CONCURRENT WAS AGREED TO, AS WELL AS WITH AGNES BOTHELO, JOINED BY PATRICK J. BYRNS ^{#11779}, FOR GRIMES TRIAL, 8-20 CONCURRENT ON THE ACCOUNT TO MY GUILTY VERDICT. THERE WAS ASSURANCE BY THE D.A. TO CONCURRENT SENTENCES ON THE ACCOUNT OF A GUILTY VERDICT FOR MORE THAN ONE CHARGE, OF ATTEMPTED MURDER AND BATTERY. IT WAS A NON FORMAL AGREEMENT AMONGST ALL PARTIES, A NON PROSECUTORIAL AGREEMENT TO RUN ALL CHARGES CONCURRENT, THAT CONSECUTIVE CHARGES WOULD NOT APPLY. THE SUPREME COURT HANDED DOWN THAT IT IS CONSTITUTIONAL, IT MATTERS WHAT YOU TELL A POTENTIAL DEFENDANT. IN THE ACCORDANCE OF THE ADVICE OF THE ATTORNEY AND THE PROSECUTORS PROMISE "THAT ALL CHARGES WOULD RUN CONCURRENT." GRIMES' CONVICTION AND SENTENCE IS INVALID, BECAUSE THE PROSECUTOR SAID IT WOULD NOT PROSECUTE CONSECUTIVE SENTENCES, AND HAS NEVER BEEN A FRIVOLOUS OR A TENUOUS ARGUMENT. GRIMES HAS STAYED ON THIS CLAIM, BECAUSE HE WAS UNDER THE UNDERSTANDING THAT GOING TO TRIAL, HE COULD NOT RECEIVE CONSECUTIVE SENTENCES ON ACCOUNT OF GUILTY. IT IS AN OVED COMMITMENT AND AN OVED PROMISE. YOU CANNOT UNDERMINE FUNDAMENTAL FAIRNESS AND DUE


PROCESS. THE PROSECUTOR FILED THE HABITUAL CRIMINAL SEVEN (7) DAYS AFTER THE GUILTY VERDICT, ONE (1) YEAR AND THREE (3) MONTHS FROM 7/22/11 ARREST DATE. GRIMES HAD NO KNOWLEDGE OF EVEN THE MEANINGS OF THE TERM. THE MOST TIME I THOUGHT I COULD RECEIVE WAS TWO (2) YEARS ATTEMPTED MURDER, ONE (1) YEAR BURGLARY, ONE (1) YEAR BATTERY, ONE (1) YEAR DEADLY WEAPON. I WOULD HAVE NEVER WENT TO TRIAL FACING TWENTY-ONE (21) TO FIFTY-FIVE (55) YEARS. WHEN THE SENTENCING JUDGE STRUCK THE BURGLARY AND BATTERY, GRIMES BELIEVES THE ATTEMPTED MURDER WAS FATALITY DEFECTIVE AS DRAFTED AND SHOULD HAVE ALSO BEEN STRUCK. THE DISTRICT COURT REFUSED TO INSTRUCT THE JURY THAT SPECIFIC INTENT WAS AN ESSENTIAL ELEMENT OF ATTEMPTED MURDER. THE GIVEN INSTRUCTION ON IMPLIED MALICE WAS NECESSARILY MISLEADING TO THE JURY CONSIDERING THE ATTEMPTED MURDER CHARGE. THE DISTRICT COURT REFUSED TO SEPARATELY INSTRUCT THE JURY ON EXPRESS MALICE, IN CONJUNCTION WITH THE STATE WHEN IT ARGUED IN CLOSING THE ELEMENTS FOR IMPLIED MALICE. IT WAS CERTAINLY NOT MADE CLEAR TO THE JURY THAT NOTHING LESS THAN A SPECIFIC CRIMINAL INTENT TO KILL MUST BE SHOWN IN ORDER TO ESTABLISH THE CRIME OF ATTEMPTED MURDER. GRIMES, BELIEVES THE WEAPON ENHANCEMENT SHOULD NOT BE CONSECUTIVE, WHEN ITS USE IS AN ESSENTIAL ELEMENT OF SUCH CRIME. GRIMES, BELIEVES ANY PRIORS MAY FALL OUTSIDE THE STATUTE OF LIMITATIONS TO QUALIFY AS AN HABITUAL CRIMINAL OR UNDER THE LAWS OF THE STATES OF THE CRIME, MAY NOT BE A FELONY.¹ SHEYGAU FATEMI, KAMBIZ,² WESTBROOK, P. DAVID AND DEBORAH,³ GAWRGE, WILLIAM H.,⁴

RESCH, JAMES J., FOR APPELLATE PROCEDURES. JUDGES,
TOGLIATTI, SARAGOSA M., LINDA NORVELL MARQUIS, BARKER,
DAVID, AND LEAVITT ALL PRESIDED IN THIS CASE.

DETRIMENTAL RELIANCE ON PROSECUTOR'S PROMISE
AND INCONSISTENCY OF POSITION BY THE GOVERNMENT WHICH
IMPEDES THE DEFENDANT'S RESULTS CONSTITUTES A
MISCARRIAGE OF JUSTICE. THE STATE IS BOUND BY THE
PROMISES IT MAKES. THERE ARE PRINCIPLES OF LAW THAT
APPLY WHENEVER A DEFENDANT ACTS TO HIS DETRIMENT
IN RELIANCE UPON GOVERNMENT PROMISES.

THE ONLY REMEDY IS RELEASE

DATED this 5th day of JULY, 2021.


Signature of Appellant

BENNEL G. GRIMES
Print Name of Appellant

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

DATED this 5TH day of JULY, 2021.

Bennett G. Grimes
Signature of Appellant

BENNETT G. GRIMES
Print Name of Appellant
H.O.S.P.

P.O. BOX 650
Address

INDIAN SPRINGS, NV. 89101.
City/State/Zip

Telephone