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Electronically Filed
Dec 17 2020 11:55 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 CLEMON HUDSON,

10 Plaintiff,

11 vs.

12 THE STATE OF NEVADA,

13 Defendant,

Case No: A-18-783635-W
Related Case C-15-309578-2

Dept No: XXIX

14
15
16 **NOTICE OF APPEAL**

17
18 Notice is hereby given that the Defendant above named, hereby appeals to the Supreme
19 Court of Nevada from the Judgment of Conviction (Jury Trial) entered in this action on July 2,
20 2018.

21 STEVEN D. GRIERSON, CLERK OF THE COURT

22 /s/ Heather Ungermann

23 Heather Ungermann, Deputy Clerk

24
25 CERTIFICATE OF E-SERVICE / MAILING

26 I hereby certify that on this 17 day of December 2020, I served a copy of this Notice of Entry on the
27 following:

28 ☒ By e-mail:

Clark County District Attorney's Office

Attorney General's Office – Appellate Division-

- ☒ The United States mail addressed as follows:

Clemon Hudson # 1200865

P.O. Box 650

Indian Springs, NV 89070

Christopher R. Oram, Esq.

520 S. 4th St., Second Floor

Las Vegas, NV 89101

- ☒ This appeal was electronically submitted to the Clerk of the Supreme Court.

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk



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

9 CLEMON HUDSON,

10 Plaintiff(s),

11 vs.

12 THE STATE OF NEVADA,

13 Defendant(s),

Case No: A-18-783635-W

Related Case C-15-309578-2

Dept No: XXIX

14
15
16 **CASE APPEAL STATEMENT**

17
18 1. Appellant(s): Clemon Hudson

19 2. Judge: Mark B. Bailus

20 3. Appellant(s): Clemon Hudson

21 Counsel:

22 Christopher R. Oram, Esq.
23 520 S. 4th St., Second Floor
24 Las Vegas, NV 89101

25 4. Respondent (s): The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

1 5. Appellant(s)'s Attorney Licensed in Nevada: Yes
2 Permission Granted: N/A

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

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

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

7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
8 ***Expires 1 year from date filed*

9 Appellant Filed Application to Proceed in Forma Pauperis: No
10 Date Application(s) filed: N/A

11 9. Date Commenced in District Court: October 25, 2018

12 10. Brief Description of the Nature of the Action: Civil Writ

13 Type of Judgment or Order Being Appealed: Judgment

14 11. Previous Appeal: No

15 Supreme Court Docket Number(s): N/A

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 17 day of December 2020.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

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

26
27 cc: Clemon Hudson
28 Christopher R. Oram, Esq.

CASE SUMMARY

CASE NO. A-18-783635-W

State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

§
§
§
§
§

Location: **Department 29**
Judicial Officer: **Jones, David M**
Filed on: **10/25/2018**
Case Number History:
Cross-Reference Case Number: **A783635**

CASE INFORMATION

Related Cases
C-15-309578-2 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **10/25/2018 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-18-783635-W
Court Department 29
Date Assigned 10/31/2018
Judicial Officer Jones, David M

PARTY INFORMATION







Plaintiff	Of Nevada, State	<i>Lead Attorneys</i> Demonte, Noreen C. <i>Retained</i> 7026712750(W)
Defendant	Hudson, Clemon	Oram, Christopher R <i>Retained</i> 7023845563(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX


EVENTS

10/25/2018	 Petition for Writ of Habeas Corpus <i>Petition for writ of habeas corpus</i>
10/31/2018	Trigger for Original Proceedings Packet
08/06/2019	 Motion <i>Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief</i>
08/06/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Motion <i>Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief</i>
12/11/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/18/2019	 Supplemental Brief <i>Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-conviction)</i>

CASE SUMMARY
CASE NO. A-18-783635-W

12/31/2019	 Response Filed by: Plaintiff Of Nevada, State <i>State's Response to Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Request for Evidentiary Hearing)</i>
01/16/2020	 Petitioner's Reply Brief <i>Reply To State's Response To Defendant's Supplemental Brief In Support Of Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
02/06/2020	 Order for Production of Inmate <i>ORDER FOR PRODUCTION OF INMATE</i>
12/16/2020	 Findings of Fact, Conclusions of Law and Order <i>Findings of Fact, Conclusions of Law and Order</i>
12/16/2020	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
12/16/2020	 Case Appeal Statement <i>Case Appeal Statement</i>
12/17/2020	 Notice of Appeal Filed By: Defendant Hudson, Clemon <i>Notice of Appeal</i>
12/17/2020	 Case Appeal Statement Filed By: Defendant Hudson, Clemon <i>Case Appeal Statement</i>
12/17/2020	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Of Nevada, State <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>

HEARINGS

12/18/2018	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Jones, David M) 12/18/2018, 01/29/2019 Matter Continued; Matter Heard; Journal Entry Details: <i>Alexis Plunkett, Esq. also present. Defendant NOT present, noting Defendant is in Federal custody. Mr. Oram advised he did not have Deft's file and stated the other counsel had it. State offered the file from the prior attorney. Mr. Oram further advised that Mr. Mueller is not present and is in trial. Mr. Oram requested the State turn over their file. State had no objections. COURT ORDERED, the State turn over the file within 45 DAYS. COURT FURTHER ORDERED, matter SET for Status Check. 03/12/19 8:30 AM STATUS CHECK;</i> Matter Continued; Matter Heard; Journal Entry Details: <i>Mr. Oram advised Deft. had different counsel for both trial and sentencing. Further, Mr. Oram noted he had written to both previous counsel, Craig Mueller, Esq., and Alexis Plunkett, Esq., who both claimed they did not have Deft's file and stated the other counsel had it. State offered to provide Mr. Oram with copies of all discoverable material but could not provide any work product. COURT ORDERED, matter CONTINUED; Mr. Mueller and Ms. Plunkett are to appear and explain why they do not have Deft's file. NDC CONTINUED TO: 1/29/19 8:30 AM</i> CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Craig
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CASE SUMMARY
CASE NO. A-18-783635-W

Mueller, Esq., (MUELLER HINDS & ASSOCIATES) and Alexis Plunkett, Esq. 12/21/18 /mt;

03/12/2019



Status Check (8:30 AM) (Judicial Officer: Jones, David M)

03/12/2019, 04/09/2019

Status Check: File

MINUTES

Matter Continued;

Briefing Schedule Set;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Oram confirmed he received the file; and requested a briefing schedule. Mr. Oram inquired to Ms. Demonte about trial transcripts. Court told counsel to contact the Court, if he cannot get the transcripts. COURT ORDERED, briefing schedule SET as follows: Deft's supplemental pleading due August 6, 2019; State's response due October 5, 2019; and Deft's reply due November 4, 2019. FURTHER, hearing SET. NDC 11/14/19 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);

Matter Continued;

Briefing Schedule Set;

Journal Entry Details:

Defendant NOT present. Mr. Oram advised this matter was on for the status of the file, noting the State has not yet provided him with the file, and requested the matter be continued 30 days. Court advised State to provide Mr. Oram with the file. COURT ORDERED, matter CONTINUED. CONTINUED TO: 04/09/19 8:30 AM;

SCHEDULED HEARINGS



Petition for Writ of Habeas Corpus (01/28/2020 at 8:30 AM) (Judicial Officer: Jones, David M)

01/28/2020, 10/15/2020

Petition For Writ Of Habeas Corpus (Post-Conviction)

09/10/2019



Motion (8:30 AM) (Judicial Officer: Jones, David M)

Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief

Granted;

Journal Entry Details:

Ms. Folksted requested additional time for Mr. Oram to file a supplemental brief. Briefing schedule set. Supplemental Briefing DUE 12/10/19, State's Response DUE 01/10/20, Reply DUE 01/20/20. COURT ORDERED, Hearing SET. 01/28/20 8:30 AM HEARING;

01/14/2020

CANCELED Motion (8:30 AM) (Judicial Officer: Jones, David M)

Vacated

Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief

01/28/2020



Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Jones, David M)

01/28/2020, 10/15/2020

Petition For Writ Of Habeas Corpus (Post-Conviction)

Hearing Set;

Granted in Part;

Journal Entry Details:

Testimony and exhibits presented (see worksheets). Argument by counsel. Argument by the State. COURT ORDERED, decision to issue via minute order. NDC;

Hearing Set;

Granted in Part;

Journal Entry Details:

At the request of counsel, COURT ORDERED, matter SET for hearing; State to prepare Transport Order. Mr. Oram stated he would have one witness. 5/1/20 11:00 AM EVIDENTIARY HEARING;

04/15/2020



Minute Order (3:00 AM) (Judicial Officer: Jones, David M)

Minute Order - No Hearing Held;

CASE SUMMARY

CASE NO. A-18-783635-W

Journal Entry Details:

Pursuant to Administrative orders 20-01 through 20-06, COURT ORDERED, the matter scheduled on April 24, 2020 is rescheduled to June 23, 2020 at 1:30 p.m. CLERK'S NOTE: This minute order has been distributed to counsel via email. /mt;

12/03/2020



Minute Order (3:00 AM) (Judicial Officer: Jones, David M)

Minute Order - No Hearing Held;

Journal Entry Details:

After review of all pleadings and evidence taken at the evidentiary hearing this Court finds Defendant was deprived of his right to direct appeal. As to all other issues raised in the Petition for Writ of Habeas Corpus, all other issues are DENIED. Counsel for Defendant is to prepare the order GRANTED in part as to Direct Appeal and DENIED as to all other claims. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt ;

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Cleon Hudson, Petitioner	Defendant(s) (name/address/phone): The State of Nevada
Attorney (name/address/phone): Christopher R. Oram 520 South 4th Street, 2nd Floor Las Vegas, Nevada 89101	Attorney (name/address/phone): Steven B. Wolfson 200 Lewis Avenue Las Vegas, Nevada 89101

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

10/24/2018

Date

Signature of initiating party or representative

See other side for family-related case filings.

Steven D. Grierson

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CLEMON HUDSON
#7025101

Defendant.

CASE NO. C-15-309578-2

DEPT. NO. XVIII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060; COUNT 2 – ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (Category C Felony) in violation of NRS 205.060.4; COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; and COUNT 5 – BATTERY WITH USE OF A

Jury Trial

- ☐ Dismissed (during trial)
☐ Acquittal
☐ Guilty Plea with Sent. (during trial)
☒ Conviction

36

1 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
2 Felony) in violation of NRS 200.481, and the matter having been tried before a jury and
3 the Defendant having been found guilty of the crimes of COUNT 1 CONSPIRACY TO
4 COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060; COUNT 2 –
5 ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY
6 WEAPON (Category C Felony) in violation of NRS 205.060.4; COUNT 3 – ATTEMPT
7 MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS
8 200.010, 200.030, 193.330, 193.165; COUNT 4 – ATTEMPT MURDER WITH USE OF
9 A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030,
10 193.330, 193.165; and COUNT 5 – BATTERY WITH USE OF A DEADLY WEAPON
11 RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in violation of
12 NRS 200.481, thereafter, on the 21st day of June, 2018, the Defendant was present in
13 court for sentencing with counsel ALEXIS PLUNKETT, ESQ., and good cause
14 appearing,
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18 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
19 addition to the \$25.00 Administrative Assessment Fee, \$9,099.98 Restitution to be paid
20 jointly and severally with Co-Defendant to VC2253860 – Jeremy Robertson, and
21 \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00
22 DNA Collection Fee, the Defendant is SENTENCED to the Nevada Department of
23 Corrections (NDC) as follows: **COUNT 1 – THREE HUNDRED SIXTY-FOUR (364)**
24 **DAYS** in the Clark County Detention Center (CCDC); **COUNT 2 - a MAXIMUM of**
25 **SEVENTY-TWO (72) MONTHS** with a **MINIMUM** parole eligibility of **SIXTEEN (16)**
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1 MONTHS, CONCURRENT with COUNT 1; **COUNT 3** - a MAXIMUM of ONE
2 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-
3 EIGHT (48) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120)
4 MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS for the Use
5 of a Deadly Weapon, CONCURRENT with COUNT 2; **COUNT 4** - a MAXIMUM of ONE
6 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-
7 EIGHT (48) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120)
8 MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS for the Use
9 of a Deadly Weapon, CONSECUTIVE to COUNT 3; **COUNT 5** - a MAXIMUM of ONE
10 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX
11 (36) MONTHS, CONCURRENT with COUNT 2; with ONE THOUSAND, TWENTY-TWO
12 (1022) DAYS credit for time served. The AGGREGATE TOTAL sentence is FOUR
13 HUNDRED EIGHTY (480) MONTHS MAXIMUM with a MINIMUM PAROLE
14 ELIGIBILITY OF ONE HUNDRED SIXTY-EIGHT (168) MONTHS.

15 DATED this 26 day of June, 2018.

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MARK B. BAILUS
DISTRICT COURT JUDGE

ORDR

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South 4th Street, Second Floor
Las Vegas, Nevada 89101
Telephone: (702) 384-5563

Attorney for Defendant
CLEMON HUDSON

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CLEMON HUDSON,

Defendant.

CASE NO: A-18-783635-W

DEPT NO: XXIX

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

DATE OF HEARING: October 15, 2020
TIME OF HEARING: 11:00 a.m.

THIS CAUSE having come on for hearing before the Honorable DAVID M. JONES, District Judge, on the 15th day of October, 2020, the Defendant being present, represented by CHRISTOPHER R. ORAM, the Respondent being represented by STEVE WOLFSON, District Attorney, by and through Leah Beverly, Chief Deputy District Attorney, and the Court having considered the matter, including all briefs, transcripts, arguments of counsel, documents on file herein, and the testimony adduced from the Evidentiary Hearing, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

Procedural History

Mr. Hudson was charged by way of Indictment on September 23, 2015 as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary while in possession of a firearm or deadly weapon; Count 3: Attempt Murder with use of a deadly weapon; Count 4: Attempt Murder with use of a deadly weapon; Count 5: Battery with use of a deadly weapon resulting in substantial bodily harm; and Count 6: Discharging firearm at or into occupied structure, vehicle, aircraft, or watercraft. On October 1, 2015, Mr. Hudson was arraigned, pled not guilty and waived the sixty day rule.

On August 28, 2017, Mr. Hudson filed a motion to sever his case from co-defendant Steven Turner. Co-defendant Turner joined Mr. Hudson's motion on September 13, 2017. The State filed an opposition on September 18, 2019. The district court denied the motion for severance on October 12, 2017. Mr. Hudson renewed his motion for severance, but was again denied on November 16, 2017.

Mr. Hudson's trial began on April 16, 2018. On the first day of trial, the State filed an Amended Indictment dismissing count six. On April 27, 2018, the jury found Mr. Hudson guilty of all charges.

Mr. Hudson was sentenced on July 21, 2018, to an aggregate total of a maximum of 480 months with a minimum 168 months. Mr. Hudson received 1,022 days credit for time served. The Judgment of Conviction was filed July 2, 2018.

No direct appeal was filed on Mr. Hudson's behalf. On October 25, 2018, Mr. Hudson filed a timely post-conviction Petition for Writ of Habeas Corpus. Thereafter, supplemental briefing, through counsel, commenced. An Evidentiary Hearing took place on October 15, 2020, and the matter was taken under advisement.

Facts of the offense

Mr. Eric Clarkson was friends with Mr. Turner (JT Day 3 p. 57-58). Mr. Clarkson

did not know Mr. Hudson (JT Day 3 p. 80). Mr. Clarkson resided with his best friend Mr. Willoughby Potter de Grimaldi at a house located at 6729 Oveja Circle, Las Vegas, Clark County, Nevada (JT Day 3 p. 59-61, 92).

On September 4, 2015, around 3:30 a.m., Mr. Clarkson was in his bedroom watching television before going to sleep (JT Day 3 p. 61). Once Mr. Clarkson got into bed, he heard his metal outdoor patio furniture being moved outside (JT Day 3 p. 63-64). This caused Mr. Clarkson to look out the window where he saw a young African American man outside on the patio (JT Day 3 p. 65). Then, Mr. Clarkson grabbed his phone, let his roommate know what he saw and contacted 911 to report that someone was in his backyard (JT Day 3 p. 65). Moments later, Mr. Clarkson and Mr. Grimaldi heard someone banging on the front door and Mr. Grimaldi saw a figure outside (JT Day 3 p. 68, 97-98).

When Mr. Grimaldi went to the back window, he saw a shirtless African American man with a billed cap on his head, racking a shotgun (JT Day 3 p. 95, 119). When Mr. Grimaldi looked out the window, he saw a tall African American man with an afro wearing basketball shorts (JT Day 3 p. 98-99). Mr. Grimaldi then saw a third person out of the corner of his eye, describing the man as African American with a spiky afro (JT Day 3 p. 101-102). Mr. Grimaldi did not recognize any of the three individuals (JT Day 3 p. 104). Mr. Clarkson then relayed this information to the 911 operator (JT Day 3 p. 96-97).

When two police officers arrived (Officer Malik Grego-Smith and Officer Jeremy Robertson) Mr. Clarkson let them in the front door (JT Day 3 p. 71). Mr. Clarkson and Mr. Grimaldi explained to officers how to open the back door and then Officer Robertson opened the back door (JT Day 3 p. 71-72). Mr. Clarkson and Mr. Grimaldi recalled that immediately after the back door was opened there were gunshots (JT Day 3 p. 74-75, 107-108). Mr. Grimaldi had previously told detectives it was his belief that an officer fired the first gunshot, but testified at trial the first shots came from outside on the patio (JT Day 3 p. 124, 126-127). Mr. Clarkson and Mr. Grimaldi both saw different types of bullets enter

their home (JT Day 3 p. 75, 107-108). After the shots were fired, Mr. Clarkson and Mr. Grimaldi hid in a bedroom (JT Day 3 p. 76).

Officer Malik Grego-Smith, along with Officer Jeremy Robertson, responded to a dispatch call regarding a prowler at the Oveja circle residence (JT Day 5 p. 62, 65). After requesting dispatch inform the homeowner to open the front door, Officer Grego-Smith and Officer Robertson enter the residence (JT Day 5 p. 70). Once in the residence, the officers developed a plan to “clear the backyard” to see if anyone was out there (JT Day 5 p. 72). Officer Robertson was to open the back door, and as he opened the door, Officer Grego-Smith would go through and Officer Robertson would follow (JT Day 5 p. 73). Officer Grego-Smith drew his weapon and as he stepped outside two shots were fired from outside on the patio, one striking Officer Robertson (JT Day 5 p. 73, 76). Officer Grego-Smith returned fire towards the patio, firing twelve shots (JT Day 5 p. 76; JT Day 7 p. 29-30).

Officer Grego-Smith testified he turned his flashlight on right when he started shooting and saw “a light-skinned black male with no shirt and purple basketball shorts” on the patio (JT Day 5 p. 78). The man was approximately three to four feet from him (JT Day 5 p. 90). Officer Grego-Smith recalled yelling, “Don’t move, keep your hands up, don’t move or I’ll fucking shoot you.” (JT Day 5 p. 80). Officer Grego-Smith immediately radioed dispatch to inform them that shots had been fired and Officer Robertson had been shot (JT Day 5 p. 80). When back up arrived, Officer Grego-Smith entered the backyard area and witnessed Mr. Hudson being taken into custody (JT Day 5 p. 82). Officer Grego-Smith testified at trial that Mr. Hudson was not the shirtless African American man he had seen in the backyard when he turned on his flashlight (JT Day 5 p. 86).

Officer Jeremy Robertson recalled he had just opened the back door to the patio of the residence when he was shot and fell to the ground (JT Day 5 p. 120). Officer Robertson was struck in the upper thigh, fracturing his femur (JT Day 5 p. 122, 128).

Sergeant Joshua Bitsko, a K-9 officer, responded to the Oveja residence (JT Day 4 p. 127, 135). Upon arriving at the residence, Sergeant Bitsko learned from the air unit that the suspect was laying in the backyard with a rifle next to him (JT Day 4 p. 140). A Beretta .25 caliber handgun was also located nearby (JT Day 4 p. 81). Sergeant Bitsko deployed his police dog into the backyard who located and began biting the suspect (JT Day 4 p. 140-143). The suspect complied with all commands, was taken into custody and identified as Clemon Hudson (JT Day 4 p. 32, 143-145).

Police secured a perimeter around the crime scene approximately a mile and a half by a mile wide in order to search for additional suspects (JT Day 4 p. 153). Detective Jeremy Vance spent approximately three and a half hours driving around the perimeter looking for the suspect described by officer Grego-Smith (JT Day 4 p. 153).

After being notified of a call concerning a suspicious person in a backyard, Detective Vance came upon Mr. Turner and began to question him (JT Day 4 p. 154-158). Detective Vance noticed Mr. Turner was injured given the blood on his pants (JT Day 4 p. 158). When questioned about the injury, Mr. Turner indicated his leg was caught on a fence at his friend's house (JT Day 4 p. 158). Detective Vance believed the injury was caused by a gunshot wound (JT Day 4 p. 158-159).

Ms. Stephanie Fletcher, a senior crime scene analyst with the Las Vegas Metropolitan Police Department responded to the Oveja Circle residence (JT Day 5 p. 6). Twelve Speer .9 millimeter cartridge casings were recovered from the dining room area (JT Day 5 p. 14). There were three 7.62 rifle cartridge casings located on the backyard patio area (JT Day 5 p. 15). Analysts did not locate any expended shotgun shells or .25 caliber casings (JT Day 5 p. 16). Analysts located numerous shotgun pellets in the living room of the residence as well as pieces of a shotgun round located on top of the front window sill (JT Day 5 p. 32-34). Firearms recovered from the scene included a SKS rifle, a Mossberg 12-gauge shotgun and a Beretta .25 caliber handgun (JT Day 4 p. 78, 81).

Ms. Gayle Johnson, a forensic scientist with the Las Vegas Metropolitan Police Department, conducted latent print testing on several items (JT Day 6 p. 17-25). With regard to an AK-47 firearm, the analyst was unable to develop any suitable prints for testing (JT Day 6 p. 20). Two latent prints were recovered from a shotgun, both belonging to Mr. Hudson and located in the metal area above the trigger (JT Day 6 p. 23-24). DNA testing was conducted with regard to the firearms (JT Day 6 p. 29-48). No conclusions could be made about the DNA located on the rifle, the Mossberg shotgun or the Beretta handgun (JT Day 6 p. 35, 39-41).

A Toyota Camry located outside the residence was registered to Mr. Hudson's mother (JT Day 7 p. 50-51).

When analysts recovered the shotgun the State alleged Mr. Hudson to be holding, it was inoperable due to damage sustained (JT Day 7 p. 118-122). A fragment was removed from the shotgun, but analysts were unable to determine what weapon the fragment originated (JT Day 7 p. 136).

In September of 2015, Mr. Craig Jex was employed as a Detective with the Las Vegas Metropolitan Police Department (JT Day 6 p. 58). Mr. Jex documented Officer Robertson's injuries at the hospital (JT Day 6 p. 60-61). While at the hospital, Mr. Jex came into contact with Mr. Hudson and conducted an interview with him (JT Day 6 p. 61).

Mr. Jex testified Mr. Hudson relayed to him that he went to the house to obtain marijuana that night and no one was supposed to be home (JT Day 6 p. 65, 86). Mr. Hudson told him there was only one other person involved and the plan was to break in the back window of the residence (JT Day 6 p. 66-67, 74). When Mr. Jex questioned Mr. Hudson as to whether he brought and carried the shotgun, he indicated he did (JT Day 6 p. 66-67, 76-78). Mr. Hudson informed Mr. Jex that there was an SKS rifle and a shotgun in the backyard (JT Day 6 p. 76). Mr. Hudson also told Mr. Jex that he had also brought a small firearm in his shoe (JT Day 6 p. 78-80).

During the interview, Mr. Hudson told Mr. Jex he was not sure if he fired the shotgun, but if he did, he fired once (JT Day 6 p. 77, 88). Mr. Hudson indicated he shot towards the bottom of the window (JT Day 6 p. 78). It was Mr. Hudson's belief that the officers started shooting first (JT Day 6 p. 90).

Detective Eduardo Pazos conducted an interview with Mr. Turner (JT Day 6 p. 96-97). Mr. Turner told police that "someone came to pick him up" around midnight and it was just the two of them in the car (JT Day 6 p. 101, 104). When Mr. Turner got in the car, he saw two guns in the back (JT Day 6 p. 103-104). Mr. Turner indicated the SKS rifle belonged to his uncle (JT Day 6 p. 102, 105).

Mr. Turner explained to Detective Pazos that when he entered the backyard of the residence, shots were fired (JT Day 6 p. 105). When the shots were fired, he hopped over the wall to the back of the house (JT Day 6 p. 105). Mr. Turner told Detective Pazos that after he hopped over the wall, he sat on a couch he found in the neighborhood for a while and then began walking to a friend's house (JT Day 6 p. 105). As he was walking to a friend's house, he encountered police (JT Day 6 p. 105).

Mr. Turner told Detective Pazos he had been in the house before and knew who lived there (JT Day 6 p. 108). Mr. Turner admitted he was there to steal weed and if there was any money in the house, he would have taken that as well (JT Day 6 p. 108-110). Mr. Turner denied having a gun in his hand during the incident or firing a weapon (JT Day 6 p. 116-117). Mr. Turner indicated that when the shooting began, he ran away (JT Day 6 p. 112-113, 116).

CONCLUSIONS OF LAW

Mr. Hudson was wrongfully deprived of his right under established law to a direct appeal and is entitled to relief pursuant to Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) and NRAP 4(c).

In this case, Mr. Hudson was deprived of his right to a direct appeal based upon

counsel's rendering of ineffective assistance. As such, Mr. Hudson is permitted to file an untimely notice of appeal. Here, given the serious nature of the offenses for which he has been convicted and the lengthy sentence received, Mr. Hudson naturally desired to appeal the instant conviction. Due to counsel's failure, Mr. Hudson never received such an opportunity. In circumstances such as this, the Nevada Supreme Court has held the defendant must be granted an untimely direct appeal. This Court agrees and hereby directs the district court clerk to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

A. STATE AND FEDERAL AUTHORITY PERMITS AN UNTIMELY DIRECT APPEAL UNDER THE CIRCUMSTANCES.

In *Lozada v. State*, 110 Nev. 349, 354, 871 P.2d 944 (1994), the Nevada Supreme Court explained, "an attorney has a duty to perfect an appeal when a convicted defendant expresses a desire to appeal or indicates dissatisfaction with a conviction." If counsel fails to file an appeal after a convicted defendant makes a timely request, the defendant was entitled to the *Lozada* remedy, which consisted of filing a post-conviction petition with assistance of counsel in which the actual appellate claims could be raised. *Id.* Such a claim did not require any showing of merit as to the issues sought to be raised. As such, it is sufficient to receive the relief contemplated by *Lozada* if a petition shows that the defendant was deprived of his right to a direct appeal without his consent. *Id.* at 357.

The remedy contemplated by *Lozada* has been largely subsumed by revisions to the Nevada Rules of Appellate Procedure (NRAP), though the basis for obtaining relief remains generally the same. Under NRAP 4(c), an untimely notice of appeal may be filed if:

A) A post-conviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRSs 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and

B) The district court in which the petition is considered enters a written order containing:

i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

iii) directions to the district court clerk to prepare and file – within 7 days of the entry of the district court’s order – a notice of appeal from the judgment of conviction and sentence on the petitioner’s behalf in substantially the form provided in Form 1 in the Appendix of Forms.

The Nevada Supreme Court has been clear – counsel has a constitutional duty to file a direct appeal in two circumstances: when requested to do so and when the defendant expresses dissatisfaction with his conviction, and that the failure to do so in those circumstances is deficient for purposes of proving ineffective assistance of counsel. *Lozada*, 110 Nev. at 354–57; *Davis v. State*, 115 Nev. 17, 20, 974 P.2d 658, 660 (1999) (“[I]f the client does express a desire to appeal, counsel is obligated to file the notice of appeal on the client’s behalf.”)

To prove ineffective assistance of counsel, a petitioner must demonstrate that counsel’s performance was deficient in that it fell below an objective standard of reasonableness and resulting prejudice such that there is a reasonable probability that, but for counsel’s errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 Led.2d 674 (1984); *Warden v. Lyons*, 100 Nev 430, 432–33, 683 P.2d 504, 505 (1984). Generally, both components of the inquiry must be shown, but in some instances, such as when the petitioner has been deprived of the right to appeal due to counsel’s deficient performance, the second

component – prejudice – may be presumed. *See Lozada*, 110 Nev. at 356–57. *See also Rodriguez v. United States*, 395 U.S. 327, 328, 23 L. Ed 2d 340, 89 S. T. 1715 (1969) (presuming prejudice when counsel failed to file a notice of appeal against his client’s wishes). The petitioner must demonstrate the underlying facts by a preponderance of the evidence. *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). *See also Toston v. State*, 127 Nev. 971, 976, 267 P.3d 795 (2011).

In *Toston*, the Nevada Supreme Court provided guidance as to the meaning of “when the defendant expresses dissatisfaction with his conviction”. *See generally*, 127 Nev. at 978–79. The Nevada Supreme Court explained:

[T]rial counsel has a duty to file a direct appeal when the client’s desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances, focusing on the information that counsel new or should have known at the time. *Cf Flores v. Ortega*, 528 U.S. at 480 (discussing circumstances in which counsel must consult with a client regarding an appeal). In determining whether counsel knew or should have known that his client wanted to appeal the conviction, the courts may consider whether the conviction arose from a jury trial or a guilty plea, “both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings.” *Toston*, 127 Nev. at 979 (footnotes omitted).

Thus, when a defendant has been convicted pursuant to a jury verdict, counsel has a constitutional duty to inform the client of the right to appeal. *Lozada* 110 Nev. at 356. Counsel’s failure to do so is deficient performance for purposes of proving an ineffective assistance of counsel claim. *Roe v. Flores-Ortega*, 528 U.S. 470, 477–81, 120 S. Ct. 1029 (2000).

B. MR. HUDSON WAS DEPRIVED OF HIS RIGHT TO A DIRECT APPEAL AND IS HEREBY PERMITTED AN OPPORTUNITY FOR AN UNIMELY DIRECT APPEAL.

In order to prevail, Mr. Hudson must demonstrate by a preponderance of the evidence that 1) he filed a timely post-conviction Petition, and 2) his attorney had a duty to perfect an appeal because Mr. Hudson either expressed a desire to appeal, indicated dissatisfaction with his conviction, or his desire to challenge the conviction or sentence

can be reasonably inferred from the totality of the circumstances. *See Lozada v. State*, 110 Nev. at 354–57; *Toston*, 127 Nev. at 976–79. Mr. Hudson need not demonstrate prejudice as it is presumed. *Lozada*, 110 Nev. at 356–57. Mr. Hudson has demonstrated as such.

First, in this case, there is no question that Mr. Hudson filed a timely post-conviction petition. Mr. Hudson’s Judgment of Conviction was filed on July 2, 2018. On October 25, 2018, Mr. Hudson filed a timely Petition noting he received ineffective assistance of counsel for counsel’s failure to preserve his appellate rights (Petition, p. 3). Supplemental briefing was thereafter permitted. Thus, Mr. Hudson can demonstrate he began a timely post-conviction proceeding.

Next, Mr. Hudson can demonstrate that he was deprived of a direct appeal due to ineffective assistance of counsel not only because he expressed a desire that his direct appeal be perfected, but also because his desire to challenge the conviction can be reasonably inferred from the totality of the circumstances. This Court reviewed a declaration from Mr. Hudson confirming he expressed his desire to counsel that an appeal be filed on his behalf (Supplemental Brief, Exhibit A). Further, the nature and severity of the offenses, including the fact that Mr. Hudson proceeded to trial, demonstrated his desire to continue to challenge the conviction.

Additionally, counsel’s own statements demonstrate not only Mr. Hudson’s desire for an appeal, but counsel’s awareness that an appeal was to be filed. During Mr. Hudson’s sentencing on June 21, 2018, counsel stated: “Yes, Judge, and as I stated, I advised him, **due to the mandatory appeal**, to not give a statement today.” (emphasis added) (Reporter’s Transcript of Sentencing, p. 14) (Supplemental Brief, Exhibit B). Counsel continued, “I believe we are here because Mr. Hudson got some very bad advice, and I don’t believe that we should be here at a sentencing following a jury verdict, but hopefully **that will be addressed on appeal.**” (Emphasis added) (Reporter’s Transcript of

Sentencing, p. 14) (Exhibit B).

Unfortunately, counsel failed to preserve his direct appeal. The totality of the circumstances demonstrates Mr. Hudson's desire for preservation of his direct appeal and such a fact is obvious from a plain review of the record. In this case, Mr. Hudson received ineffective assistance of counsel concerning his right to file an appeal because a review of the record reveals that counsel was required to file the notice of appeal and failed to do so. In such a case, prejudice is presumed. This Court therefore grants the petition with regard to the failure to file a direct appeal.

Having carefully considered the record, pleadings on file herein, and evidence adduced at the Evidentiary Hearing, this Court is convinced that based upon the above Mr. Hudson has demonstrated he was deprived of his right to a direct appeal.

With regard to all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, granted in part and denied in part as described within this Order.

IT IS FURTHER ORDERED that the district court clerk is to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

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IT IS FURTHER ORDERED that all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

DATED this _____ day of _____, 2020.

Dated this 16th day of December, 2020



DISTRICT JUDGE
DCB 729 0934 B825
David M Jones
District Court Judge

SUBMITTED BY:

/s/ Christopher R. Oram, Esq.
CHRISTOPHER R. ORAM, ESQ.
NEVADA BAR NO. 4349
520 SOUTH 4TH STREET, 2ND FLOOR
LAS VEGAS, NEVADA 89101
TELEHPONE: (702) 598-1471

Attorney for Defendant
CLEMÓN HUDSON

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State Of Nevada, Plaintiff(s)

CASE NO: A-18-783635-W

7 vs.

DEPT. NO. Department 29

8 Clemon Hudson, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 12/16/2020

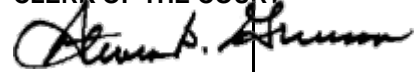
15 Christopher Oram

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16 Jessie Folkestad

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1 NEFF

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

4 CLEMON HUDSON,

5
6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: A-18-783635-W

Dept No: XXIX

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

10
11 **PLEASE TAKE NOTICE** that on December 16, 2020, the court entered a decision or order in this
12 matter, a true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
15 mailed to you. This notice was mailed on December 17, 2020.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Heather Ungermann

18 Heather Ungermann, Deputy Clerk

19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 17 day of December 2020, I served a copy of this Notice of Entry on the
21 following:

22 ☒ By e-mail:

23 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:

25 Clemon Hudson # 1200865
P.O. Box 650
Indian Springs, NV 89070

Christopher R. Oram, Esq.
520 S. 4th St., Second Floor
Las Vegas, NV 89101

26
27 /s/ Heather Ungermann

28 Heather Ungermann, Deputy Clerk

ORDR

CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 004349
520 South 4th Street, Second Floor
Las Vegas, Nevada 89101
Telephone: (702) 384-5563

Attorney for Defendant
CLEMON HUDSON

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CLEMON HUDSON,

Defendant.

CASE NO: A-18-783635-W

DEPT NO: XXIX

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

DATE OF HEARING: October 15, 2020
TIME OF HEARING: 11:00 a.m.

THIS CAUSE having come on for hearing before the Honorable DAVID M. JONES, District Judge, on the 15th day of October, 2020, the Defendant being present, represented by CHRISTOPHER R. ORAM, the Respondent being represented by STEVE WOLFSON, District Attorney, by and through Leah Beverly, Chief Deputy District Attorney, and the Court having considered the matter, including all briefs, transcripts, arguments of counsel, documents on file herein, and the testimony adduced from the Evidentiary Hearing, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

Procedural History

Mr. Hudson was charged by way of Indictment on September 23, 2015 as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary while in possession of a firearm or deadly weapon; Count 3: Attempt Murder with use of a deadly weapon; Count 4: Attempt Murder with use of a deadly weapon; Count 5: Battery with use of a deadly weapon resulting in substantial bodily harm; and Count 6: Discharging firearm at or into occupied structure, vehicle, aircraft, or watercraft. On October 1, 2015, Mr. Hudson was arraigned, pled not guilty and waived the sixty day rule.

On August 28, 2017, Mr. Hudson filed a motion to sever his case from co-defendant Steven Turner. Co-defendant Turner joined Mr. Hudson's motion on September 13, 2017. The State filed an opposition on September 18, 2019. The district court denied the motion for severance on October 12, 2017. Mr. Hudson renewed his motion for severance, but was again denied on November 16, 2017.

Mr. Hudson's trial began on April 16, 2018. On the first day of trial, the State filed an Amended Indictment dismissing count six. On April 27, 2018, the jury found Mr. Hudson guilty of all charges.

Mr. Hudson was sentenced on July 21, 2018, to an aggregate total of a maximum of 480 months with a minimum 168 months. Mr. Hudson received 1,022 days credit for time served. The Judgment of Conviction was filed July 2, 2018.

No direct appeal was filed on Mr. Hudson's behalf. On October 25, 2018, Mr. Hudson filed a timely post-conviction Petition for Writ of Habeas Corpus. Thereafter, supplemental briefing, through counsel, commenced. An Evidentiary Hearing took place on October 15, 2020, and the matter was taken under advisement.

Facts of the offense

Mr. Eric Clarkson was friends with Mr. Turner (JT Day 3 p. 57-58). Mr. Clarkson

did not know Mr. Hudson (JT Day 3 p. 80). Mr. Clarkson resided with his best friend Mr. Willoughby Potter de Grimaldi at a house located at 6729 Oveja Circle, Las Vegas, Clark County, Nevada (JT Day 3 p. 59-61, 92).

On September 4, 2015, around 3:30 a.m., Mr. Clarkson was in his bedroom watching television before going to sleep (JT Day 3 p. 61). Once Mr. Clarkson got into bed, he heard his metal outdoor patio furniture being moved outside (JT Day 3 p. 63-64). This caused Mr. Clarkson to look out the window where he saw a young African American man outside on the patio (JT Day 3 p. 65). Then, Mr. Clarkson grabbed his phone, let his roommate know what he saw and contacted 911 to report that someone was in his backyard (JT Day 3 p. 65). Moments later, Mr. Clarkson and Mr. Grimaldi heard someone banging on the front door and Mr. Grimaldi saw a figure outside (JT Day 3 p. 68, 97-98).

When Mr. Grimaldi went to the back window, he saw a shirtless African American man with a billed cap on his head, racking a shotgun (JT Day 3 p. 95, 119). When Mr. Grimaldi looked out the window, he saw a tall African American man with an afro wearing basketball shorts (JT Day 3 p. 98-99). Mr. Grimaldi then saw a third person out of the corner of his eye, describing the man as African American with a spiky afro (JT Day 3 p. 101-102). Mr. Grimaldi did not recognize any of the three individuals (JT Day 3 p. 104). Mr. Clarkson then relayed this information to the 911 operator (JT Day 3 p. 96-97).

When two police officers arrived (Officer Malik Grego-Smith and Officer Jeremy Robertson) Mr. Clarkson let them in the front door (JT Day 3 p. 71). Mr. Clarkson and Mr. Grimaldi explained to officers how to open the back door and then Officer Robertson opened the back door (JT Day 3 p. 71-72). Mr. Clarkson and Mr. Grimaldi recalled that immediately after the back door was opened there were gunshots (JT Day 3 p. 74-75, 107-108). Mr. Grimaldi had previously told detectives it was his belief that an officer fired the first gunshot, but testified at trial the first shots came from outside on the patio (JT Day 3 p. 124, 126-127). Mr. Clarkson and Mr. Grimaldi both saw different types of bullets enter

their home (JT Day 3 p. 75, 107-108). After the shots were fired, Mr. Clarkson and Mr. Grimaldi hid in a bedroom (JT Day 3 p. 76).

Officer Malik Grego-Smith, along with Officer Jeremy Robertson, responded to a dispatch call regarding a prowler at the Oveja circle residence (JT Day 5 p. 62, 65). After requesting dispatch inform the homeowner to open the front door, Officer Grego-Smith and Officer Robertson enter the residence (JT Day 5 p. 70). Once in the residence, the officers developed a plan to “clear the backyard” to see if anyone was out there (JT Day 5 p. 72). Officer Robertson was to open the back door, and as he opened the door, Officer Grego-Smith would go through and Officer Robertson would follow (JT Day 5 p. 73). Officer Grego-Smith drew his weapon and as he stepped outside two shots were fired from outside on the patio, one striking Officer Robertson (JT Day 5 p. 73, 76). Officer Grego-Smith returned fire towards the patio, firing twelve shots (JT Day 5 p. 76; JT Day 7 p. 29-30).

Officer Grego-Smith testified he turned his flashlight on right when he started shooting and saw “a light-skinned black male with no shirt and purple basketball shorts” on the patio (JT Day 5 p. 78). The man was approximately three to four feet from him (JT Day 5 p. 90). Officer Grego-Smith recalled yelling, “Don’t move, keep your hands up, don’t move or I’ll fucking shoot you.” (JT Day 5 p. 80). Officer Grego-Smith immediately radioed dispatch to inform them that shots had been fired and Officer Robertson had been shot (JT Day 5 p. 80). When back up arrived, Officer Grego-Smith entered the backyard area and witnessed Mr. Hudson being taken into custody (JT Day 5 p. 82). Officer Grego-Smith testified at trial that Mr. Hudson was not the shirtless African American man he had seen in the backyard when he turned on his flashlight (JT Day 5 p. 86).

Officer Jeremy Robertson recalled he had just opened the back door to the patio of the residence when he was shot and fell to the ground (JT Day 5 p. 120). Officer Robertson was struck in the upper thigh, fracturing his femur (JT Day 5 p. 122, 128).

Sergeant Joshua Bitsko, a K-9 officer, responded to the Oveja residence (JT Day 4 p. 127, 135). Upon arriving at the residence, Sergeant Bitsko learned from the air unit that the suspect was laying in the backyard with a rifle next to him (JT Day 4 p. 140). A Beretta .25 caliber handgun was also located nearby (JT Day 4 p. 81). Sergeant Bitsko deployed his police dog into the backyard who located and began biting the suspect (JT Day 4 p. 140-143). The suspect complied with all commands, was taken into custody and identified as Clemon Hudson (JT Day 4 p. 32, 143-145).

Police secured a perimeter around the crime scene approximately a mile and a half by a mile wide in order to search for additional suspects (JT Day 4 p. 153). Detective Jeremy Vance spent approximately three and a half hours driving around the perimeter looking for the suspect described by officer Grego-Smith (JT Day 4 p. 153).

After being notified of a call concerning a suspicious person in a backyard, Detective Vance came upon Mr. Turner and began to question him (JT Day 4 p. 154-158). Detective Vance noticed Mr. Turner was injured given the blood on his pants (JT Day 4 p. 158). When questioned about the injury, Mr. Turner indicated his leg was caught on a fence at his friend's house (JT Day 4 p. 158). Detective Vance believed the injury was caused by a gunshot wound (JT Day 4 p. 158-159).

Ms. Stephanie Fletcher, a senior crime scene analyst with the Las Vegas Metropolitan Police Department responded to the Oveja Circle residence (JT Day 5 p. 6). Twelve Speer .9 millimeter cartridge casings were recovered from the dining room area (JT Day 5 p. 14). There were three 7.62 rifle cartridge casings located on the backyard patio area (JT Day 5 p. 15). Analysts did not locate any expended shotgun shells or .25 caliber casings (JT Day 5 p. 16). Analysts located numerous shotgun pellets in the living room of the residence as well as pieces of a shotgun round located on top of the front window sill (JT Day 5 p. 32-34). Firearms recovered from the scene included a SKS rifle, a Mossberg 12-gauge shotgun and a Beretta .25 caliber handgun (JT Day 4 p. 78, 81).

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A Toyota Camry located outside the residence was registered to Mr. Hudson's mother (JT Day 7 p. 50-51).

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In September of 2015, Mr. Craig Jex was employed as a Detective with the Las Vegas Metropolitan Police Department (JT Day 6 p. 58). Mr. Jex documented Officer Robertson's injuries at the hospital (JT Day 6 p. 60-61). While at the hospital, Mr. Jex came into contact with Mr. Hudson and conducted an interview with him (JT Day 6 p. 61).

Mr. Jex testified Mr. Hudson relayed to him that he went to the house to obtain marijuana that night and no one was supposed to be home (JT Day 6 p. 65, 86). Mr. Hudson told him there was only one other person involved and the plan was to break in the back window of the residence (JT Day 6 p. 66-67, 74). When Mr. Jex questioned Mr. Hudson as to whether he brought and carried the shotgun, he indicated he did (JT Day 6 p. 66-67, 76-78). Mr. Hudson informed Mr. Jex that there was an SKS rifle and a shotgun in the backyard (JT Day 6 p. 76). Mr. Hudson also told Mr. Jex that he had also brought a small firearm in his shoe (JT Day 6 p. 78-80).

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Detective Eduardo Pazos conducted an interview with Mr. Turner (JT Day 6 p. 96-97). Mr. Turner told police that "someone came to pick him up" around midnight and it was just the two of them in the car (JT Day 6 p. 101, 104). When Mr. Turner got in the car, he saw two guns in the back (JT Day 6 p. 103-104). Mr. Turner indicated the SKS rifle belonged to his uncle (JT Day 6 p. 102, 105).

Mr. Turner explained to Detective Pazos that when he entered the backyard of the residence, shots were fired (JT Day 6 p. 105). When the shots were fired, he hopped over the wall to the back of the house (JT Day 6 p. 105). Mr. Turner told Detective Pazos that after he hopped over the wall, he sat on a couch he found in the neighborhood for a while and then began walking to a friend's house (JT Day 6 p. 105). As he was walking to a friend's house, he encountered police (JT Day 6 p. 105).

Mr. Turner told Detective Pazos he had been in the house before and knew who lived there (JT Day 6 p. 108). Mr. Turner admitted he was there to steal weed and if there was any money in the house, he would have taken that as well (JT Day 6 p. 108-110). Mr. Turner denied having a gun in his hand during the incident or firing a weapon (JT Day 6 p. 116-117). Mr. Turner indicated that when the shooting began, he ran away (JT Day 6 p. 112-113, 116).

CONCLUSIONS OF LAW

Mr. Hudson was wrongfully deprived of his right under established law to a direct appeal and is entitled to relief pursuant to Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) and NRAP 4(c).

In this case, Mr. Hudson was deprived of his right to a direct appeal based upon

counsel's rendering of ineffective assistance. As such, Mr. Hudson is permitted to file an untimely notice of appeal. Here, given the serious nature of the offenses for which he has been convicted and the lengthy sentence received, Mr. Hudson naturally desired to appeal the instant conviction. Due to counsel's failure, Mr. Hudson never received such an opportunity. In circumstances such as this, the Nevada Supreme Court has held the defendant must be granted an untimely direct appeal. This Court agrees and hereby directs the district court clerk to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

A. STATE AND FEDERAL AUTHORITY PERMITS AN UNTIMELY DIRECT APPEAL UNDER THE CIRCUMSTANCES.

In *Lozada v. State*, 110 Nev. 349, 354, 871 P.2d 944 (1994), the Nevada Supreme Court explained, "an attorney has a duty to perfect an appeal when a convicted defendant expresses a desire to appeal or indicates dissatisfaction with a conviction." If counsel fails to file an appeal after a convicted defendant makes a timely request, the defendant was entitled to the *Lozada* remedy, which consisted of filing a post-conviction petition with assistance of counsel in which the actual appellate claims could be raised. *Id.* Such a claim did not require any showing of merit as to the issues sought to be raised. As such, it is sufficient to receive the relief contemplated by *Lozada* if a petition shows that the defendant was deprived of his right to a direct appeal without his consent. *Id.* at 357.

The remedy contemplated by *Lozada* has been largely subsumed by revisions to the Nevada Rules of Appellate Procedure (NRAP), though the basis for obtaining relief remains generally the same. Under NRAP 4(c), an untimely notice of appeal may be filed if:

A) A post-conviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRSs 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and

B) The district court in which the petition is considered enters a written order containing:

i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

iii) directions to the district court clerk to prepare and file – within 7 days of the entry of the district court’s order – a notice of appeal from the judgment of conviction and sentence on the petitioner’s behalf in substantially the form provided in Form 1 in the Appendix of Forms.

The Nevada Supreme Court has been clear – counsel has a constitutional duty to file a direct appeal in two circumstances: when requested to do so and when the defendant expresses dissatisfaction with his conviction, and that the failure to do so in those circumstances is deficient for purposes of proving ineffective assistance of counsel. *Lozada*, 110 Nev. at 354–57; *Davis v. State*, 115 Nev. 17, 20, 974 P.2d 658, 660 (1999) (“[I]f the client does express a desire to appeal, counsel is obligated to file the notice of appeal on the client’s behalf.”)

To prove ineffective assistance of counsel, a petitioner must demonstrate that counsel’s performance was deficient in that it fell below an objective standard of reasonableness and resulting prejudice such that there is a reasonable probability that, but for counsel’s errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 Led.2d 674 (1984); *Warden v. Lyons*, 100 Nev 430, 432–33, 683 P.2d 504, 505 (1984). Generally, both components of the inquiry must be shown, but in some instances, such as when the petitioner has been deprived of the right to appeal due to counsel’s deficient performance, the second

component – prejudice – may be presumed. *See Lozada*, 110 Nev. at 356–57. *See also Rodriguez v. United States*, 395 U.S. 327, 328, 23 L. Ed 2d 340, 89 S. T. 1715 (1969) (presuming prejudice when counsel failed to file a notice of appeal against his client’s wishes). The petitioner must demonstrate the underlying facts by a preponderance of the evidence. *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). *See also Toston v. State*, 127 Nev. 971, 976, 267 P.3d 795 (2011).

In *Toston*, the Nevada Supreme Court provided guidance as to the meaning of “when the defendant expresses dissatisfaction with his conviction”. *See generally*, 127 Nev. at 978–79. The Nevada Supreme Court explained:

[T]rial counsel has a duty to file a direct appeal when the client’s desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances, focusing on the information that counsel new or should have known at the time. *Cf Flores v. Ortega*, 528 U.S. at 480 (discussing circumstances in which counsel must consult with a client regarding an appeal). In determining whether counsel knew or should have known that his client wanted to appeal the conviction, the courts may consider whether the conviction arose from a jury trial or a guilty plea, “both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings.” *Toston*, 127 Nev. at 979 (footnotes omitted).

Thus, when a defendant has been convicted pursuant to a jury verdict, counsel has a constitutional duty to inform the client of the right to appeal. *Lozada* 110 Nev. at 356. Counsel’s failure to do so is deficient performance for purposes of proving an ineffective assistance of counsel claim. *Roe v. Flores-Ortega*, 528 U.S. 470, 477–81, 120 S. Ct. 1029 (2000).

B. MR. HUDSON WAS DEPRIVED OF HIS RIGHT TO A DIRECT APPEAL AND IS HEREBY PERMITTED AN OPPORTUNITY FOR AN UNIMELY DIRECT APPEAL.

In order to prevail, Mr. Hudson must demonstrate by a preponderance of the evidence that 1) he filed a timely post-conviction Petition, and 2) his attorney had a duty to perfect an appeal because Mr. Hudson either expressed a desire to appeal, indicated dissatisfaction with his conviction, or his desire to challenge the conviction or sentence

can be reasonably inferred from the totality of the circumstances. *See Lozada v. State*, 110 Nev. at 354–57; *Toston*, 127 Nev. at 976–79. Mr. Hudson need not demonstrate prejudice as it is presumed. *Lozada*, 110 Nev. at 356–57. Mr. Hudson has demonstrated as such.

First, in this case, there is no question that Mr. Hudson filed a timely post-conviction petition. Mr. Hudson’s Judgment of Conviction was filed on July 2, 2018. On October 25, 2018, Mr. Hudson filed a timely Petition noting he received ineffective assistance of counsel for counsel’s failure to preserve his appellate rights (Petition, p. 3). Supplemental briefing was thereafter permitted. Thus, Mr. Hudson can demonstrate he began a timely post-conviction proceeding.

Next, Mr. Hudson can demonstrate that he was deprived of a direct appeal due to ineffective assistance of counsel not only because he expressed a desire that his direct appeal be perfected, but also because his desire to challenge the conviction can be reasonably inferred from the totality of the circumstances. This Court reviewed a declaration from Mr. Hudson confirming he expressed his desire to counsel that an appeal be filed on his behalf (Supplemental Brief, Exhibit A). Further, the nature and severity of the offenses, including the fact that Mr. Hudson proceeded to trial, demonstrated his desire to continue to challenge the conviction.

Additionally, counsel’s own statements demonstrate not only Mr. Hudson’s desire for an appeal, but counsel’s awareness that an appeal was to be filed. During Mr. Hudson’s sentencing on June 21, 2018, counsel stated: “Yes, Judge, and as I stated, I advised him, **due to the mandatory appeal**, to not give a statement today.” (emphasis added) (Reporter’s Transcript of Sentencing, p. 14) (Supplemental Brief, Exhibit B). Counsel continued, “I believe we are here because Mr. Hudson got some very bad advice, and I don’t believe that we should be here at a sentencing following a jury verdict, but hopefully **that will be addressed on appeal.**” (Emphasis added) (Reporter’s Transcript of

Sentencing, p. 14) (Exhibit B).

Unfortunately, counsel failed to preserve his direct appeal. The totality of the circumstances demonstrates Mr. Hudson's desire for preservation of his direct appeal and such a fact is obvious from a plain review of the record. In this case, Mr. Hudson received ineffective assistance of counsel concerning his right to file an appeal because a review of the record reveals that counsel was required to file the notice of appeal and failed to do so. In such a case, prejudice is presumed. This Court therefore grants the petition with regard to the failure to file a direct appeal.

Having carefully considered the record, pleadings on file herein, and evidence adduced at the Evidentiary Hearing, this Court is convinced that based upon the above Mr. Hudson has demonstrated he was deprived of his right to a direct appeal.

With regard to all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, granted in part and denied in part as described within this Order.

IT IS FURTHER ORDERED that the district court clerk is to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

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IT IS FURTHER ORDERED that all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

DATED this _____ day of _____, 2020.

Dated this 16th day of December, 2020



DISTRICT JUDGE
DCB 729 0934 B825
David M Jones
District Court Judge

SUBMITTED BY:

/s/ Christopher R. Oram, Esq.
CHRISTOPHER R. ORAM, ESQ.
NEVADA BAR NO. 4349
520 SOUTH 4TH STREET, 2ND FLOOR
LAS VEGAS, NEVADA 89101
TELEHPONE: (702) 598-1471

Attorney for Defendant
CLEMÓN HUDSON

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State Of Nevada, Plaintiff(s)

CASE NO: A-18-783635-W

7 vs.

DEPT. NO. Department 29

8 Clemon Hudson, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 12/16/2020

15 Christopher Oram

contact@christopheroramlaw.com

16 Jessie Folkestad

jfolkestad@christopheroramlaw.com

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

December 18, 2018

A-18-783635-W	State Of Nevada, Plaintiff(s) vs. Clemon Hudson, Defendant(s)
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December 18, 2018	8:30 AM	Petition for Writ of Habeas Corpus
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HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Michaela Tapia

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen C.	Attorney
	Oram, Christopher R	Attorney

JOURNAL ENTRIES

- Mr. Oram advised Deft. had different counsel for both trial and sentencing. Further, Mr. Oram noted he had written to both previous counsel, Craig Mueller, Esq., and Alexis Plunkett, Esq., who both claimed they did not have Deft's file and stated the other counsel had it. State offered to provide Mr. Oram with copies of all discoverable material but could not provide any work product. COURT ORDERED, matter CONTINUED; Mr. Mueller and Ms. Plunkett are to appear and explain why they do not have Deft's file.

NDC

CONTINUED TO: 1/29/19 8:30 AM

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Craig Mueller, Esq., (MUELLER HINDS & ASSOCIATES) and Alexis Plunkett, Esq. 12/21/18 /mt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 29, 2019

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

**January 29, 2019 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Jones, David M

COURTROOM: RJC Courtroom 15A

COURT CLERK: Nancy Maldonado

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT: Oram, Christopher R Attorney
 Zadrowski, Bernard B. Attorney

JOURNAL ENTRIES

- Alexis Plunkett, Esq. also present.

Defendant NOT present, noting Defendant is in Federal custody. Mr. Oram advised he did not have a file noting that Ms. Plunkett had not requested the file from the prior attorney. Mr. Oram further advised that Mr. Mueller is not present and is in trial. Mr. Oram requested the State turn over their file. State had no objections. COURT ORDERED, the State turn over the file within 45 DAYS. COURT FURTHER ORDERED, matter SET for Status Check.

03/12/19 8:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

March 12, 2019

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

March 12, 2019 8:30 AM Status Check

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Nancy Maldonado

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Demonte, Noreen C. Attorney
 Oram, Christopher R Attorney

JOURNAL ENTRIES

- Defendant NOT present. Mr. Oram advised this matter was on for the status of the file, noting the State has not yet provided him with the file, and requested the matter be continued 30 days. Court advised State to provide Mr. Oram with the file. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 04/09/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 09, 2019

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

April 09, 2019 **8:30 AM** **Status Check**

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Susan Botzenhart

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen C.	Attorney
	Oram, Christopher R	Attorney

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Oram confirmed he received the file; and requested a briefing schedule. Mr. Oram inquired to Ms. Demonte about trial transcripts. Court told counsel to contact the Court, if he cannot get the transcripts. COURT ORDERED, briefing schedule SET as follows: Deft's supplemental pleading due August 6, 2019; State's response due October 5, 2019; and Deft's reply due November 4, 2019. FURTHER, hearing SET.

NDC

11/14/19 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

September 10, 2019

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

September 10, 2019 8:30 AM Motion

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Nancy Maldonado

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT: Folkestad, Jessie Lee Attorney
 Zadrowski, Bernard B. Attorney

JOURNAL ENTRIES

- Ms. Folksted requested additional time for Mr. Oram to file a supplemental brief. Briefing schedule set. Supplemental Briefing DUE 12/10/19, State's Response DUE 01/10/20, Reply DUE 01/20/20.
COURT ORDERED, Hearing SET.

01/28/20 8:30 AM HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 28, 2020

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

**January 28, 2020 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Jones, David M

COURTROOM: RJC Courtroom 15A

COURT CLERK: Louisa Garcia

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT: Oram, Christopher R Attorney

JOURNAL ENTRIES

- At the request of counsel, COURT ORDERED, matter SET for hearing; State to prepare Transport Order. Mr. Oram stated he would have one witness.

5/1/20 11:00 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 15, 2020

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

April 15, 2020 3:00 AM Minute Order

HEARD BY: Jones, David M **COURTROOM:** Chambers

COURT CLERK: Michaela Tapia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to Administrative orders 20-01 through 20-06, COURT ORDERED, the matter scheduled on April 24, 2020 is rescheduled to June 23, 2020 at 1:30 p.m.

CLERK'S NOTE: This minute order has been distributed to counsel via email. /mt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

October 15, 2020

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

**October 15, 2020 11:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Jones, David M

COURTROOM: RJC Courtroom 15A

COURT CLERK: Michaela Tapia

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT:	Beverly, Leah C	Attorney
	Hudson, Clemon	Defendant
	Oram, Christopher R	Attorney

JOURNAL ENTRIES

- Testimony and exhibits presented (see worksheets). Argument by counsel. Argument by the State.
COURT ORDERED, decision to issue via minute order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

December 03, 2020

A-18-783635-W State Of Nevada, Plaintiff(s)
vs.
Clemon Hudson, Defendant(s)

December 03, 2020 3:00 AM Minute Order

HEARD BY: Jones, David M **COURTROOM:** Chambers

COURT CLERK: Michaela Tapia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- After review of all pleadings and evidence taken at the evidentiary hearing this Court finds Defendant was deprived of his right to direct appeal. As to all other issues raised in the Petition for Writ of Habeas Corpus, all other issues are DENIED.

Counsel for Defendant is to prepare the order GRANTED in part as to Direct Appeal and DENIED as to all other claims.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt

EXHIBIT(S) LIST

Hearing Date:

10/15/20

Judge:

DAVID M. JONES

MICHAELA TAPIA

Recorder:

MELISSA MURPHY

Leah Beverly

Counsel for Defendant:

Christopher Oram

HEARING BEFORE THE COURT

STATE'S EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; JUDGMENT OF CONVICTION (JURY TRIAL) FROM CASE C-15-309578-2; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

CLEMON HUDSON,

Plaintiff(s),

vs.

THE STATE OF NEVADA,

Defendant(s),

Case No: A-18-783635-W

Dept No: XXIX

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 December 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk