

APPENDIX - A

APPENDIX - A

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 74227

FILED

AUG 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER GRANTING PETITION

This is a petition for extraordinary relief seeking an order directing the district court to vacate Steven Floyd Voss' November 27, 1996, judgment of conviction entered in district court case number CR96-1581 and enter an amended judgment of conviction in compliance with a district court order entered on August 9, 2001, that granted Voss' postconviction petition in part and ordered a new sentencing hearing. We ordered the real party in interest to file an answer on behalf of respondent.

The real party informs this court that although the district court granted Voss' petition in part and ordered a new sentencing hearing, Voss has not been resentenced. The real party, however, opposes the granting of extraordinary relief because Voss' petition "makes no sense" and he is seeking a non-existent remedy, and the district court improperly ordered a new sentencing hearing. The real party further asserts laches as a defense, asserting that on the face of the petition Voss "does not want a

new sentencing hearing due to the passage of time" and Voss has acquiesced in the conditions by waiting 17 years without ever showing any interest in getting a new sentencing hearing.

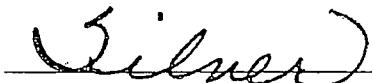
Voss filed a reply addressing the real party's arguments. He also filed two other documents. Among other things, Voss informs this court that on February 26, 2018, he served to completion and discharged the sentences imposed in the November 27, 1996, judgment of conviction entered in district court case number CR96-1581. Voss asserts that because he never received a new sentencing hearing, the only equitable relief available is to vacate the judgment of conviction entered in CR96-1581 and enter a judgment of acquittal.

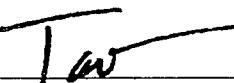
The record clearly demonstrates the district court did not conduct a resentencing as required by the August 9, 2001, order granting Voss' petition in part or enter an amended judgment of conviction. As a result, there is currently no valid judgment of conviction entered in CR96-1581.¹ Further, it appears Voss does not have a plain, speedy, and adequate remedy available to him. Accordingly, we conclude mandamus relief is warranted. *See* NRS 34.160; NRS 34.170. We disagree, however, that entry of a judgment of acquittal is appropriate because, in granting Voss' petition in part, the district court did not find the conviction itself was invalid; rather, the district court only determined there were errors at sentencing. Instead, we conclude resentencing, as originally ordered in the August 9, 2001, order, and entry of an amended judgment of conviction is the relief

¹We note that although there is no valid judgment in CR96-1581, Voss has not been subject to illegal restraint because since 1998 he has also been held and been serving a concurrent prison term of life without the possibility of parole pursuant to a judgment of conviction entered in district court case number CR97-2077.

warranted. We reject the real party's assertion that laches should preclude granting relief because it is the State's responsibility, not the defendant's, to ensure a defendant is legally convicted and sentenced. *See State v. Loveless*, 62 Nev. 17, 24, 136 P.2d 236, 239 (1943). Further, we conclude that any challenge to the district court's decision to grant a new sentencing hearing was waived by the State's failure to challenge this decision on cross-appeal in Docket No. 38373. Therefore, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to resentence Voss and enter an amended judgment of conviction in CR96-1581.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Chief Judge, Second Judicial District Court
Steven Floyd Voss
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²Voss shall be credited with all time he has served pursuant to the invalid judgment of conviction entered in CR96-1581.

APPENDIX-B

APPENDIX-B

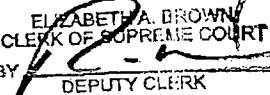
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 74227

FILED

OCT 22 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.¹

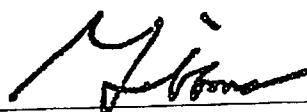
, C.J.

Silver



, J.

Tao

, J.

Gibbons

cc: Steven Floyd Voss
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹We deny petitioner's emergency motion to stay issuance of the writ of mandamus.

APPENDIX - C

APPENDIX - C

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF WASHOE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 74227

FILED

DEC 21 2013

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *R-1*
DEPUTY CLERK

ORDER DENYING PETITION FOR REVIEW

Review denied. NRAP 40B.

It is so ORDERED.¹

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Steven Floyd Voss
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹The Honorable Mark Gibbons, Justice, did not participate in the decision of this matter.

APPENDIX-D

APPENDIX-D

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 74227

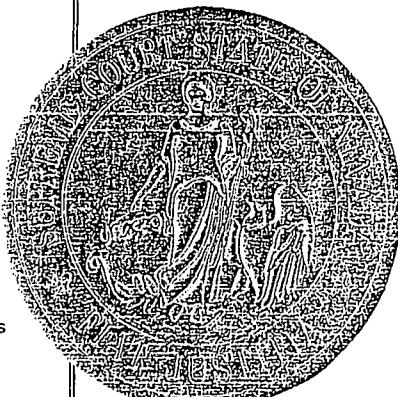
WRIT OF MANDAMUS

TO: The Honorable Scott Freeman, Chief Judge of the Second Judicial District Court:

WHEREAS, this Court having made and filed its written decision that a writ of mandamus issue,

NOW, THEREFORE, you are instructed to resentence Voss and enter an amended judgment of conviction, in the case entitled Steven Floyd Voss v. The State of Nevada, case no. CR961581.

WITNESS The Honorables Abbi Silver, Chief Judge, Jerome Tao, and Michael Gibbons, Associate Judges of the Court of Appeals of the State of Nevada, and attested by my hand and seal this 15th day of August, 2018.



*Harriet
Summer*

Chief Assistant Clerk

APPENDIX-E

APPENDIX-E

No. CR 96-1581

Dept. No. 10

FILED

11-27-96
JULIA BAILEY, Clerk

By J. E. Heavilid
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Reporter: R. Walker

Plaintiff,

vs.
STEVEN FLOYD VOSS
Defendant.

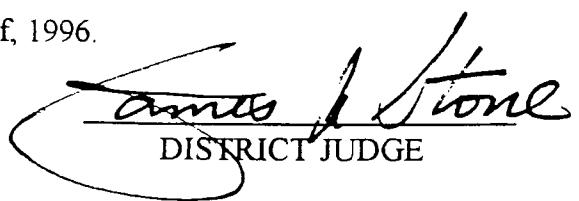
JUDGMENT

No sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Steven Floyd Voss is guilty of the crimes as charged in the Information that he be punished by imprisonment in the Nevada State Prison for a maximum term of one hundred twenty (120) months with a minimum term of forty-eight (48) months on Count I Burglary; Count II Uttering A Forged Instrument to a term of a maximum term of forty-eight (48) months with a minimum term of sixteen (16) months, consecutive to Count I; Count III Uttering A Forged Instrument to a term of a maximum of forty-eight (48) months with a minimum term of sixteen (16) months consecutive to Count I and II; Count IV Forgery to a term of a maximum of forty-eight (48) months with a term of a minimum of sixteen (16) months, consecutive to Count I, II and III; Count V Forgery to a term of a maximum term of forty eight (48) months with a minimum

term of sixteen (16) months consecutive to Count's I, II, III and IV; Count VI Attempted Theft to a term maximum of forty-eight (48) months with a minimum term of sixteen (16) months, consecutive to all Counts, with credit for one hundred thirty-seven (137) days time served. It is further ordered that the Defendant pay Seven Hundred Fifty Dollars (\$750.00) attorney fees and the statutory administrative assessment fee of Twenty-Five Dollars (\$25.00).

Dated 27th this November day of, 1996.



James J. Stone
DISTRICT JUDGE

APPENDIX-F

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APPENDIX-F

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,

No. 29783

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

MAR 11 1980

CLERK'S OFFICE  
SUPREME COURT  
BY J. Ruland

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of burglary, one count of attempted theft, two counts of uttering a forged instrument, and two counts of forgery. The district court sentenced appellant Steven Floyd Voss to serve forty-eight to 120 months in prison for the burglary count and sixteen to forty-eight months in prison for each of the other five counts, all terms to be served consecutively.

Voss first contends that the evidence presented at trial was insufficient to support the jury's findings of guilt. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980). In particular, we note that the evidence overwhelmingly demonstrated that the victim, Beverly Baxter, did not give Voss permission to enter her apartment, had no intent to deposit a \$5,026.00 check she had received, and had no intent to write a \$5,000.00 personal check to Voss. The jury could reasonably infer from the evidence presented that Voss deposited Baxter's check without her consent in order to withdraw funds from her account against her wishes. The jury determines the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, sufficient evidence supports the verdict. Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).

Voss next contends that under the facts of this case attempted theft is a lesser included offense of uttering a

E-28

forged instrument and therefore the district court erred by denying his motion to dismiss the attempted theft count. This contention has no merit. The crime of uttering a forged instrument requires the person to utter, offer, dispose of, or put off as true any forged writing, knowing that writing to be forged and with intent to defraud. NRS 205.110. The crime of attempted theft requires the person to attempt to "[c]ontrol any property of another person with the intent to deprive that person of the property." NRS 205.0832(1); see also NRS 193.330(1) (defining an attempt crime). In this case, Voss presented Baxter's forged personal check to the bank knowing it was forged and with intent to defraud. He also controlled Baxter's personal check with intent to deprive her of \$5,000.00. Voss fails to show how attempted theft is a lesser included offense of uttering a forged instrument. They are two separate crimes, and Voss's actions fulfill the elements of both. Accordingly, we

ORDER this appeal dismissed.

Young, J.  
Young  
Shearing, J.  
Shearing  
Leavitt, J.  
Leavitt

cc: Hon. Steven P. Elliott, District Judge  
Hon. Frankie Sue Del Papa, Attorney General  
Hon. Richard A. Gemmick, District Attorney  
Michael A. Specchio, Public Defender  
Amy Harvey, Clerk

APPENDIX - G

APPENDIX - G

ORIGINAL

FILED

2001 AUG -9 AM 10:09

AMY HARVEY, CLERK  
BY DEPUTY

1 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

2 IN AND FOR THE COUNTY OF WASHOE

3 \* \* \*

4 STEVEN FLOYD VOSS,

5 Petitioner,

6 v. Case No. CR96P1581

7 THE STATE OF NEVADA,

8 Dept. No. 10

9 Respondent.

10

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11 FINDINGS OF FACT, CONCLUSIONS OF LAW  
12 AND JUDGMENT

13 This matter came before the court on Voss's Petition  
14 for Writ of Habeas Corpus (Post-Conviction). An evidentiary  
15 hearing on the petition has been held. The court, now being  
16 fully advised of the premises, denies the relief requested in  
17 part and grants the relief requested in part.

18 FINDINGS OF FACT

19 1. On or about June 28, 1996, Voss was arrested and charged with  
20 one count of burglary, two counts of forgery and two counts of  
21 uttering a forged instrument.

22 2. Following Voss's arrest, the Washoe County Public Defender's

1 Office was appointed to represent him.

2 a. Voss's defense was assigned to Deputy Public  
3 Defender Cotter Conway, who represented Voss at all  
4 relevant times.

5 b. Owing to his training and experience, Conway was  
6 well qualified to represent Voss in this case.

7 3. After pleading not guilty to all charges, Voss's case was set  
8 for trial in October of 1996.

9 4. Prior to trial, Conway conducted a reasonably complete  
10 investigation of Voss's case.

11 a. Conway discussed the case with Voss in sufficient  
12 depth and detail to formulate a defense consistent with  
13 Voss's version of the events. Voss's testimony to the  
14 contrary is not credible.

15 b. Conway received all requested and authorized  
16 discovery from the prosecution, including Voss's  
17 statements to the police, and discussed this matter  
18 with Voss. Voss's testimony to the contrary is not  
19 credible.

20 c. One item of information the defense did not receive  
21 from the State was a secret witness report submitted by  
22 Edward Villardi.

23 i. Villardi's report suggested that he had  
24 seen the victim, Beverly Ann Baxter, with  
25 another man, nearly 12 hours after Voss was  
26 caught allegedly uttering forged instruments.

1 (It is undisputed that Ms. Baxter's body was  
2 found many months later. Voss was charged  
3 and convicted of her murder. Villardi  
4 testified for the defense in the murder  
5 trial. Given the guilty verdict in the murder  
6 trial, it seems very clear that the jury did  
7 not believe Villardi in any particular).

8 ii. No credible evidence was presented in  
9 habeas proceeding proving that the prosecutor  
10 was in possession of or withheld the secret  
11 witness report, but it is clear that the  
12 Washoe County Sheriff's Office did possess  
13 it.

14 iii. Neither Conway nor any member of the  
15 Washoe County Public Defender's Office  
16 received this secret witness report until  
17 Voss's murder trial was underway  
18 approximately 18 months later.

19 iv. Villardi's secret witness report,  
20 insofar as the guilt phase of Voss's case is  
21 concerned, was neither material or  
22 exculpatory.

23 v. Despite Conway's testimony with respect  
24 to the perceived importance of Villardi's  
25 secret witness report in the burglary,  
26 forgery and uttering trial, the court is

confident that no reasonably competent trial attorney would have had, at least, serious reservations about premising Voss's defense in this case on evidence that would clearly open the door to a consideration of evidence implicating his or her client in the Baxter murder.

8 5. Prior to trial, Conway did not file and/or litigate a motion  
9 to suppress Voss's statements to the investigating detective, but  
10 this omission was reasonable under prevailing professional norms.

a. The record of the trial reveals that defense counsel stipulated to admission of redacted versions of Voss's pretrial statements. At the habeas proceeding, Conway testified credibly that he perceived no legitimate legal basis upon which to have the statements suppressed. Neither the evidence presented in the habeas proceeding or the applicable legal standard draw Conway's conclusion into question.

b. At no relevant time was Voss subjected to custodial interrogation without a Miranda warning, or where applicable, did not knowingly, voluntarily or intelligently waive his constitutional rights. Voss's testimony to the contrary is not credible.

c. None of Voss's statements were obtained by duress or coercion, nor can they be considered, as a matter of law, involuntary. Voss's testimony to the contrary is

1 not credible.

2 6. At various times, both before and during trial, Voss was  
3 dressed in jail garb and/or escorted while in plain clothes, by  
4 uniformed court personnel employed by the Washoe County Sheriff's  
5 Department.

6 a. Voss testified credibly that he arrived at the  
7 courthouse on the morning of his trial in a jail van  
8 along with several other prisoners, and that he was, at  
9 that time, dressed in jail garb issued to him at the  
10 jail.

11 i. His claim that he was seen by members of  
12 his jury venire is not credible.

13 ii. Voss's testimony that he mentioned to  
14 Conway that he had been seen by potential  
15 juror members or actual seated jurors in jail  
16 garb is not credible.

17 b. Voss testified credibly that he was routinely  
18 escorted between the courthouse to the holding cell  
19 and/or the elevator by a uniformed Sheriff's Deputy.

20 i. Voss's claim that he was seen by one of  
21 the seated jurors while being escorted as the  
22 juror was using a pay phone and/or that the  
23 juror or potential juror had heard an  
24 exchange between he and the deputy is not  
25 credible.

26 ii. In the habeas proceeding, Voss called

Deputy Gary Clifford, but Clifford could not remember any such incident(s) occurring during his watch, and it is undisputed that Clifford never reported the alleged incident.

iii. Voss did not report this incident to counsel.

c. Neither of the jurors involved in the alleged instances testified in the habeas proceeding.

9 7. Voss's claim that his sentence was based, at least in part,  
10 on Judge Stone's belief that Voss caused the murder or  
11 disappearance of Beverly Baxter, has merit. It is supported by  
12 the record. Even though Voss has not been charged for the murder  
13 of Ms. Baxter, Judge Stone made reference in his rendition of  
14 sentence, to his belief that she would not be found alive. He  
15 then imposed the maximum sentence on Voss, a sentence clearly  
16 outside the heartland of sentences for a person with Voss's  
17 criminal record being sentenced for forgery offenses.

## CONCLUSIONS OF LAW

19 1. Voss was not deprived of the effective assistance of counsel.

20 2. The State did not withhold exculpatory evidence within the

21 contemplation of either Brady or Kyles and their progeny.

22 3. Voss's right to due process as construed in Grooms v. State,

23 96 Nev. 142, 605 P.2d 1145 (1980), and similar cases condemning

24 convictions in which the accused was observed by potential jurors

25 or seated jurors in jail garb was not violated.

26 4. Because Judge Stone based Voss's onerous sentence, at least

1 in part, on the suspect and impalpable ground that Voss had  
2 murdered Ms. Baxter, Voss is entitled to a new sentencing  
3 hearing.

4 JUDGMENT

5 It is hereby the judgment and order of this court that  
6 Voss's Petition for Writ of Habeas Corpus (Post-Conviction) is  
7 granted, but only insofar as allowing for a new sentencing  
8 proceeding. In all other respects, the Petition is denied.

9 DATED this 6 day of August, 2001.

10   
11 DISTRICT JUDGE

20  
21  
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24  
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**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Scott W. Edwards, Esq.  
1030 Holcomb Avenue  
Reno, Nevada 89502

DATED: August 9, 2001.

Linda Jackling

**CERTIFICATE OF MAILING**

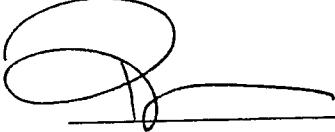
THE UNDERSIGNED HEREBY CERTIFIES THAT ON AUGUST 14, 2001, SHE  
DEPOSITED FOR MAILING A COPY OF THE ATTACHED ORDER TO THE FOLLOWING:

WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE  
APPELLATE DIVISION  
(INTEROFFICE MAIL)

ATTORNEY GENERAL'S OFFICE  
100 N. CARSON STREET  
CARSON CITY, NV 89701-4717

SCOTT W. EDWARDS, ESQ  
1030 HOLCOMB AVE  
RENO, NV 89502

STEVEN FLOYD VOSS #52094  
P O BOX 359  
LOVELOCK, NV 89419

  
\_\_\_\_\_  
PAT MEACHAM  
CRIMINAL CLERK

APPENDIX - H

APPENDIX - H

# 12

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,

No. 38373

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

JAN 17 2002

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]* CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Steven Floyd Voss' post-conviction petition for a writ of habeas corpus.

On November 27, 1996, Voss was convicted, pursuant to a jury verdict, of one count of burglary, one count of attempted theft, two counts of uttering a forged instrument, and two counts of forgery. The district court sentenced Voss to serve a prison term of 48 to 120 months for the burglary count and to five consecutive prison terms of 16 to 48 months for the remaining counts. Voss filed a direct appeal, arguing that: (1) there was insufficient evidence to support his convictions; and (2) the district court erred in denying his motion to dismiss the attempted theft count.

JAN 22 2002

This court concluded that Voss' contentions lacked merit and affirmed his conviction.<sup>1</sup>

Thereafter, Voss filed a post-conviction petition for a writ of habeas corpus. After conducting an evidentiary hearing, the district court denied the petition. Voss filed the instant appeal.

Voss contends that the district court erred in denying his petition because his trial counsel was ineffective. Specifically, Voss claims that his counsel was ineffective for failing to: (1) adequately investigate his case; (2) object when the jury saw him in jail attire; and (3) file a motion to suppress. We conclude that Voss' contentions lack merit.

To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a defendant must demonstrate that counsel's performance fell below an objective standard of reasonableness, and that counsel's errors were so severe that they rendered the jury's verdict unreliable.<sup>2</sup>

Voss first contends that his trial counsel was ineffective for failing to investigate his case. Particularly, Voss contends that had his counsel conducted an adequate investigation, he would have discovered Anthony Villardi's secret witness report. Villardi reported to the police that he had seen the victim alive twelve hours after she was observed with Voss. We conclude that counsel was not ineffective for failing to uncover

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<sup>1</sup>Voss v. State, Docket No. 29783 (Order Dismissing Appeal, March 11, 1999).

<sup>2</sup>See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

the Villardi report. The Villardi report was not material to Voss' trial on the theft counts<sup>3</sup> because the pivotal issue in that proceeding was whether the victim had consented to Voss cashing a check in her name, and whether she had also written a check to Voss for \$5,000.00. Accordingly, even if counsel had discovered the Villardi report, we conclude that its discovery and Villardi's testimony would not have changed the outcome of the proceeding.

Voss next contends that both his trial and appellate counsel were ineffective for failing to raise the issue of whether his conviction should be reversed because the jurors saw him jail attire and overheard conversations between court personnel about Voss' "in custody" status. We conclude that Voss' contention lacks merit.

There is sufficient evidence in support of the district court's finding that Voss was not seen by the jury while wearing jail attire. In particular, Deputy Sheriff Gary Clifford testified that Voss was always dressed in plain clothes while the jury was present. Likewise, Voss' trial counsel testified that Voss never told him that he had been seen by the jurors wearing jail attire. Finally, prior to trial, the district court granted Voss' motion in limine, ordering that Voss was not to be seen by the jury in jail attire. Accordingly, we conclude that trial and appellate counsel were

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<sup>3</sup>Defense counsel used the Villardi report in Voss' subsequent murder trial involving the same victim. The Villardi report was highly relevant to the issues involved in that trial because it rebutted the State's theory that Voss was the last person with whom the victim was seen with before her demise. Despite Villardi's testimony at the murder trial, Voss was convicted of murdering the victim.

not ineffective for failing to raise this issue because the district court found that that the jurors had not seen Voss in jail attire.

Voss next contends that his counsel was ineffective for failing to file a motion to suppress statements made in violation of his Miranda<sup>4</sup> rights. We disagree.

The district court's finding that counsel was not ineffective for failing to file a motion to suppress is supported by substantial evidence. Specifically, Deputy Sheriff Stacy Hill testified that, before Voss was arrested, Hill interviewed Voss for ten to fifteen minutes and that he voluntarily cooperated. Hill also testified that Voss gave him permission to search his truck and that he was "very cooperative."

Likewise, Washoe County Sheriff's Detective Larry Canfield testified that Voss consented to a thirty minute interview regarding the disappearance of the victim in this case. Canfield further testified that Voss was not under arrest, fully cooperative, and that both Voss and his mother consented to the officer's subsequent search of their motel room. Moreover, Canfield testified that he interviewed both Voss and his mother the following day at the Sheriff's station for approximately forty minutes and that it was scheduled in advance, voluntary, and conversational in nature.

Finally, defense counsel Conway testified that he reviewed Voss' police statements and discussed them with Voss and had no basis to file a motion to suppress. Conway further stated that Voss expressed "no

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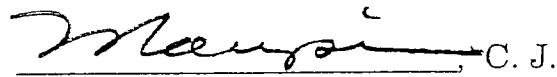
<sup>4</sup>Miranda v. Arizona, 384 U.S. 436 (1966).

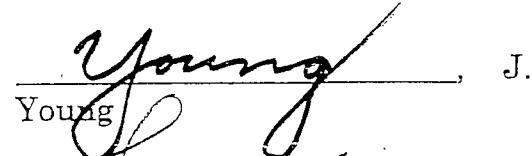
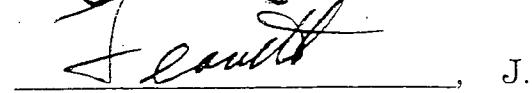
dissatisfaction" with Conway's decision not to file a suppression motion. Because the record reveals that Voss' statements to police were consensual and voluntary in nature, we conclude that counsel was not ineffective in failing to file a motion to suppress.

Even assuming counsel's performance fell below an objective standard of reasonableness, we note that the alleged deficiency would not have changed the outcome of the proceeding. Indeed, Voss was essentially caught in the midst of the commission of the crime at a Reno bank as he attempted to cash the victim's forged personal check. Although Voss alleged that he had consent from the victim, there was sufficient evidence to support the jury's finding to the contrary.

Having considered Voss' contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

  
C. J.  
Maupin

  
J.  
Young  
  
J.  
Leavitt

cc: Hon. Steven P. Elliott, District Judge  
Attorney General/Carson City  
Washoe County District Attorney  
Scott W. Edwards  
Washoe County Clerk

**Additional material  
from this filing is  
available in the  
Clerk's Office.**

**Additional material  
from this filing is  
available in the  
Clerk's Office.**