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IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL DEAN ADKISSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77933

FILED

OCT 01 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  CHIEF DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

 J.
Gibbons

 J.
Stiglich

 J.
Silver

cc: Federal Public Defender/Las Vegas
Jonathan M. Kirshbaum
Attorney General/Carson City
Clark County District Attorney
Attorney General/Las Vegas
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL DEAN ADKISSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77933

FILED

JUL 16 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; William D. Kephart, Judge. The district court denied appellant Michael Dean Adkisson's petition as procedurally barred. Adkisson argues that the procedural bars do not apply to his petition or that they should be excused because he has shown good cause and actual prejudice. We disagree and affirm.¹

Adkisson first suggests that the procedural bars set forth in NRS Chapter 34 do not apply because he has raised a "unique" issue and the petition should be treated as something other than a postconviction habeas petition. Adkisson does not identify the other extraordinary writ that would be relevant here. But more importantly, Nevada law provides that, aside from a direct appeal or another proceeding "incident to the proceedings in the trial court," NRS 34.724(2)(a), a postconviction habeas petition is the only way to challenge "the validity of [a] conviction or

¹Pursuant to NRAP 34(f)(3), we have determined that oral argument is not warranted in this appeal.

sentence” while the petitioner is in custody, NRS 34.724(1), (2)(b); *see also Harris v. State*, 130 Nev. 435, 329 P.3d 619 (2014). Despite Adkisson’s creative arguments to the contrary, the issue he raises involves a challenge to the validity of the consecutive sentence imposed under NRS 193.165. The procedural bars set forth in NRS Chapter 34 therefore apply to his petition.² *See* NRS 34.720.

Adkisson’s postconviction habeas petition was untimely because it was filed more than 11 years after remittitur issued on direct appeal on August 8, 2006. *See* NRS 34.726(1); *Adkisson v. State*, Docket No. 44581 (Order of Affirmance, May 17, 2006). His petition was also successive because he had previously litigated a postconviction habeas petition, *Adkisson v. State*, Docket No. 64382 (Order of Affirmance, April 15, 2015), and it constituted an abuse of the writ as he raised a claim that could have been raised in his prior petition. *See* NRS 34.810(2). His petition was therefore procedurally barred absent a showing of good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(3). Further, as the State specifically pleaded laches, Adkisson was required to overcome the presumption of prejudice to the State. *See* NRS 34.800(2).

²We decline Adkisson’s request to disregard the procedural bars and provide relief through this court’s constitutional power to grant writ relief. *Cf.* Nev. Const. Art. 6, § 4(1). We have declined to exercise this power to excuse the procedural bars and reach claims that could have been raised in proceedings that complied with the requirements of NRS Chapter 34. *See Hosier v. State*, 121 Nev. 409, 411-12, 117 P.3d 212, 213 (2005).

Adkisson argues that the procedural bars should be excused because his challenge to his detention on the weapon-enhancement sentence could not be raised until he was paroled from his primary sentence for second-degree murder. We disagree. Adkisson's argument is premised on the idea that he had no reason to challenge the weapon-enhancement sentence earlier because he did not know whether the Department of Corrections (NDOC) would continue to detain him on the weapon-enhancement sentence. That premise is flawed. The judgment of conviction imposed two consecutive sentences of life in prison with the possibility of parole after 10 years. NDOC had no discretion in this respect.³ See NRS 176.305 ("If the judgment be imprisonment . . . , the defendant must forthwith be committed to the custody of the proper officer, and detained until the judgment is complied with."). Accordingly, Adkisson has known since the moment the judgment of conviction was entered that he would be required to serve the weapon-enhancement sentence unless it were overturned. His institutional parole from the primary sentence changed nothing in that respect. And finally, the legal authority he cites in support of his claim—*Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Alleyne v. United States*, 570 U.S. 99 (2013)—was available long before he filed the

³Relying on the general proposition that "jurisdictional issues can be raised at any time," *Barber v. State*, 131 Nev. 1065, 1069, 363 P.3d 459, 462 (2015), Adkisson also argues that the procedural bars do not apply because his claim is "jurisdictional" in that it "challenges the very power of NDOC to hold him." That argument fails as a "jurisdictional issue" is one that goes to a court's subject-matter jurisdiction. See *Barber*, 131 Nev. at 1069, 363 P.3d at 462. And as explained above, NDOC had the authority to hold Adkisson based on the judgment of conviction.

underlying petition in 2017. Adkisson's challenge to the weapon-enhancement sentence was thus available to be raised earlier, and Adkisson has not shown that an impediment external to the defense provides good cause for his delay in raising the issue. *See Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (explaining that good cause requires showing that an impediment external to the defense prevented compliance with the procedural default rules and may be met by showing that the legal basis for the claim was not reasonably available to be timely raised).

Even if he had shown good cause, Adkisson did not show prejudice, as his argument that he cannot be incarcerated on the weapon-enhancement sentence after being granted parole on the primary sentence for second-degree murder lacks merit. *See Rippo v. State*, 134 Nev. 411, 422, 423 P.3d 1084, 1097 (2018) (providing that review of undue prejudice implicates a claim's merits); *Hogan v. Warden*, 109 Nev. 952, 959-60, 860 P.2d 710, 716 (1993) (providing that actual prejudice requires showing error that worked to the petitioner's actual and substantial disadvantage). Adkisson argues that he was "convicted of only one crime of second degree murder with use of a deadly weapon" and has been "granted parole on that crime," so he must be released from custody. But, the Legislature has provided that when a person uses a deadly weapon to commit a crime, he shall be required to serve an additional, consecutive term. NRS 193.165(1). The weapon-enhancement sentence thus does not implicate the Double Jeopardy Clause's proscription against multiple punishments because it is authorized by the Legislature. *Nev. Dep't of Prisons v. Bowen*, 103 Nev. 477, 480-81, 745 P.2d 697, 699 (1987); *see also Missouri v. Hunter*, 459 U.S. 359, 366 (1983) ("With respect to cumulative sentences imposed in a single trial,

the Double Jeopardy Clause does no more than prevent the sentencing court from prescribing greater punishment than the legislature intended.”). And we are not convinced that *Apprendi* and *Alleyne* alter that analysis. See, e.g., *State v. Stevens*, No. 1 CA-CR 14-0642, 2015 WL 8475986 (Ariz. Ct. App. Dec. 10, 2015) (rejecting argument that based on *Apprendi* and its progeny convictions became multiplicitous when dangerousness enhancement was applied); *State v. Kelley*, 226 P.3d 773 (Wash. 2010) (concluding that *Apprendi* and its progeny did not change double jeopardy analysis with respect to firearm enhancement). Accordingly, Adkisson has not shown that the mandatory procedural bars should be excused, and the district court did not err in denying the petition as procedurally barred. See *State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005).

Adkisson also challenged the computation of his sentence. This was improper. NRS 34.738(3) (providing that a postconviction habeas petition may not challenge both the judgment of conviction or sentence and the computation of time).⁴ Because the petition raised both types of claims, those claims that challenged the computation of time were properly dismissed without prejudice for Adkisson to file a computation petition in

⁴Adkisson’s argument that his appeal is comparable to *Green v. Baca*, Docket No. 77908-COA (Order of Reversal and Remand, October 22, 2019), is mistaken, as *Green* did not involve challenges to both the sentence and the computation of time and thus did not implicate NRS 34.738(3).

the district court of the county where he is incarcerated.⁵ NRS 34.738(1), (3).

Having considered Adkisson's contentions and concluded that they do not warrant relief, we

ORDER the judgment of the district court AFFIRMED.

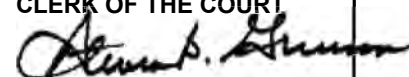

_____, J.
Gibbons


_____, J.
Stiglich


_____, J.
Silver

cc: Hon. William D. Kephart, District Judge
Federal Public Defender/Las Vegas
Attorney General/Carson City
Clark County District Attorney
Attorney General/Las Vegas
Eighth District Court Clerk

⁵It is unclear whether Adkisson's "computation" argument is any different from his challenge to the enhancement sentence. To the extent it is the same, our decision today effectively rejects it.



FCL
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

MICHAEL ADKISSON,
#0917293

Defendant.

CASE NO: 04C200178

DEPT NO: XIX

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

DATE OF HEARING: AUGUST 29, 2018
TIME OF HEARING: 8:30 AM

THIS CAUSE having come on for hearing before the Honorable WILLIAM
KEPHART, District Judge, on the 3rd day of December, 2018, the Petitioner not being present,
PROCEEDING IN PROPER PERSON, the Respondent being represented by STEVEN B.
WOLFSON, Clark County District Attorney, by and through CHARLES W. THOMAN, Chief
Deputy District Attorney, and the Court having considered the matter, including briefs,
transcripts, arguments of counsel, and documents on file herein, now therefore, the Court
makes the following findings of fact and conclusions of law:

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

On April 2, 2004, MICHAEL DEAN ADKISSON (hereinafter "Defendant") was charged by way of Information with Murder with Use of a Deadly Weapon (Felony – NRS 200.010, 200.030, 193.165). Defendant's jury trial began on September 9, 2004. On September 14, 2004, the jury found Defendant guilty of Murder in the Second Degree with Use of a Deadly Weapon.

On December 6, 2004, Defendant was present in court with counsel, adjudged guilty and sentenced to the Nevada Department of Corrections for a maximum term of Life with a minimum parole eligibility of TEN (10) YEARS, plus an equal and consecutive maximum term of Life with a minimum parole eligibility of TEN (10) YEARS for the deadly weapon. Defendant received TWO HUNDRED FIFTY-TWO (252) DAYS credit for time served. Defendant's Judgment of Conviction was filed on December 27, 2004.

On January 21, 2005, Defendant filed a Notice of Appeal. On May 17, 2006, the Nevada Supreme Court affirmed Defendant's judgment of conviction. Remittitur issued on August 8, 2006. Defendant filed a Petition for Writ of Habeas Corpus on August 7, 2007.

On April 30, 2008, an Amended Judgment of Conviction was filed and reflected an amendment to Defendant's sentence per stipulation and order to include an additional ONE HUNDRED TWENTY (120) DAYS credit for time served.

On August 6, 2007, Jonathan MacArthur, Esq. substituted in as Defendant's counsel in the place of Robert Langford, Esq. and Mr. MacArthur filed a Petition for Writ of Habeas Corpus (Post-Conviction) that same day. On August 7, 2007, Robert Langford, Esq. filed a Petition for Writ of Habeas Corpus (Post-Conviction) on behalf of Defendant. On September 5, 2007, Mr. Langford withdrew as counsel.

On August 7, 2009, after the briefing schedule was continued a number of times, Defendant's pro per Motion to Withdraw Counsel, Mr. MacArthur, was granted. On October 26, 2009, the Court granted post-conviction counsel, and Brent Percival, Esq. confirmed as counsel. On May 13, 2011, Mr. Percival advised the Court that Defendant retained a different counsel in place of Mr. Percival, but said counsel could not perform his duties due to personal

1 issues. Mr. Percival further represented that he previously provided this other counsel
2 discovery in the case. The Court ordered appointment of other counsel for Defendant.

3 On June 27, 2011, Christopher Oram, Esq. confirmed as Defendant's Post-Conviction
4 counsel.

5 On April 19, 2012, Defendant filed a Motion for Authorization to obtain an investigator
6 and for payment of fees incurred herein. The State filed an Opposition on April 24, 2012. The
7 Court granted the Motion on April 30, 2012.

8 On June 11, 2012, Defendant filed a Motion for Discovery. The State filed its Response
9 on July 2, 2012. The District Court denied Defendant's Motion on July 11, 2012.

10 On December 26, 2012, Defendant filed a Supplemental Brief in Support of his Petition
11 for Writ of Habeas Corpus (Post-Conviction). The State responded on February 19, 2013.

12 On November 1, 2013, an Evidentiary Hearing was held and the Court denied
13 Defendant's Petition for Writ of Habeas Corpus. The Findings of Fact, Conclusions of Law
14 and Order was filed on December 19, 2013.

15 On November 6, 2013, Defendant filed a Notice of Appeal. The Nevada Supreme Court
16 affirmed the denial of Defendant's Petition for Writ of Habeas Corpus and remittitur issued
17 June 23, 2015.

18 On May 17, 2018, Defendant filed the instant Petition for Writ of Habeas Corpus and
19 various other Motions. The State filed its Response on August 13, 2018. On December 3,
20 2018, the district court denied the Petition for Writ of Habeas Corpus, issuing the following
21 findings of fact and conclusions of law.

22 **I. THE INSTANT PETITION IS TIME BARRED**

23 The mandatory provisions of NRS 34.726 state:

- 24 1. Unless there is good cause shown for delay, a petition that
25 challenges the validity of a judgment or sentence must be filed
26 within 1 year after entry of the judgment of conviction or, **if an**
27 **appeal has been taken from the judgment, within 1 year**
28 **after the supreme court issues its remittitur.** For the
purposes of this subsection, good cause for delay exists if the
petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and

(b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

(emphasis added).

The Supreme Court of Nevada has held that NRS 34.726 should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). As per the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

In Gonzales v. State, 118 Nev. 61, 590 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late, pursuant to the “clear and unambiguous” mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the district court within the one year mandate, absent a showing of “good cause” for the delay in filing. Gonzales, 53 P.3d at 902.

Furthermore, the Nevada Supreme Court has held that the district court has a *duty* to consider whether a defendant's post-conviction petition claims are procedurally barred. State v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The Riker Court found that “[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory,” noting:

Habeas corpus petitions that are filed many years after conviction are an unreasonable burden on the criminal justice system. The necessity for a workable system dictates that there must exist a time when a criminal conviction is final.

Id. Additionally, the Court noted that procedural bars “cannot be ignored [by the district court] when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court has granted no discretion to the district courts regarding whether to apply the statutory procedural bars; the rules *must* be applied.

Defendant appealed his Judgment of Conviction, the Nevada Supreme Court affirmed Defendant’s conviction, and remittitur issued August 8, 2006. Accordingly, the court finds Defendant had until August 8, 2007, to file a timely Petition. The Defendant filed the instant

1 second Petition on May 17, 2018 – almost 16 years after the deadline. Therefore, the court
2 concludes the instant Petition is time-barred.

3 II. DEFENDANT’S PETITION IS SUCCESSIVE

4 The court finds the instant Petition is successive pursuant to NRS 34.810(2). The
5 relevant portions of NRS 34.810 state:

6 2. A second or successive petition must be dismissed if the judge
7 or justice determines that it fails to allege new or different grounds
8 for relief and that the prior determination was on the merits or, if
9 new and different grounds are alleged, the judge or justice finds
10 that the failure of the Defendant to assert those grounds in a prior
11 petition constituted an abuse of the writ.

12 3. Pursuant to subsections 1 and 2, the petitioner has the burden
13 of pleading and proving specific facts that demonstrate:

- 14 (a) Good cause for the petitioner’s failure to present the claim or
15 for presenting the claim again; and
16 (b) Actual prejudice to the petitioner.

17 Id.

18 The court finds this is Defendant’s second Petition. Defendant previously filed a
19 Petition on August 8, 2006, as well as a Supplement to that Petition on December 26, 2012.
20 This Court denied that Petition, and the Nevada Supreme Court affirmed the denial of
21 Defendant’s Petition. The instant Petition was filed May 17, 2018. Accordingly, the court
22 concludes this second Petition is successive.

23 III. DEFENDANT’S PETITION IS BARRED BY LACHES

24 NRS 34.800 creates a rebuttable presumption of prejudice to the State if “[a] period
25 exceeding five years between the filing of a judgment of conviction, an order imposing a
26 sentence of imprisonment or a decision on direct appeal of a judgment of conviction and the
27 filing of a petition challenging the validity of a judgment of conviction....” The statute also
28 requires that the State plead laches, which the court finds the State has done by virtue of its
response. NRS 34.800.

In this case, the court notes remittitur from Defendant’s direct appeal issued August 8,
2006, and that Defendant filed the instant second Petition on May 17, 2018. Since more than

1 five years have elapsed since the issuance of remittitur, the court finds NRS 34.800 directly
2 applies in this case and the court finds the State is presumptively prejudiced.

3 **IV. DEFENDANT HAS ASSERTED NO GOOD CAUSE TO OVERCOME THE**
4 **PROCEDURAL BARS**

5
6 A showing of good cause and prejudice may overcome procedural bars. "In order to
7 demonstrate good cause, a petitioner must show that an impediment external to the defense
8 prevented him or her from complying with the state procedural default rules." Hathaway v.
9 State, 119 Nev. 30, 71 P.3d 503, 506 (2003) (citing Pellegrini v. State, 117 Nev. 860, 886-87,
10 34 P.3d 519, 537 (2001)); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994);
11 Passanisi v. Director, 105 Nev. 63, 769 P.2d 72 (1989); see also Crump v. Warden, 113 Nev.
12 293, 295, 934 P.2d 247, 252 (1997); Phelps v. Director, 104 Nev. 656, 764 P.2d 1303 (1988).

13 Such an external impediment could be "that the factual or legal basis for a claim was
14 not reasonably available to counsel, or that 'some interference by officials' made compliance
15 impracticable." Hathaway, 71 P.3d at 506 (quoting Murray v. Carrier, 477 U.S. 478, 488, 106
16 S.Ct. 2639, 2645 (1986)); see also Gonzalez, 53 P.3d at 904 (citing Harris v. Warden, 114
17 Nev. 956, 959-60 n. 4, 964 P.2d 785 n. 4 (1998)). Clearly, any delay in filing of the petition
18 must not be the fault of the petitioner. NRS 34.726(1)(a).

19 To find good cause there must be a "substantial reason; one that affords a legal excuse."
20 Hathaway, 71 P.3d at 506 (quoting Colley v. State, 105 Nev. 235, 236, 773 p.2d 1229, 1230
21 (1989), State v. Estencion, 625 P.2d 1040, 1042 (Haw. 1981)).

22 In the instant matter, the court finds Defendant has not alleged good cause that would
23 warrant overcoming the mandatory bars of NRS 34.726, 34.800, and 34.810. The court finds
24 Defendant has not provided any examples of qualifying impediments external to the defense
25 that would have prevented him from complying with the Court's procedural rules. Therefore,
26 because Defendant did not establish good cause, the court concludes this second Petition is
27 barred. Further, although the court finds Defendant's claims are procedurally barred, the court
28 notes the substance of his Petition alleges that his conviction for second degree murder is being

1 improperly treated as two different convictions, violating the Double Jeopardy Clause.
2 Petition, p. 7, claim 5.

3 The court finds and concludes that Defendant's conviction is not in conflict with the
4 Double Jeopardy Clause of the United States Constitution. Defendant was sentenced to a
5 maximum term of life with a minimum parole eligibility of ten years, plus an equal and
6 consecutive maximum term of life with a minimum parole eligibility of ten years for the deadly
7 weapon enhancement; such consecutive sentences have been routinely held to be
8 constitutional. See Woofter v. O'Donnell, 91 Nev. 756, 761-62, 542 P.2d 1396, 1399-1400
9 (1975); Nevada Dep't of Prisons v. Bowen, 103 Nev. 477, 481, 745 P.2d 697, 699 (1987).
10 Therefore, the court concludes Defendant's sentence is constitutional, and this his underlying
11 claim that his sentencing enhancement is constitutional is meritless.

12
13 **ORDER**

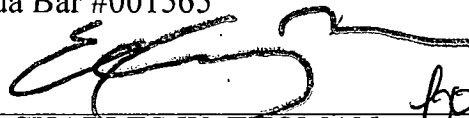
14 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
15 shall be, and it is, hereby denied.

16 DATED this 28th day of January, 2018.

17
18 
DISTRICT JUDGE

19 STEVEN B. WOLFSON
20 Clark County District Attorney
Nevada Bar #001565

21 BY

22 
23 CHARLES W. THOMAN
Chief Deputy District Attorney
Nevada Bar #12649

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 29th day of January, ²⁰¹⁹~~2018~~, by electronic transmission to:

CHRISTOPHER ORAM
contact@christopheroramlaw.com

BY E. Del Padre
E. DEL PADRE
Secretary for the District Attorney's Office

ab/GCU

JOC P

FILED

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C200178

-vs-

DEPT. NO. XVIII

MICHAEL DEAN ADKISSON
#0917293

Defendant.

AMENDED JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of MURDER IN THE SECOND DEGREE WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; thereafter, on the 6TH day of December, 2004, the Defendant was present in court for sentencing with his counsel and good cause appearing,

THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, the Defendant was sentenced as follows: to a term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS plus an EQUAL and CONSECUTIVE a term of LIFE with a MINIMUM parole eligibility of

1 TEN (10) YEARS in the Nevada Department of Corrections (NDC); with TWO
2 HUNDRED FIFTY-TWO (252) DAYS credit for time served..

3 THEREAFTER, on the 23rd day of April, 2008, the Defendant was not present in
4 court but was represented by his counsel JONATHAN MAC ARTHUR, ESQ., and good
5 cause appearing to amend the Judgment of Conviction; now therefore,
6

7 IT IS HEREBY ORDERED the Defendant's sentence to be AMENDED per
8 Stipulation & Order to include an ADDITIONAL ONE HUNDRED-TWENTY (120) DAYS
9 for time served.
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11 DATED this 28th day of April, 2008.

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15 DAVID BARKER
16 DISTRICT JUDGE
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JOCP
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

FILED

2004 DEC 27 A 9 36

Shirley R. Langford
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

MICHAEL DEAN ADKISSON,
#917293

Defendant.

Case No: C200178

Dept No: XVIII

JUDGMENT OF CONVICTION (JURY TRIAL)

The Defendant previously entered plea(s) of not guilty to the crime(s) of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony), in violation of NRS 200.010, 200.030, 193.165, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crime(s) of MURDER IN THE SECOND DEGREE WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); and thereafter on the 6th day of December, 2004, the Defendant was present in Court for sentencing with his counsel, ROBERT L. LANGFORD, ESQ., and good cause appearing therefor,


THE DEFENDANT HEREBY ADJUDGED guilty of the crime(s) as set forth in the jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee, the Defendant is sentenced as follows: to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) plus an equal and CONSECUTIVE MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN

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1 (10) YEARS in the Nevada Department of Corrections (NDC) with 252 DAYS credit for
2 time served.

3 DATED this 23 day of December, 2004.

4 
5 DISTRICT JUDGE
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