

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY M. WRIGHT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38688

**FILED**

MAR 05 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.

We have reviewed the record on appeal and conclude that the factual findings stated in the attached order of the district court are supported by substantial evidence and are not clearly wrong.<sup>1</sup> We further conclude for the reasons stated in the attached order that the district court did not err in denying appellant's petition. Therefore, briefing and oral argument are not warranted in this case.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

*Becker*  
\_\_\_\_\_, J.  
Becker

*Agosti*  
\_\_\_\_\_, J.  
Agosti

*Gibbons*  
\_\_\_\_\_, J.  
Gibbons

<sup>1</sup>Riley v. State, 110 Nev. 638, 647, 878 P.2d 175, 180 (1990).

<sup>2</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>3</sup>Although appellant has not been granted leave to file documents in proper person, we have considered all proper person documents filed or received in this matter in this court, and we conclude that the relief requested is not warranted.

cc: Hon. John S. McGroarty, District Judge  
Anthony M. Wright  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

1 **ORDR**  
2 STEWART L. BELL  
3 DISTRICT ATTORNEY  
4 Nevada Bar #000477  
5 200 S. Third Street  
6 Las Vegas, Nevada 89155  
7 (702) 455-4711  
8 Attorney for Plaintiff

**FILED**

2001 OCT -2 PM 12: 18

*Christine Springer*  
CLERK

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA, )

8 Plaintiff, )

9 -vs- )

10 ANTHONY WRIGHT,  
11 #1524246 )

12 Defendant. )

Case No.. C158310  
Dept. No. XVI

14 FINDINGS OF FACT, CONCLUSIONS OF  
15 LAW AND ORDER

16 DATE OF HEARING: 9-18-01  
17 TIME OF HEARING: 8:45 A.M.

18 THIS CAUSE having come on for hearing before the Honorable JOHN S.  
19 MCGORARTY, District Judge, on the 18th day of September, 2001, the Petitioner not being  
20 present, in Forma Pauperis, the Respondent being represented by STEWART L. BELL, District  
21 Attorney, by and through BERNIE ZADROWSKI, Deputy District Attorney, and the Court  
22 having considered the matter, including briefs, transcripts, arguments of counsel, and documents  
23 on file herein, now therefore, the Court makes the following findings of fact and conclusions of  
24 law:

24 **FINDINGS OF FACT**

25 1. The Defendant Anthony M. Wright was arrested in connection with over fifty "pattern"  
26 residential burglaries committed in the Sun City area of Las Vegas. On August 9, 1999, the  
27 Defendant was charged by Indictment with forty-two counts that included Attempt Burglary,  
28 Burglary, Burglary While in Possession of a Firearm, Grand Larceny, and Possession of Stolen

1 Property. Based on six previous felony convictions the State also sought habitual criminal status  
2 under NRS 207.010. The Defendant pled not guilty and on August 12, 1999, a jury trial  
3 commenced.

4 2. The jury returned guilty verdicts for Count VI - Possession of a Firearm & Property With  
5 a Value of Over \$250; Counts XV, XVIII, XXVI, & XXXV - Possession of Stolen Property  
6 With a Value Over \$250; Count XXIII - Possession of a Stolen Firearm; and Counts XXIX and  
7 XXXII - Possession of Stolen Property With a Value Under \$250. Based on the previous six  
8 certified felony convictions the Defendant was adjudicated a habitual criminal pursuant to NRS  
9 207.010(2).

10 3. The Defendant was sentenced for Count VI to Life With the Possibility of Parole after  
11 a minimum of ten years has been served in the Nevada Department of Prisons; for Count XV to  
12 Life With the Possibility of Parole after a minimum of ten years served, to run concurrent with  
13 Count VI; for Count XVIII to Life With the Possibility of Parole after a minimum of ten years  
14 to run consecutive to Count XV; for Count XXIII to Life With the Possibility of Parole after a  
15 minimum of ten years served to run concurrent with Count XVIII; for Count XXVI to Life With  
16 Possibility of Parole after a minimum of ten years served to run consecutive to Count XXIII; for  
17 Count XXXV to Life with the Possibility of Parole after a minimum term of ten years has been  
18 served to run concurrent with Count XXVI; for Counts XXIX and XXXII credit for time served.

19 4. Judgment of Conviction was filed December 1, 1999.

20 5. Following Defendant's direct appeal, the Nevada Supreme Court affirmed the judgment  
21 of conviction on February 15, 2001. Remittitur was issued on March 15, 2001.

22 6. Defendant filed a Petition for Writ of Habeas Corpus (Post-Conviction) on July 23, 2001.  
23 Defendant also filed a motion for appointment of counsel entitled "Judicial Notice by  
24 Petitioner." On August 7, 2001, Defendant's motion for appointment of counsel was denied.

25 7. Defendant filed a timely direct appeal that was denied on the merits. Any substantive  
26 claims that are contained in Defendant's instant petition could have been raised on direct appeal  
27 and should not be considered here under NRS 34.810(1)(b)(2).

28 8. In Grounds One through Four, Defendant claims errors occurred at the grand jury

1 rendering his indictment invalid, and Defendant claims his counsel was ineffective for not  
2 properly challenging the indictment in a pre-trial petition for writ of habeas corpus. The record  
3 shows that Defendant's counsel did challenge the indictment on all of the grounds raised by  
4 Defendant in a pre-trial writ of habeas corpus filed June 15, 1999, except for challenging under  
5 NRS 207.016 the introduction of four prior felony convictions by the State at the grand jury.  
6 Counsel argued in her pre-trial petition that the introduction of the prior convictions was  
7 prejudicial in contradiction of NRS 48.045(2). The court denied the petition on July 13, 1999,  
8 ruling that the prior convictions were properly admitted under NRS 48.045(2) as part of a  
9 common scheme or plan, or absence of mistake, because Defendant was charged with burglary  
10 and possession of stolen property for the instant offense, and the four prior convictions were for  
11 burglary and possession of stolen property.

12 9. Defense counsel did challenge all of the claims of error raised by Defendant in her pre-  
13 trial petition for writ of habeas corpus. Counsel's failure to make one available argument in  
14 support of one of Defendant's claims of error does not arise to the level of ineffective assistance  
15 of counsel. The State did not seek to introduce four of Defendant's prior convictions at the  
16 grand jury for the purpose of establishing habitual criminality. The State offered the prior  
17 convictions under NRS 48.045(2) as part of a common scheme or plan and to show lack of  
18 mistake. Defense counsel therefore challenged the admission of the prior convictions on that  
19 ground. Defendant's speculations as to the State's motives cannot be a basis for ineffective  
20 assistance of counsel.

21 10. The Defendant was properly indicted, and defense counsel was not ineffective for failing  
22 to challenge the Indictment.

23 11. In Grounds Five and Six, Defendant claims he was illegally searched following his arrest,  
24 and his counsel did not properly challenge the search or move to suppress evidence obtained  
25 incident to the search. Defendant claims police had no grounds to arrest him, and that officers  
26 illegally searched his pockets and found a key to a vehicle he had been driving. Evidence was  
27 presented at trial through the testimony of police officers as to Defendant's arrest. On the  
28 evening of March 26, 1999, police officers began searching an area around a residence in the

1 Sun City area in which the burglar alarm had been activated. Shortly thereafter, the Defendant  
2 was found hiding under a bush nearby by a police K-9 dog. Once discovered, Defendant  
3 attempted to flee. While being pursued, the Defendant discarded a ski mask, gloves, and extra  
4 batteries. A flashlight was later found in Defendant's fanny pack. Defendant was apprehended  
5 a short time later. After a brief struggle with police the Defendant was placed under arrest.  
6 Police then conducted a search incident to arrest and found the key in Defendant's pocket.

7 12. The Defendant was properly searched following his arrest, and counsel was not  
8 ineffective for failing to challenge the search.

9 13. In Grounds Seven and Eight, Defendant claims the search warrants executed in his case  
10 were improperly obtained, and defense counsel was ineffective for failing to properly challenge  
11 the warrants or move to suppress evidence obtained with the warrants. Defendant raised the  
12 validity of the search warrants executed in his case on direct appeal. The Nevada Supreme Court  
13 reviewed the search warrants and the affidavits in support of the warrants and found under the  
14 totality of the circumstances, there was "a substantial basis for concluding that probable cause  
15 existed and, therefore, that the district court did not err in admitting the fruits of the search of  
16 3929 Apple Crest Drive.

17 14. Prior to trial, defense counsel filed a motion to suppress evidence obtained from the  
18 execution of the warrants, and the court denied the motion on August 9, 1999. Since both the  
19 trial court and the Nevada Supreme Court have held the warrants to have been valid, and defense  
20 counsel did challenge the validity of the warrants and attempt to have the evidence obtained  
21 from the warrants suppressed, Defendant's claim that counsel was ineffective for failing to do  
22 so is belied by the record.

23 15. The search warrants executed during the investigation of Defendant's case were properly  
24 obtained, and counsel was not ineffective for failing to challenge the warrants.

25 16. In Grounds Nine, Ten, Thirteen, and Fourteen, the Defendant raises error in the manner  
26 in which he was adjudicated an habitual criminal, and claims his counsel was ineffective in her  
27 handling of this aspect of the trial. At sentencing, the State proved that Defendant had six prior  
28 felony convictions in California. Under NRS 207.010(b) only three previous felony convictions

1 are necessary to adjudicate a defendant an habitual criminal. Defendant served prison time for  
2 four of the prior convictions. Counsel need only perform a cursory records check to verify the  
3 convictions and time spent in prison. Defendant provided no evidence to support his claim that  
4 he did not have six prior felony convictions. Defendant's bare unsubstantiated claims that his  
5 record is incorrect, or that there were constitutional violations that rendered his prior convictions  
6 invalid, is insufficient to establish ineffective assistance of counsel.

7 17. The Defendant was properly adjudicated an habitual criminal, and counsel was not  
8 ineffective in her handling of Defendant's habitual criminal adjudication.

9 18. In Grounds Eleven and Sixteen, Defendant claims his appellate counsel was ineffective  
10 in the handling of Defendant's direct appeal. In Ground Eleven, Defendant claims appellate  
11 counsel failed to properly consult with Defendant and to raise the issue of Defendant's  
12 adjudication as an habitual criminal. In Ground Sixteen, Defendant claims appellate counsel  
13 should have raised all of the ineffective assistance of counsel claims raised in the instant petition.

14 19. There was no error in the manner in which Defendant was adjudicated an habitual  
15 criminal. Appellate counsel could not be found to be ineffective for failing to raise on direct  
16 appeal a claim that is frivolous. Additionally, claims of ineffective assistance of counsel are not  
17 properly brought on direct appeal. The Nevada Supreme Court would not have entertained  
18 Defendant's claims of ineffective assistance of counsel had appellate counsel raised them.

19 20. Defendant did not have ineffective assistance of counsel on direct appeal.

20 21. In Ground Twelve, Defendant claims the prosecutor committed misconduct in his opening  
21 statement and closing arguments for stating facts that were prejudicial to Defendant's case.  
22 Defendant filed a direct appeal in this case that was denied on the merits. In Defendant's appeal,  
23 Defendant raised two issues -- that the trial court committed prejudicial error in denying  
24 Defendant's motion to suppress evidence that was illegally seized, and that the State failed to  
25 prove the element of value on the possession of stolen property charge in Count XV of the  
26 Indictment. Defendant had an opportunity to raise issues of prosecutorial misconduct on direct  
27 appeal and chose not to.

28 22. Defendant's claims of prosecutorial misconduct should have been raised in Defendant's

1 direct appeal and cannot be brought in a petition for writ of habeas corpus (post-conviction).

2 23. In Ground Fifteen, Defendant claims he was denied a fair trial because the trial judge  
3 knew one of the victims that testified at trial, and defense counsel was ineffective for failing to  
4 object or move for a mistrial on that basis. At trial, the judge stated for the record that he had  
5 dealings twenty years prior with one of the victims that testified for the State. James Kizzire was  
6 one of the burglary victims alleged in the Indictment. Defense counsel advised that she did not  
7 have a problem with the situation. Defendant claims he was prejudiced by counsel's  
8 unauthorized waiver of a prejudicial conflict.

9 24. The judge's relationship with the victim witness was too remote in time to be relevant,  
10 much less compelling. Additionally, the victim witness allegedly had been burglarized by the  
11 Defendant. Defendant was charged with over forty counts, including Attempt Burglary,  
12 Burglary, Burglary While in Possession of a Firearm, Grand Larceny, and Possession of Stolen  
13 Property. The jury only found Defendant guilty of eight possession of stolen property charges  
14 for items that were found at Defendant's residence. The jury hung on all of the burglary related  
15 charges except for one, which Defendant was found to be not guilty of. Since the charges  
16 Defendant was convicted of were proven by direct physical evidence, any relationship the judge  
17 may have had with one of the testifying witnesses would have had no prejudicial impact on the  
18 resulting verdict.

19 25. In Ground Seventeen, Defendant claims an accumulation of errors denied him due  
20 process and a fair trial. Defendant has failed, however, to make a proper showing for post-  
21 conviction relief on any of his claims, therefore, because the record is devoid of any error,  
22 Defendant's cumulative error contention is without merit.

23 26. In Ground Eighteen, Defendant challenges the court's ability to impose multiple life  
24 sentences in a single prosecution. Defendant was charged with forty-two counts that included  
25 Attempt Burglary, Burglary, Burglary While in Possession of a Firearm, Grand Larceny, and  
26 Possession of Stolen Property. Defendant was found guilty of one count of Possession of a  
27 Firearm & Property With a Value of Over \$250, four counts of Possession of Stolen Property  
28 With a Value Over \$250, one count of Possession of a Stolen Firearm, and two counts of



1 Possession of Stolen Property With a Value Under \$250. At sentencing, Defendant was  
2 adjudicated an habitual criminal upon a proper showing by the State that Defendant had six prior  
3 felony convictions. Defendant was given credit for time served for the two counts of Possession  
4 of Stolen Property With a Value Under \$250, but received six life sentences with a minimum  
5 parole eligibility of ten years on the remaining counts. Three of the life sentences were ordered  
6 to be run consecutively.

7 27. Defendant's claims that his criminal history was minor, and the court abused its discretion  
8 in ordering consecutive life sentences is without merit.

9 28. The State proved that Defendant had six prior felony convictions. The court  
10 adjudicated Defendant an habitual criminal. Under Nevada law, the court can impose  
11 the sentencing enhancement for each primary offense, and the court has discretion  
12 whether to order the sentences to run consecutively. Defendant's citation to cases where  
13 the court did not order the sentences in a multiple-count conviction to run consecutively  
14 where the defendants had more severe criminal histories, or Defendant's arguments as  
15 to what the law in Nevada should be, are without merit.

16 29. The Defendant was properly sentenced to consecutive life sentences for multiple  
17 counts under habitual criminal adjudication.

18 30. Defendant's trial counsel was not ineffective.

#### 19 CONCLUSIONS OF LAW

20 1. A claim of ineffective assistance of counsel is reviewed under the "reasonably effective  
21 assistance" test set forth in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 2063-64  
22 (1984); see *State v. Love*, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test,  
23 Appellant must show first that his counsel's representation fell below an objective standard of  
24 reasonableness, and that but for counsel's errors, there is a reasonable probability that the result  
25 of the proceedings would have been different. See *Strickland*, 466 U.S. at 687-88 & 694, 104  
26 S.Ct. at 2065 & 2068.

27 2. In considering whether counsel has met this standard, the court should first determine  
28 whether counsel made a "sufficient inquiry into the information . . . pertinent to his client's case."

1 Doleman v State, 112 Nev. 843, 847, 921 P.2d 278, 281 (1996); citing Strickland, 466 U.S. at  
2 690-91, 104 S.Ct. at 2066. Once this decision is made, the court should consider whether  
3 counsel made "a reasonable strategy decision on how to proceed with his client's case."  
4 Doleman, 112 Nev. at 847, 921 P.2d 281; citing Strickland, 466 U.S. at 690-91, 104 S.Ct. at  
5 2066. Finally, counsel's strategy decision is a "tactical" decision and will be "virtually  
6 unchallengeable absent extraordinary circumstances." Doleman, 112 Nev. at 847, 921 P.2d 281;  
7 see also Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); Strickland, 466 U.S.  
8 at 691, 104 S.Ct. at 2066; State v. Meeker, 693 P.2d 911, 917 (Ariz. 1984).

9 3. This Court must begin with the presumption of effectiveness and then determine whether  
10 or not Appellant has demonstrated, by "strong and convincing proof," that counsel was  
11 ineffective. Homick v State, 108 Nev. 127, 141, 825 P.2d 600, 607 (1992); citing Lenz v. State,  
12 97 Nev. 65, 66, 624 P.2d 15, 16 (1981). The role of a court in considering allegations of  
13 ineffective assistance of counsel, is "not to pass upon the merits of the action not taken but to  
14 determine whether, under the particular facts and circumstances of the case, trial counsel failed  
15 to render reasonably effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708,  
16 711 (1978); citing Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th Cir. 1977). This analysis does  
17 not mean that the court should "second guess reasoned choices between trial tactics nor does it  
18 mean that defense counsel, to protect himself against allegations of inadequacy, must make every  
19 conceivable motion no matter how remote the possibilities are of success." Donovan, 94 Nev.  
20 at 675, 584 P.2d at 711; citing Cooper, 551 F.2d at 1166. In essence, the court must "judge the  
21 reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of  
22 the time of counsel's conduct." Strickland, 466 U.S. at 690, 104 S.Ct. at 2066.

23 4. Police may conduct a search of a suspects pockets for weapons or evidence following  
24 arrest under the search incident to arrest exception to the warrant requirement. State v.  
25 Greenwald, 109 Nev. 808, 810, 858 P.2d 36, 37 (1993), citing Chimel v. California, 395 U.S.  
26 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969).

27 5. "Whether probable cause is present to support a search warrant is determined by the  
28 totality of the circumstances." Keese v. State, 110 Nev. 997, 1002, 870 P.2d 63, 67 (1994);

1 Illinois v. Gates, 462 U.S. 213, 238 (1984).

2 6. A defendant's bare, unsubstantiated allegations which are belied and repelled by the  
3 record are not sufficient to entitle a defendant to post-conviction relief. Hargrove v. State, 100  
4 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). "Without such limitations on the availability of  
5 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse  
6 post-conviction remedies." Dickerson v. State, 114 Nev. 1084, 967 P.2d 1132, 1134 (1998)  
7 (quoting Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994)).

8 7. The constitutional right to effective assistance of counsel extends to a direct appeal.  
9 Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). A claim of ineffective  
10 assistance of appellate counsel is reviewed under the "reasonably effective assistance" test set  
11 forth in Strickland, 466 U.S. 668, 104 S.Ct. 2052, 2063-64; see also Love, 109 Nev. at 1138, 865  
12 P.2d at 323. Under this test, Appellant must show first that his counsel's representation fell  
13 below an objective standard of reasonableness, and that but for counsel's errors, there is a  
14 reasonable probability that the result of the proceedings would have been different. See  
15 Strickland, 466 U.S. at 687-88 & 694, 104 S.Ct. at 2065 & 2068.

16 8. Effective assistance of appellate counsel does not mean that appellate counsel must raise  
17 every non-frivolous issue. See Jones v. Barnes, 463 U.S. 745, 751-54, 103 S.Ct. 3308, 3312-15,  
18 77 L.Ed.2d 987 (1983). An attorney's decision not to raise meritless issues on appeal is not  
19 ineffective assistance of counsel. Daniel v. Overton, 845 F.Supp. 1170, 1176 (E.D.Mich.1994);  
20 Leaks v. United States, 841 F.Supp. 536, 541 (S.D.N.Y.1994), aff'd, 47 F.3d 1157 (2d Cir.), cert.  
21 denied, 516 U.S. 926, 116 S.Ct. 327, 133 L.Ed.2d 228 (1995). To establish prejudice based on  
22 the deficient assistance of appellate counsel, the defendant must show that the omitted issue  
23 would have a reasonable probability of success on appeal. Duhamel v. Collins, 955 F.2d 962,  
24 967 (5th Cir.1992); Heath v. Jones, 941 F.2d 1126, 1132 (11th Cir.1991). In making this  
25 determination, a court must review the merits of the omitted claim. Heath, 941 F.2d at 1132.

26 9. Claims of ineffective assistance of counsel are not properly brought on direct appeal.  
27 Gibbons v. State, 97 Nev. 520, 634 P.2d 1214 (1981). Rather, those claims must first be raised  
28 by way of habeas corpus or motion for new trial. Id. This method is preferred because it allows

1 the defendant to develop a record regarding what counsel did, why he did it and what, if any,  
2 prejudice resulted. United States v. Oplinger, 150 F.3d 1061, 1071 (9th Cir. 1998).

3 10. A judge is not automatically disqualified from presiding over a criminal trial merely  
4 because he is acquainted with the parties appearing before him. See Jacobson v. Manfredi, 100  
5 Nev. 226, 230, 679 P.2d 251, 254 (1984). Further, a judge's decision to not voluntarily  
6 disqualify himself, even in the midst of compelling circumstances, should be accorded  
7 substantial weight and should not be reversed on appeal absent an abuse of discretion. Goldman  
8 v. Bryan, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988).

9 11. As Justice Gunderson put it in his dissenting opinion in LaPena v. State, 92 Nev. 1, 14,  
10 544 P.2d 1187, 1195 (1976), "nothing plus nothing plus nothing is nothing." It is true that  
11 although individual errors may be harmless, the cumulative effect of multiple errors may violate  
12 a defendant's constitutional right to a fair trial. Pertgen v. State, 110 Nev. 554, 566, 875 P.2d  
13 361, 368 (1994).

14 12. Courts have repeatedly held that enhancement of the penalty for each primary offense is  
15 applicable to each felony conviction. Odoms v. State, 102 Nev. 27, 33, 714 P.2d 568, 572  
16 (1986); see also, Schuler v. State, 668 P.2d 1333 (Wyo.1983); Wingo v. Ringo, 408 S.W.2d 469  
17 (Ky.1966), cert. denied, 386 U.S. 946, 87 S.Ct. 983 (1967); cf. Crew v. State, 100 Nev. 38, 675  
18 P.2d 986 (1984) (enhancement of penalty of each count pursuant to enhancement statute NRS  
19 193.165 is proper when each count requires proof of an additional fact which the other does not);  
20 Koza v. State, 100 Nev. 245, 681 P.2d 44 (1984).

21 13. Once habitual criminal status is sought and the requisite number of prior convictions is  
22 proven, NRS 207.010 mandates a harsher penalty:

23 1. Unless the person is prosecuted pursuant to  
24 NRS 207.012 or 207.014, a person convicted in this  
state of:

25 ...  
26 (b) Any felony, who has previously been three times  
27 convicted, whether in this state or elsewhere, of any crime  
28 which under the laws of the situs of the crime or of this  
state would amount to a felony, or who has previously been  
five times convicted, whether in this state or elsewhere, of  
petit larceny, or of any misdemeanor or gross misdemeanor

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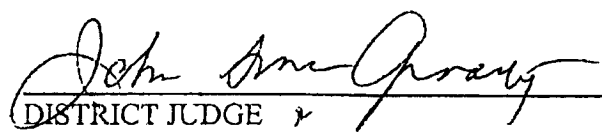
of which fraud or the intent to defraud is an element, is a habitual criminal and shall be punished for a category A felony by imprisonment in the state prison:

- (1) For life without the possibility of parole;
- (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or
- (3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

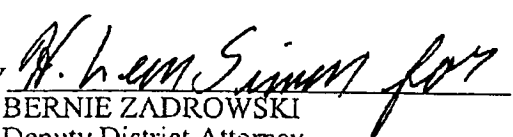
**ORDER**

Based upon the Findings of Fact and Conclusions of Law contained herein, it is hereby:  
ORDERED, ADJUDGED, and DECREED that Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) is denied.

DATED this 15<sup>th</sup> day of Septber, 2001.

  
DISTRICT JUDGE

STEWART L. BELL  
DISTRICT ATTORNEY  
Nevada Bar #000477

BY   
BERNIE ZADROWSKI  
Deputy District Attorney  
Nevada Bar #006545