

AO 450 (Rev. 5/85) Judgment in a Civil Case ⊕

UNITED STATES DISTRICT COURT

***** DISTRICT OF NEVADA

CARLOS NOGUERA,

Petitioner,

JUDGMENT IN A CIVIL CASE

v.

CASE NUMBER: **3:11-cv-00428-LRH-WGC**

GREG SMITH, et al.,

Respondent(s).

___ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

___ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

X **Decision by Court.** This action came to be considered before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the petition for writ of habeas corpus (ECF No. 6) is DENIED.

IT IS FURTHER ORDERED that a certificate of appealability is GRANTED as to the following two issues:

Whether petitioner is entitled to habeas relief due to the state trial court's failure to adequately instruct the jury on the defense theory of the case.

Whether petitioner is entitled to habeas relief because evidence presented at his state trial was insufficient to prove lack of consent beyond a reasonable doubt.

Except for these two issues, a certificate of appealability is DENIED.

May 18, 2017

DEBRA K. KEMPI
Clerk

/s/ K. Rusin
Deputy Clerk