

1 Jack Leal ID NO. 1183500

2 SOUTHERN DESERT CORRECTIONAL CTN.  
3 20825 COLD CREEK RD.  
4 P.O. BOX 208  
5 INDIAN SPRINGS, NV 89070

FILED

MAR 02 2020

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

6 In the Supreme Court of the State of Nevada

8 Jack Leal,

9 Appellant,

10 v.

11 Jerry Howell, Warden,

12 Southern Desert Correctional Center,

13 Respondent

Supreme Court

CASE NO.: 79243

District Court

~~DEPT.~~ NO.: C322664

DOCKET: \_\_\_\_\_

14 Motion For clarification as to date of final judgment

15  
16  
17 COMES NOW, Jack Leal, Appellant in proper person, herein above respectfully  
18 moves this Honorable Court for an Order clarifying which Judgment of Conviction  
19 is the "Final judgment" per NRS 176.105

20  
21 This Motion is made and based upon the accompanying Memorandum of Points and  
22 Authorities,

23 DATED: this 24<sup>th</sup> day of February, 2020

24 BY: [Signature]

Jack Leal

# 1183500

25 ~~Defendant~~ In Proper Personam  
26 Appellant

27 RECEIVED

FEB 28 2020

28 ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

20-08370

## I. Facts and Procedural History

On August 23<sup>rd</sup> 2017 a Judgment of Conviction (Attachment A) was filed against Leal with the Eighth Judicial District Court which sentenced him to a prison term and also assessed a restitution obligation.

On April 17<sup>th</sup> 2019 at Jessica Garcia's (Leal's co-defendant) sentencing hearing, the court became aware that they had not listed or placed the terms of Leal's restitution in his Judgment of Conviction and therefore scheduled a hearing to correct the error.

On April 25<sup>th</sup> 2019, at the court's request, the case was then called before the court for the "Court's request for clarification of restitution to include jointly and severally with co-defendant" (Attachment B). As Leal was unaware of this court date and was not present, it was continued to May 23<sup>rd</sup> 2019.

On May 7<sup>th</sup> 2019 Leal had a court date for his Petition for Writ of Habeas Corpus where the court noted the upcoming hearing on May 23<sup>rd</sup> 2019. The court then advanced that court date and ordered a change to the terms of Leal's restitution due to that restitution hearing which was held. The court then issued an Amended Judgment of Conviction (Attachment C) which was filed on May 9<sup>th</sup> 2019.

## II. Argument

The question presented to this court is whether the August 2017 J.O.C. is the final judgment or if the Amended J.O.C. filed in May 2019 is in fact the final judgment. In *Whitehead v. State*, 128 Nev. 259 (2012) the Supreme Court of Nevada concluded that "a judgment of conviction that imposes a restitution obligation but does not specify its terms is not a final judgment." This is exactly the situation presently before this court, where the District Court was not simply making or correcting a clerical error, but rather actually held a hearing, simply in regards to restitution, with said hearing being the sole cause for the changing of the terms of Leal's restitution obligations and

1 subsequently the Amended J.O.C.  
2 Later the Nevada Supreme Court in *Slatte v. State*, 129 Nev. 219 (2013), determined  
3 that a "judgment is not final per NRS 176.105 (1)(c) because it had to include the  
4 amount and terms of restitution in the J.O.C. to be considered a final judgment.  
5 Again, here the initial J.O.C. from August 2017 is missing and lacking any terms of Leal's  
6 restitution obligations and which the court only recently held a hearing on, which then  
7 caused the terms of his restitution to be added in the May 2019 Amended J.O.C.  
8 which would effectively render the initial August 2017 J.O.C. as only an intermediate  
9 judgment.


10  
11 III. Conclusion

12 Based on the foregoing, the Appellant respectfully requests that this court  
13 clarify which J.O.C. is the final judgment per NRS 176.105

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16 This motion is made in good faith and not for the purposes of undue delay.

17  
18 I declare under penalty of perjury the factual representations set forth in the  
19 foregoing memorandum are true and correct.

20  
21  
22 Dated this 24<sup>th</sup> day of February 2020.

23  
24 Respectfully submitted,  
25   
26 Jack Leal #1183500  
27 Appellant in proper person



AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Motion for clarification as to date of final judgment  
(Title of Document)

filed in ~~District~~ <sup>Supreme</sup> Court Case number 79243

Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

B. For the administration of a public program or for an application for a federal or state grant.

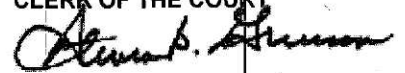
  
Signature

2-24-2020  
Date

Jack Leal  
Print Name

Appellant  
Title

# **ATTACHMENT "A"**



1 JOCP  
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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA  
7

8 THE STATE OF NEVADA,  
9

10 Plaintiff,

11 -vs-

12 JACK LEAL  
13 #X0157754

14 Defendant.  
15

CASE NO. C-17-322664-2

DEPT. NO. XVII

16  
17 JUDGMENT OF CONVICTION  
18 (PLEA OF GUILTY)  
19

20 The Defendant previously appeared before the Court with counsel and entered a  
21 plea of guilty to the crime of MULTIPLE TRANSACTIONS INVOLVING FRAUD  
22 OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION  
23 (Category B Felony) in violation of NRS 205.377; thereafter, on the 17<sup>th</sup> day of August,  
24 2017, the Defendant was present in court for sentencing with counsel JASON  
25 WEINER, ESQ., and good cause appearing,  
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1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in  
2 addition to the \$25.00 Administrative Assessment Fee, \$757,420.00 Restitution,  
3 (\$70,000.00 payable to LoryLee Plancarte, \$75,000.00 payable to Edelyn Rudin,  
4 \$37,000.00 payable to Chatty Becker, \$57,500.00 payable to Irene Segura, \$98,620.00  
5 payable to Liih-Ling Yang, \$90,300.00 payable to Lina Palafox, \$85,000.00 payable to  
6 Adilson Gibellato, \$50,000.00 payable to Juan Eloy Ramirez, \$115,000.00 payable to  
7 Catherine Wyngarden, \$25,000.00 payable to Shahram Bozorgnia, \$53,500.00 payable  
8 to Tat Lam) and \$150.00 DNA Analysis Fee including testing to determine genetic  
9 markers plus \$3.00 DNA Collection Fee, the Defendant is sentenced as follows: a  
10 MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole  
11 eligibility of SEVENTY-TWO (72) MONTHS in the Nevada Department of  
12 Corrections (NDC); with ZERO (0) DAYS credit for time served.  
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17 DATED this 22 day of August, 2017

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22 MICHAEL VILLANI <sup>05</sup>  
23 DISTRICT COURT JUDGE  
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# **ATTACHMENT "B"**

C-17-322664-2

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

April 25, 2019

C-17-322664-2      State of Nevada  
   vs  
   Jack Leal

April 25, 2019      08:30 AM      Court's request for clarification of restitution to include jointly and severally with co-defendant

HEARD BY:      Villani, Michael      COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER:      Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Alissa Engler

Attorney for Plaintiff

State of Nevada

Plaintiff

**JOURNAL ENTRIES**

Defendant not present. COURT ORDERED, matter CONTINUED; State to prepare a Transport Order for Defendant's presence.

NDC

CONTINUED TO: 05/23/19 8:30 AM

# **ATTACHMENT "C"**

*Steven D. Grierson*

AJOCP

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-17-322664-2

-vs-

DEPT. NO. XVII

JACK LEAL  
#X0157754

Defendant.

AMENDED JUDGMENT OF CONVICTION  
(PLEA OF GUILTY)

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The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (Category B Felony) in violation of NRS 205.377; thereafter, on the 17<sup>th</sup> day of August, 2017, the Defendant was present in court for sentencing with counsel JASON WEINER, ESQ., and good cause appearing.

RECEIVED BY  
SENT 17:00  
MAY - 9 2019

<input type="checkbox"/> None Prosecuted (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input checked="" type="checkbox"/> Other Manner of Disposition	

1 THE DEFENDANT WAS ADJUDGED guilty of said offense and, in addition to  
2 the \$25.00 Administrative Assessment Fee, \$757,420.00 Restitution **payable jointly**  
3 **and severally with Co-Defendant** (\$70,000.00 payable to LoryLee Plancarte:  
4 \$75,000.00 payable to Edelyn Rudin; \$37,000.00 payable to Chatty Becker; \$57,500.00  
5 payable to Irene Segura; \$98,620.00 payable to Lih-Ling Yang; \$90,300.00 payable to  
6 Lina Palafox; \$85,000.00 payable to Adilson Gibellato; \$50,000.00 payable to Juan  
7 Eloy Ramirez; \$115,000.00 payable to Catherine Wyngarden; \$25,000.00 payable to  
8 Shahram Bozorgnia; \$53,500.00 payable to Tat Lam) and \$150.00 DNA Analysis Fee  
9 including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the  
10 Defendant sentenced as follows: a MAXIMUM of ONE HUNDRED EIGHTY (180)  
11 MONTHS with a MINIMUM parole eligibility of SEVENTY-TWO (72) MONTHS in  
12 the Nevada Department of Corrections (NDC); with ZERO (0) DAYS credit for time  
13 served.

14 THEREAFTER, on the 7<sup>th</sup> day of May, 2019, the Defendant Prof Se was not  
15 present in Court, and pursuant to Petition for Writ of Habeas Corpus (Post Conviction)  
16 hearing; COURT ORDERED, Restitution payable jointly and severally with Co-  
17 Defendant.

18 DATED this 9 day of May, 2019

19   
20 MICHAEL VILLANI  
21 DISTRICT COURT JUDGE