

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 * * *

3 NORMAN KEITH FLOWERS,)

4 Appellant,)

5 vs.)

6 THE STATE OF NEVADA,)

7 Respondent)

CASE NO. 53159
CASE NO. 55759

Electronically Filed
Jun 13 2011 04:55 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

8 **MOTION TO VOLUNTARILY DISMISS APPEALS**

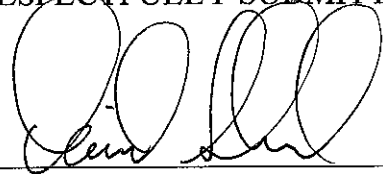
9 Appellant Norman Flowers, by and through his counsel David M. Schieck, Special Public
10 Defender and JoNell Thomas, Deputy Special Public Defender, and moves this Court to dismiss
11 his appeals docketed in this Court under Case No. 55759 and 53159 (consolidated by Order of
12 this Court) pursuant to a Guilty Plea Agreement filed in District Court Case No. C216032.

13 Appellant requests that this Court dismiss this appeal on or after July 20, 2011, which is
14 the date set for the sentencing hearing and imposition of judgment in the related district court
15 case (Case No. C216032); and requests that this Court stay all proceedings in these two appeals
16 (Case No. 55759 and 53159) until that date.

17 This request is based on the Declaration of Counsel attached hereto and the filed copy of
18 the Guilty Plea Agreement attached hereto as Exhibit A.

19 Dated this 13th day of June, 2011.

20 **RESPECTFULLY SUBMITTED:**

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23
24 **DAVID M. SCHIECK**
Special Public Defender
25 **JONELL THOMAS**
Deputy Special Public Defender
26 Nevada Bar No. 4771
330 S. Third St., No. 800
27 Las Vegas NV 89101
702-455-6270
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DECLARATION OF CLARK W. PATRICK

CLARK W. PATRICK makes the following declaration:

I am an attorney duly licensed to practice law in the State of Nevada. I am one of the Deputy Special Public Defender's assigned to handle Mr. Flowers' capital trial which was set to commence June 13, 2011 (Eighth Judicial District Case No. C216032). Randall H. Pike, the other Deputy assigned, was out of town on the day of the calendar call, June 10, 2011, and therefore I appeared along with Mr. Schieck.

In addition, Mr. Schieck accompanied me when I went to meet with Mr. Flowers at High Desert State Prison on June 9, 2011, to discuss his negotiations and the consequences of waiving his appeals should he plead guilty and the consequences of dismissing the consolidated appeals in the instant matter. JoNell Thomas, appellate attorney for Mr. Flowers, wrote him a letter setting forth the issues involved with dismissing the appeal and we brought same with us to the prison and discussed its contents with Mr. Flowers at some length.

Having discussed this matter with Mr. Flowers, I believe that he fully understands the consequences of dismissing these appeals and believe that doing so is in his best interest.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).
EXECUTED this 13th day of June, 2011.



CLARK W. PATRICK

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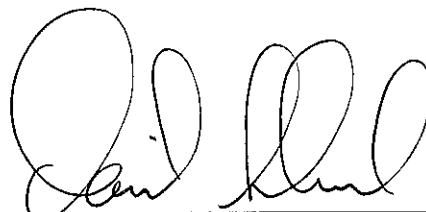
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 13th day of June, 2011 a copy of the foregoing Motion to Voluntarily Dismiss Appeals was served as follows:

BY ELECTRONIC FILING TO

District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155

Nevada Attorney General
100 N. Carson St.
Carson City NV 89701



David M. Schieck

EXHIBIT A

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 10 2011

1 **GPA**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 PAMELA WECKERLY
6 Chief Deputy District Attorney
7 Nevada Bar #006163
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

BY _____
KATHERINE STREUBER, DEPUTY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

8 THE STATE OF NEVADA,)
9 Plaintiff,)

10 -vs-

11 NORMAN KEITH FLOWERS,
12 aka Norman Harold Flowers,
13 #1179383

Defendant.)

CASE NO:
DEPT NO:

216032
~~C228755~~
VIII

GUILTY PLEA AGREEMENT

15 I hereby agree to plead guilty, pursuant to North Carolina v. Alford, 400 U.S. 25
16 (1970), to: **COUNTS 1 & 2 – FIRST DEGREE MURDER (Category A Felony)**, as more
17 fully alleged in the charging document attached hereto as Exhibit "1".

18 My decision to plead guilty by way of the Alford decision is based upon the plea
19 agreement in this case which is as follows:

20 Both parties stipulate to a sentence of life in prison without the possibility of parole
21 on Count 1. The parties stipulate to a sentence of life in prison with the possibility of parole
22 on Count 2, Count 2 to run concurrent to Count 1. Defendant stipulates that the sentence in
23 this case will run consecutive to C228755. Defendant agrees to withdraw his appeal in SC
24 Case Nos. 53159 and 55759.

25 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
26 and/or impounded in connection with the instant case and/or any other case negotiated in
27 whole or in part in conjunction with this plea agreement.

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1 I understand and agree that, if I fail to interview with the Department of Parole and
2 Probation, fail to appear at any subsequent hearings in this case, or an independent
3 magistrate, by affidavit review, confirms probable cause against me for new criminal charges
4 including reckless driving or DUI, but excluding minor traffic violations, that the State will
5 have the unqualified right to argue for any legal sentence and term of confinement allowable
6 for the crime(s) to which I am pleading guilty, including the use of any prior convictions I
7 may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life
8 without the possibility of parole, life with the possibility of parole after ten (10) years, or a
9 definite twenty-five (25) year term with the possibility of parole after ten (10) years.

10 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
11 plea agreement.

12 CONSEQUENCES OF THE PLEA

13 By pleading guilty pursuant to the Alford decision, it is my desire to avoid the
14 possibility of being convicted of more offenses or of a greater offense if I were to proceed to
15 trial on the original charge(s) and of also receiving a greater penalty. I understand that my
16 decision to plead guilty by way of the Alford decision does not require me to admit guilt, but
17 is based upon my belief that the State would present sufficient evidence at trial that a jury
18 would return a verdict of guilty of a greater offense or of more offenses than that to which I
19 am pleading guilty.

20 I understand that as a consequence of my plea of guilty by way of the Alford decision
21 the Court must sentence me, on each count, to a term of LIFE without the possibility of
22 parole or LIFE with the possibility of parole, with parole eligibility beginning after twenty
23 (20) years has been served. I understand that the law requires me to pay an Administrative
24 Assessment Fee.

25 I understand that, if appropriate, I will be ordered to make restitution to the victim of
26 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
27 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
28 reimburse the State of Nevada for any expenses related to my extradition, if any.

1 I understand that I am not eligible for probation for the offense to which I am
2 pleading guilty.

3 I also understand that I must submit to blood and/or saliva tests under the Direction of
4 the Division of Parole and Probation to determine genetic markers and/or secretor status.

5 I further understand that if I am pleading guilty to charges of Burglary, Invasion of
6 the Home, Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled
7 Substance, or Gaming Crimes, for which I have prior felony conviction(s), I will not be
8 eligible for probation and may receive a higher sentencing range.

9 I understand that if more than one sentence of imprisonment is imposed and I am
10 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
11 the sentences served concurrently or consecutively.

12 I also understand that information regarding charges not filed, dismissed charges, or
13 charges to be dismissed pursuant to this agreement may be considered by the judge at
14 sentencing.

15 I have not been promised or guaranteed any particular sentence by anyone. I know
16 that my sentence is to be determined by the Court within the limits prescribed by statute.

17 I understand that if my attorney or the State of Nevada or both recommend any
18 specific punishment to the Court, the Court is not obligated to accept the recommendation.

19 I understand that if the State of Nevada has agreed to recommend or stipulate a
20 particular sentence or has agreed not to present argument regarding the sentence, or agreed
21 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
22 when the offense could have been treated as a felony, such agreement is contingent upon my
23 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
24 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
25 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
26 right to argue for any lawful sentence.

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1 I understand if the offense(s) to which I am pleading guilty to was committed while I
2 was incarcerated on another charge or while I was on probation or parole that I am not
3 eligible for credit for time served toward the instant offense(s).

4 I understand that if I am not a United States citizen, any criminal conviction will
5 likely result in serious negative immigration consequences including but not limited to:

- 6 1. The removal from the United States through deportation;
- 7 2. An inability to reenter the United States;
- 8 3. The inability to gain United States citizenship or legal residency;
- 9 4. An inability to renew and/or retain any legal residency status; and/or
- 10 5. An indeterminate term of confinement, with the United States Federal
11 Government based on my conviction and immigration status.

12 Regardless of what I have been told by any attorney, no one can promise me that this
13 conviction will not result in negative immigration consequences and/or impact my ability to
14 become a United States citizen and/or a legal resident.

15 I understand that the Division of Parole and Probation will prepare a report for the
16 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
17 sentencing, including my criminal history. This report may contain hearsay information
18 regarding my background and criminal history. My attorney and I will each have the
19 opportunity to comment on the information contained in the report at the time of sentencing.
20 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
21 may also comment on this report.

22 WAIVER OF RIGHTS

23 By entering my plea of guilty, I understand that I am waiving and forever giving up
24 the following rights and privileges:

- 25 1. The constitutional privilege against self-incrimination, including the
26 right to refuse to testify at trial, in which event the prosecution would
not be allowed to comment to the jury about my refusal to testify.
- 27 2. The constitutional right to a speedy and public trial by an impartial jury,
28 free of excessive pretrial publicity prejudicial to the defense, at which
trial I would be entitled to the assistance of an attorney, either appointed
or retained. At trial the State would bear the burden of proving beyond

a reasonable doubt each element of the offense(s) charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of any intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

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1 My attorney has answered all my questions regarding this guilty plea agreement and
2 its consequences to my satisfaction and I am satisfied with the services provided by my
3 attorney.

4 DATED this 10 day of June, 2011.


NORMAN KEITH FLOWERS,
AKA NORMAN HAROLD FLOWERS
Defendant

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8 AGREED TO BY:

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11 PAMELA WECKERLY
12 Chief Deputy District Attorney
13 Nevada Bar #006163
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1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of
3 the court hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which Alford pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the
7 restitution that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration
9 status and explained to Defendant that if Defendant is not a United
10 States citizen any criminal conviction will most likely result in serious
11 negative immigration consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
 - 13 b. An inability to reenter the United States;
 - 14 c. The inability to gain United States citizenship or legal residency;
 - 15 d. An inability to renew and/or retain any legal residency status;
and/or
 - 16 e. An indeterminate term of confinement, by with United States
17 Federal Government based on the conviction and immigration
18 status.

19 Moreover, I have explained that regardless of what Defendant may have
20 been told by any attorney, no one can promise Defendant that this
21 conviction will not result in negative immigration consequences and/or
22 impact Defendant's ability to become a United States citizen and/or
23 legal resident.

- 24 4. All pleas of Alford offered by the Defendant pursuant to this agreement
25 are consistent with the facts known to me and are made with my advice
26 to the Defendant.
- 27 5. To the best of my knowledge and belief, the Defendant:
- 28 a. Is competent and understands the charges and the consequences
of pleading Alford as provided in this agreement,
 - b. Executed this agreement and will enter all Alford pleas pursuant
hereto voluntarily, and
 - c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the
Defendant as certified in paragraphs 1 and 2 above.

Dated: This 10 day of June, 2011.

hjc/SVU


ATTORNEY FOR DEFENDANT

ORIGINAL

1 **AIND**
2 **DAVID ROGER**
3 Clark County District Attorney
4 Nevada Bar #002781
5 **PAMELA WECKERLY**
6 Chief Deputy District Attorney
7 Nevada Bar #006163
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 THE STATE OF NEVADA,)
15)
16 Plaintiff,)
17)
18 -vs-)
19)
20 NORMAN KEITH FLOWERS, aka,)
21 Norman Harold Flowers, III,)
22 #1179383)
23)
24 Defendant.)

Case No. **C216032**
Dept. No. **VIII**

A M E N D E D
- I N D I C T M E N T

25 STATE OF NEVADA }
26 COUNTY OF CLARK } ss.

27 The Defendant above named, **NORMAN KEITH FLOWERS, aka, Norman**
28 **Harold Flowers, III**, accused by the Clark County Grand Jury of the crimes of **FIRST**
29 **DEGREE MURDER (Category A Felony - NRS 200.010, 200.030)**; committed at and
30 within the County of Clark, State of Nevada, on or about the 3rd day of May, 2005, as
31 follows:

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1 COUNT 1 – FIRST DEGREE MURDER

2 did then and there wilfully, feloniously, without authority of law, and with
3 premeditation and deliberation, and with malice aforethought, kill victim, a human being,
4 MARILEE COOTE, by manual strangulation with his hands and/or an unknown object;
5 Defendant being responsible under one or more of the following principles of criminal
6 liability, to-wit: (1) by killing MARILEE COOTE with premeditation, deliberation and
7 malice aforethought; and/or (2) by killing MARILEE COOTE during the perpetration or
8 attempted perpetration of sexual assault and/or burglary.

9 COUNT 2 – FIRST DEGREE MURDER

10 did then and there wilfully, feloniously, without authority of law, and with
11 premeditation and deliberation, and with malice aforethought, kill RENA GONZALES, a
12 human being, by manual strangulation, Defendant being responsible under one or more of
13 the following principles of criminal liability, to-wit: (1) by killing RENA GONZALES with
14 premeditation, deliberation and malice aforethought; and/or (2) by killing RENA
15 GONZALES during the perpetration or attempted perpetration of sexual assault and/or
16 burglary.

17 DAVID ROGER
18 DISTRICT ATTORNEY
19 Nevada Bar #002781

20 BY Pamela Weckerly
21 PAMELA WECKERLY
22 Chief Deputy District Attorney
23 Nevada Bar #006163
24
25
26

27 05BGJ016X/05F10466X/hjc/SVU
28 LVMPD EV# 0505030926/0505032974
(TRK11)