

IN THE SUPREME COURT OF THE STATE OF NEVADA

D'VAUGHN KEITHAN KING,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

SUPREME COURT No. 64983

Dist Ct. Case. CR12-1160

APPEAL FROM JUDGMENT OF THE HONORABLE JUDGE PATRICK FLANAGAN

SECOND JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX

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IN THE SUPREME COURT OF THE STATE OF NEVADA

D'VAUGHN KEITHAN KING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64983

FILED

APR 04 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER SETTING BRIEFING SCHEDULE

This is an appeal from a judgment of conviction. Because the notice of appeal was filed in proper person, we remanded this matter for the appointment of counsel to represent appellant in this appeal. See *Evitts v. Lucey*, 469 U.S. 387 (1985). Attorney Karla K. Butko has now filed a notice of appearance in which she represents that she was appointed as appellant's counsel.

Appellant shall have 20 days from the date of this order to file and serve a transcript request form, NRAP 9(a), and a docketing statement, NRAP 14. Appellant shall have 120 days from the date of this order to file and serve the opening brief and appendix. Thereafter, briefing shall proceed as provided in NRAP 31(a)(1). Failure to comply with this order may result in the imposition of sanctions.

It is so ORDERED.

, C.J.

cc: Karla K. Butko
Attorney General/Carson City
Washoe County District Attorney
D'Vaughn Keithan King

In the Justice's Court of Sparks Township
In and for the County of Washoe
State of Nevada

THE STATE OF NEVADA,
Plaintiff,

vs.

D'Vaughn King
Defendant.

No. 12 SCR-01036
00668

CR 12-1160

Waiver of Preliminary Examination

7/19/12

I, the defendant in the above-entitled action, being fully advised of my rights in the premises, hereby waive my preliminary examination on the charge of Nemuda 1st
cellmate theory in the above entitled action, and consent that I may be remanded to the Second Judicial Court of the State of Nevada, for further proceedings therein.

D'Vaughn King

△ waives preliminary hearing.

No negotiation @ this time

DA # 438987

SPD 10-11148

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4 Attorney for Plaintiff

5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR12-1160

11 v.

Dept. No. 7

12 DVAUGHN KIETHAN KING,
also known as
13 DVAUGHN KEATHAN KING,
also known as "PRESCHOOL"

14
15 Defendant.

16 _____/
17 INFORMATION

18 RICHARD A. GAMMICK, District Attorney within and for the
19 County of Washoe, State of Nevada, in the name and by the authority
20 of the State of Nevada, informs the above entitled Court that DVAUGHN
21 KIETHAN KING, also known as DVAUGHN KEATHAN KING, also known as
22 "PRESCHOOL" the defendant above named, has committed the crime of:

23 ///

24 ///

25 ///

26 ///

1 MURDER WITH THE USE OF A DEADLY WEAPON, a violation of NRS
2 200.010, NRS 200.030, and NRS 193.165, a felony, (F720) in the manner
3 following:

4 That the said defendant on the 5th day of November A.D.
5 2010, or thereabout, and before the filing of this Information, at
6 and within the County of Washoe, State of Nevada, did willfully,
7 unlawfully, and with malice aforethought, deliberation, and
8 premeditation, kill and murder TOMMY YOUNG, a human being, with the
9 use of a deadly weapon to wit, a .40 caliber handgun, by means of
10 shooting said victim multiple times in the head and/or neck and/or
11 torso, thereby inflicting mortal injuries upon the said TOMMY YOUNG
12 from which he died on November 5, 2010, or

13 The defendant did willfully and unlawfully perpetrate
14 and/or attempted to perpetrate an Invasion of the Home and/or Robbery
15 and during the perpetration or attempted perpetration of said acts, a
16 death resulted to TOMMY YOUNG, a human being at 705 York Way, Sparks,
17 Washoe County, Nevada by means of TOMMY YOUNG being shot in the head
18 and/or neck and/or torso with one or more rounds from a deadly
19 weapon, to wit, a .40 caliber handgun.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 All of which is contrary to the form of the Statute in such
2 case made and provided, and against the peace and dignity of the
3 State of Nevada.

4
5
6 RICHARD A. GAMMICK
District Attorney
7 Washoe County, Nevada

8
9 By/s/BRUCE C. HAHN
BRUCE C. HAHN
10 5011
Chief Deputy District Attorney
11
12
13
14
15
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18
19
20
21
22
23
24
25
26

DA #13-54718

SPD 10-11148

1 CODE 1800
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6 (775) 328-3200
7 Attorney for State of Nevada

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No.: CR12-1160

15 v.

Dept. No.: D07

16 DVAUGHN KEITHAN KING,
17 also known as
18 "PRESCHOOL",

19 Defendant.
20 _____/

21 AMENDED INFORMATION

22 RICHARD A. GAMMICK, District Attorney within and for the
23 County of Washoe, State of Nevada, in the name and by the authority
24 of the State of Nevada, informs the above entitled Court that DVAUGHN
25 KEITHAN KING also known as "PRESCHOOL", the defendant above named,
26 has committed the crime of:

MURDER IN THE SECOND DEGREE WITH THE USE OF A DEADLY
WEAPON, a violation of NRS 200.010, NRS 200.030, and NRS 193.165 a
felony, (F720) in the manner following:

That the said defendant on the 5th day of November A.D.
2010, or thereabout, and before the filing of this Information, at 6

1 and within the County of Washoe, State of Nevada, did willfully,
2 unlawfully, and with malice aforethought, kill and murder TOMMY
3 YOUNG, a human being, with the use of a deadly weapon to wit, a .40
4 caliber handgun, by means of shooting said victim multiple times in
5 the head and/or neck and/or torso, thereby inflicting mortal injuries
6 upon the said TOMMY YOUNG from which he died on November 5, 2010.
7

8 All of which is contrary to the form of the Statute in such
9 case made and provided, and against the peace and dignity of the
10 State of Nevada.
11

12 RICHARD A. GAMMICK
13 District Attorney
14 Washoe County, Nevada
15

16 By: /s/BRUCE C. HAHN
17 BRUCE C. HAHN
18 5011
19 Deputy District Attorney
20
21
22
23
24
25
26

1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within
3 Information:

4
5 SPARKS POLICE DEPARTMENT

6 MICHEL BROWN
7 KENNETH GALLOP
8 LANCE LEHIGH
9 ROBERT BEGBIE
10 ERIC CURTIS
11 AARON LEARY
12 STEVEN FIORE
13 MATTHEW MARQUEZ
14 MICHAEL KEATING
15 PATRICK MCNEELEY
16 JOHN PATTON
17 DENNIS RODRIGUE
18 OFFICER HANE
19 OFFICER ROBERSON

20 WASHOE COUNTY CRIME LABORATORY

21 DEAN KAUMANS
22 KINDRA BAUM
23 KERRY HEWARD
24 DEAN KAUMANS
25 VICTOR RUVALCABA
26 SUZANNE HARMON
TONI LEAL-OLSEN

SACRAMENTO POLICE DEPARTMENT

ASHLEY ENGLEFIELD
DET. MELLO
JUSTIN DONNELL
D. PAIZ

SACRAMENTO SHERIFF'S DEPARTMENT

BRIAN MEUX
ROBERT TRACY
DETECTIVE SWISHER

STOCKTON POLICE DEPARTMENT

SALVADOR SOTO
STEVEN MCCULLOUGH
PATRICIA GRENNINGS

WASHOE COUNTY MEDICAL EXAMINER

Ellen Clark, MD

1 DANNY CONK, 1705 N. Newport Ave., Stockton, CA
2 PRISCILLA CONK, 1705 N. Newport Ave., Stockton, CA
3 CAROLE ELBERT, 5714 Auburn Blvd., Sacramento, CA
4 TERRI RENISON, 5714 Auburn Blvd., Sacramento, CA
5 REBECCA MCQUEEN, 2500 E. 2nd Street, Reno, NV
6 MAURO ZAMORA, 2500 E. 2nd Street, Reno, NV
7 ASHLEY BROOKS, 1847 Purdue Drive, Reno, NV
8 CHRISVALENTOU CHRYSOS, 845 N. Sierra Street, Reno
9 EVELYN YOUNG
10 QUINA YOUNG
11 SHANIQUA MARTIN
12 HANNA MULATU
13 JOE RODRIGUEZ
14

15
16 The party executing this document hereby affirms that this
17 document submitted for recording does not contain the social security
18 number of any person or persons pursuant to NRS 239B.230.
19

20 RICHARD A. GAMMICK
21 District Attorney
22 Washoe County, Nevada
23

24 By: /s/BRUCE C. HAHN
25 BRUCE C. HAHN
26 5011
Deputy District Attorney

27 PCN: SPPD0027003C-KING

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4 Attorney for Plaintiff
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR12-1160

11 v.

Dept No. 7

12 DVAUGHN KEITHAN KING,
also known as
13 "PRESCHOOL"

14 Defendant.
15 _____/

16 GUILTY PLEA MEMORANDUM

17 1. I, DVAUGHN KEITHAN KING, also known as "PRESCHOOL",
18 understand that I am charged with the offense of: MURDER IN THE
19 SECOND DEGREE WITH THE USE OF A DEADLY WEAPON, a violation of NRS
20 200.010, NRS 200.030 and NRS 193.165, a felony.

21 2. I desire to enter a plea of guilty to the offense of
22 MURDER IN THE SECOND DEGREE WITH THE USE OF A DEADLY WEAPON, a
23 violation of NRS 200.010, NRS 200.030 and NRS 193.165, a felony, as
24 more fully alleged in the charge filed against me.

25 3. By entering my plea of guilty I know and understand
26 that I am waiving the following constitutional rights:

10

1 A. I waive my privilege against self-incrimination.

2 B. I waive my right to trial by jury, at which trial the
3 State would have to prove my guilt of all elements of the offense
4 beyond a reasonable doubt.

5 C. I waive my right to confront my accusers, that is, the
6 right to confront and cross-examine all witnesses who would testify
7 at trial.

8 D. I waive my right to subpoena witnesses for trial on my
9 behalf.

10 4. I understand the charge against me and that the
11 elements of the offense which the State would have to prove beyond a
12 reasonable doubt at trial are that on November 5, 2010, or
13 thereabout, in the County of Washoe, State of Nevada, I did
14 willfully, unlawfully, and with malice aforethought kill and murder
15 TOMMY YOUNG, a human being, at a residence at 705 York Way, Sparks,
16 Nevada, by shooting him multiple times and did use a deadly weapon in
17 the commission of said offense: a .40 caliber semi-automatic handgun
18 thereby inflicting mortal injuries upon TOMMY YOUNG from which he
19 died on November 5, 2010.

20 5. I understand that I admit the facts which support all
21 the elements of the offense by pleading guilty. I admit that the
22 State possesses sufficient evidence which would result in my
23 conviction. I have carefully examined the State's discovery of
24 evidence against me. I have considered and discussed all possible
25 defenses and defense strategies with my counsel. I understand that I
26 have the right to appeal from adverse rulings on pretrial motions

1 only if the State and the Court consent to my right to appeal in a
2 separate written agreement. I understand that any substantive or
3 procedural pretrial issue which could have been raised at trial are
4 waived by my plea.

5 6. I understand that the consequences of my plea of guilty
6 are that I will be imprisoned for either: a definite term of 25
7 years with eligibility for parole beginning when a minimum of 10
8 years has been served, or, for life with the possibility of parole
9 with eligibility for parole beginning when a minimum of 10 years has
10 been served. I understand that I will also be imprisoned for an
11 additional mandatory consecutive sentence from 1 to 20 years for the
12 use of a deadly weapon.

13 7. My counsel and the State will be free to argue for an
14 appropriate sentence as to the underlying sentence for Murder in the
15 Second Degree. For the mandatory consecutive deadly weapon
16 enhancement term, my counsel is free to argue for an appropriate term
17 and the State agrees to seek no more than an additional 2 to 6 years
18 for the enhancement. My counsel and the State are free to argue as
19 to whether the sentence to be imposed in this case here will run
20 concurrent or consecutive to my separate prison sentence term in
21 California, which I was serving when I was arrested for my charges
22 here.

23 8. I understand that, even though the State and I have
24 reached this plea agreement, the State is reserving the right to
25 present arguments, facts, and/or witnesses at sentencing in support
26 of the plea agreement.

1 9. I also agree that I will make full restitution in this
2 matter joint and several with HENRY TOY, as determined by the Court.
3 Where applicable, I additionally understand and agree that I will be
4 responsible for the repayment of any costs incurred by the State or
5 County in securing my return to this jurisdiction from California.

6 10. I understand that the State, at their discretion, is
7 entitled to either withdraw from this agreement and proceed with the
8 prosecution of the original charges or be free to argue for an
9 appropriate sentence at the time of sentencing if I fail to appear at
10 any scheduled proceeding in this matter OR if prior to the date of my
11 sentencing I am arrested in any jurisdiction for a violation of law
12 OR if I have misrepresented my prior felony criminal history. My
13 prior criminal history consists of a conviction for TRANSPORTATION OF
14 MARIJUANA (Sacramento Superior, 03F06273(2)); BATTERY CAUSING
15 SUBSTANTIAL BODILY HARM (Sacramento Superior, 08F01901); POSSESSION
16 OF A CONTROLLED SUBSTANCE (Sacramento Superior, 10F07661). I
17 understand and agree that the occurrence of any of these acts
18 constitutes a material breach of my plea agreement with the State. I
19 further understand and agree that by the execution of this agreement,
20 I am waiving any claim I may have to remand this matter to Justice
21 Court should I later attempt to withdraw my plea.

22 11. I understand and agree that pursuant to the terms of
23 the plea agreement stated herein, any other cases charged or
24 uncharged which are either to be dismissed or not pursued by the
25 State, may be considered by the court at the time of my sentencing.

26 ///

1 12. I understand that the Court is not bound by the
2 agreement of the parties and that the matter of sentencing is to be
3 determined solely by the Court. I have discussed the charge, the
4 facts and the possible defenses with my attorney. All of the
5 foregoing rights, waiver of rights, elements, possible penalties, and
6 consequences, have been carefully explained to me by my attorney. My
7 attorney has not promised me anything not mentioned in this plea
8 memorandum, and, in particular, my attorney has not promised that I
9 will get any specific sentence. I am satisfied with my counsel's
10 advice and representation leading to this resolution of my case. I
11 am aware that if I am not satisfied with my counsel I should advise
12 the Court at this time. I believe that entering my plea is in my
13 best interest and that going to trial is not in my best interest. My
14 attorney has advised me that if I wish to appeal, any appeal, if
15 applicable to my case, must be filed within thirty days of my
16 sentence and/or judgment.

17 13. I understand that this plea and resulting conviction
18 will likely have adverse effects upon my residency in this country if
19 I am not a U. S. Citizen. I have discussed the effects my plea will
20 have upon my residency with my counsel.

21 14. I offer my plea freely, voluntarily, knowingly and
22 with full understanding of all matters set forth in the Amended
23 Information and in this Plea Memorandum. I have read this plea
24 memorandum completely and I understand everything contained in it.

25 15. My plea of guilty is voluntary, is not the result of
26 any threats, coercion or promises of leniency.

16. I am signing this Plea Memorandum voluntarily with advice of counsel, under no duress, coercion, or promises of leniency.

17. I do hereby swear under penalty of perjury that all of the assertions in this written plea agreement document are true.

DATED this 25 day of November, 2013.

X D'Paughn King
DEFENDANT

Attorney Witnessing Defendant's Signature

Prosecuting Attorney

1 4185

2 STEPHANIE KOETTING

3 CCR #207

4 75 COURT STREET

5 RENO, NEVADA

6
7 IN THE SECOND JUDICIAL DISTRICT COURT

8 IN AND FOR THE COUNTY OF WASHOE

9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)

12 Plaintiffs,)

13 vs.)

Case No. CR12-1160 and
CR13-1149

14 DVAUGHN KEITHAN KING,)

15 Defendant.)

Department 7

16
17
18 TRANSCRIPT OF PROCEEDINGS

19 CHANGE OF PLEA

20 November 25, 2013

21 9:00 a.m.

22 Reno, Nevada

23
24 Reported by:

STEPHANIE KOETTING, CCR #207, RPR
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: BRUCE HAHN, ESQ.
5 P.O. Box 30085
6 Reno, Nevada

7 For the Defendant:

8 JOHN OHLSON, ESQ.
9 Attorney at Law
10 Reno, Nevada
11
12
13
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21
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24

1 RENO, NEVADA, November 25, 2013, 9:00 a.m.

3 --oOo--

4 THE CLERK: CR12-1160, State of Nevada versus
5 Dvaughn K. King. Matter set for change of plea. Counsel, I
6 also have the other case on. Are we hearing that one as
7 well?

8 MR. OHLSON: May we have a moment, your Honor?

9 THE COURT: Certainly. Counsel, why don't we just
10 take the break and let me know.

11 MR. OHLSON: We're ready.

12 THE COURT: Are you sure?

13 MR. OHLSON: We are.

14 THE COURT: Ms. Clerk, let's call the other
15 matter.

16 THE CLERK: Case number CR13-1149, State of Nevada
17 versus Dvaughn King. Matter set for change of plea.

18 MR. OHLSON: Change of plea.

19 THE CLERK: Counsel and the Division, please state
20 your appearance.

21 MR. HAHN: Bruce Hahn on behalf of the State.

22 MR. WILSON: Thomas Wilson on behalf of the
23 Division.

24 MR. OHLSON: Your Honor, John Ohlson on behalf of

1 Mr. King. He's present.

2 THE COURT: Mr. King, the State of Nevada has
3 filed an amended information charging you with murder in the
4 second degree with the use of a deadly weapon. Your attorney
5 is being provided a with a copy of the information. Good
6 morning, sir.

7 THE DEFENDANT: Good morning, your Honor.

8 THE COURT: I understand coming to court always
9 makes people a little nervous, but how do you feel here this
10 morning?

11 THE DEFENDANT: I'm all right.

12 THE COURT: Have you taken any pill, drug or
13 medicine in the last 24 hours?

14 THE DEFENDANT: No, sir.

15 THE COURT: Are you under the care of a physician
16 or psychiatrist?

17 THE DEFENDANT: No, sir.

18 THE COURT: Have you spoken to Mr. Ohlson about
19 what we're going to do here this morning?

20 THE DEFENDANT: Correct.

21 THE COURT: Mr. Ohlson.

22 MR. OHLSON: Yes, your Honor. Mr. King's name is
23 set forth and spelled at line 12 of the amended information
24 and it is correct. We waive the formal reading of the

1 information. We previously had a copy. Mr. King is prepared
2 to enter a plea to the amended information pursuant to a plea
3 bargain.

4 THE COURT: And the terms are?

5 MR. OHLSON: That we have executed, by the way,
6 we've executed a plea bargain memorandum that has been filed
7 with the Court. The terms of the plea bargain are this,
8 Mr. King will plead guilty to the charges set forth in the
9 amended information, murder in the second degree enhanced
10 with a deadly weapon. In return for which the previous
11 information charging, I believe, open murder will be
12 dismissed.

13 The State and the defendant have agreed with each
14 other that on the primary charge, they are both free to argue
15 as to sentencing and as to whether or not any sentence as to
16 this charge and any enhancement will run concurrent or
17 consecutive with the California time that Mr. King has
18 remaining to do that he was serving when he was brought here
19 on this charge.

20 In addition, in regards to the deadly weapons
21 enhancement, the State and the defendant have agreed that the
22 defendant is free to argue as to the enhancement. The
23 defendant will limit his request to two to six years on the
24 enhancement.

1 Further, there are some minor and one major matter
2 that were not included in this plea memorandum as different
3 plea memorandums passed back and forth with each other.
4 Mr. Hahn can inform the Court as to the -- I think they're
5 ministerial or clerical matters, not of great significance
6 that need to be either interlineated or agreed upon orally at
7 this time that supplement this plea bargain memorandum.

8 The major matter involves an additional
9 indictment, which pends before this Court regarding either
10 witness intimidation and tampering or witness bribery. And
11 the issue before the -- before us in that was the dismissal
12 of that second indictment upon the sentence in this case and
13 Mr. King understands that that case would be dismissed.

14 I have to tell you that Mr. Hahn and I have not
15 discussed that specifically and I think we went on sort of a
16 tacit understanding, but our understanding might have been
17 different. We need to hear from Mr. Hahn on that subject.

18 THE COURT: Let me hear from the State in terms of
19 the negotiations. Let's just start with the negotiations as
20 to the amended information.

21 MR. HAHN: Judge, as to the negotiations as
22 Mr. Ohlson set forth, they appear to be correct. The only
23 other minor interlineation I would recommend is as the Court
24 discussed, that Mr. King is not under the influence of any

1 intoxicants or anything that would impair his judgment today.
2 Further, that he understands he's not eligible for probation.

3 With regard to the subsequent indictment filed
4 against Mr. King in this case, Mr. Ohlson and I, we did
5 briefly discuss this, and on reflection, I think, I think the
6 interest of justice could in fact be served by dismissal of
7 that matter at the time of sentencing in this matter, should
8 the Court be satisfied with the canvass of Mr. King.

9 THE COURT: All right. Thank you. Mr. Ohlson.

10 MR. OHLSON: Thank you, your Honor. Before you
11 commence the canvass, may I add to the record in this matter?

12 THE COURT: Certainly.

13 MR. OHLSON: Thank you. I'd like the record to
14 reflect that Mr. King and I have discussed this potential
15 plea bargain on a number of occasions both at the detention
16 facility at 911 Parr, in person and by telephone. Mr. King
17 appears to understand -- have a thorough understanding of the
18 potential plea bargain and of his case.

19 He is an accomplished, as you might consider, you
20 might call a jailhouse lawyer and he has a good understanding
21 of the precedent involved in the various legal issues in his
22 case, which we have discussed.

23 We've also discussed the factual matters of his
24 defense, the strength and weaknesses of his defense on the

1 merits and a trial in this matter. He understands the
2 initiative for the acceptance of the plea bargain did come
3 from Mr. King. And with that, I'll just put it on the
4 record.

5 THE COURT: Mr. King, good morning, again, sir.

6 THE DEFENDANT: Good morning.

7 THE COURT: You've heard the discussions between
8 your -- from your attorney and the State's attorney. Is that
9 your understanding the negotiations as well?

10 THE DEFENDANT: Correct.

11 THE COURT: Sir, you understand by entering a
12 plea, you're waiving certain important constitutional rights.
13 I'll explain these rights to you, and if you have any
14 questions, let me know, I'll give you a chance to talk with
15 your attorney. Sir, how old are you?

16 THE DEFENDANT: 36.

17 THE COURT: What's the extent of your education?

18 THE DEFENDANT: Some college background.

19 THE COURT: Okay. No question about reading and
20 writing being an issue?

21 THE DEFENDANT: No, sir.

22 THE COURT: If at any time I stumble across some
23 sort of a word or concept you don't understand, just let me
24 know, I'll try to do a better job explaining it to you.

1 THE DEFENDANT: Okay.

2 THE COURT: Sir, by entering a plea of guilty,
3 you're waiving your right to a speedy and public jury trial.
4 If this case had gone to trial, there would have been 12
5 citizens. They would have been sworn, seated in the box to
6 my left. All 12 would have to reach a unanimous verdict
7 before you could be found guilty. By entering a plea of
8 guilty here today, you're waiving that constitutional right.
9 Do you understand that, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Under the Sixth Amendment, you have
12 the right to confront the witnesses against you. Those
13 witnesses would have been sworn. They would be seated in the
14 box to my left. You through your attorney would have an
15 opportunity to cross examine those witnesses. By entering a
16 plea of guilty here today, you're waiving that constitutional
17 right. Do you understand that, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Also, under the Sixth Amendment, you
20 have the right of what's called compulsory process. That
21 means if we went to trial and if there was somebody you felt
22 could testify favorably for you, you through your attorney
23 could apply to the Court for a subpoena. The Court would
24 issue the subpoena and compel the person to attend the

1 proceedings. By entering a plea of guilty here today, you're
2 waiving that constitutional right. Do you understand that,
3 sir?

4 THE DEFENDANT: Yes.

5 THE COURT: Also, under the Fifth Amendment, you
6 have the right to remain silent. If this case had gone to
7 trial, you would not be required to testify. You would not
8 be required to produce any evidence. You could remain
9 silent, seated at table and rest on the presumption of
10 innocence. By pleading guilty, you're waiving that right,
11 because I'm going to be asking you questions and you have to
12 answer me. Do you understand that, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Also under the Sixth Amendment, you
15 have the right to the effective assistance of counsel at
16 trial. Since we're not going to have a trial, you're waiving
17 that right, although you'll still have the good services of
18 Mr. Ohlson throughout the rest of these proceedings. But do
19 you understand by entering a plea of guilty here today,
20 you're waiving that constitutional right? Do you understand
21 that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Also by entering a plea of guilty here
24 today, you're relieving the State of its obligation to prove

1 each and every element of the offense beyond a reasonable
2 doubt. Do you understand you're waiving that constitutional
3 right as well?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Hahn, if this case had gone to
6 trial, what would the State have been prepared to prove?

7 MR. HAHN: Your Honor, the State would have been
8 prepared to prove by competent evidence the elements outlined
9 in the amended information, murder in the second degree with
10 the use of deadly weapon, in that on or about November 5,
11 2010, here in Washoe County, the defendant willfully,
12 unlawfully, with malice aforethought, killed and murdered a
13 human being, that human being Tommy Young, by the use of a
14 deadly weapon, in this particular case it was a 40-caliber
15 handgun, by means of shooting Mr. Young multiple times in the
16 head or neck or torso, inflicting those mortal injuries as
17 pled in the amended information from which Mr. Young died on
18 the same day.

19 THE COURT: Thank you. Now, sir, do you
20 understand what the maximum sentence is that may be imposed
21 in this case?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Tell me what it is.

24 THE DEFENDANT: Ten to life.

1 THE COURT: And is probation available?

2 THE DEFENDANT: No, sir.

3 THE COURT: All right. Now, do you understand
4 that there's also a weapons enhancement involved in this
5 case?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: What is the possible sentencing range
8 on the weapons enhancement?

9 THE DEFENDANT: Two to six.

10 THE COURT: You understanding that that must run
11 consecutive to the sentence -- just a minute, counsel.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: I understand that -- Mr. Ohlson, I
14 understand that the negotiations are that that was sort of
15 the window frame of the argument from the defense, but the
16 actual sentencing range for the enhancement?

17 THE DEFENDANT: One to twenty.

18 THE COURT: One to twenty years?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And you understand that must run
21 consecutive no matter what sentence is placed within that
22 range?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Now, did you sign this plea

1 agreement here?

2 THE DEFENDANT: Correct.

3 THE COURT: Did you read it?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Did you understand it?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did you talk with your attorney?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you had enough time to talk with
10 your attorney about this case?

11 THE DEFENDANT: Yes.

12 THE COURT: Are you satisfied with the services
13 Mr. Ohlson has provided to you?

14 THE DEFENDANT: Correct.

15 THE COURT: Mr. Ohlson, any question in your mind
16 of your client's competency to understand the nature of these
17 proceedings, enter a plea or assist counsel at trial?

18 MR. OHLSON: None whatsoever, your Honor.

19 THE COURT: Sir, you understand although you've
20 made an agreement with the State, sentencing is in the sole
21 discretion of the Court?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: As I sit here now, I don't know what
24 the sentence is going to be. At the time of sentencing, I'm

1 going to listen you to, I'm going to listen to your attorney,
2 I'm going to listen to the State's attorney, I'm going to
3 review and consider all the information provided to me by the
4 Division of Parole and Probation. But do you understand that
5 sentencing is in the sole discretion of the Court?

6 THE DEFENDANT: Correct.

7 THE COURT: Other than that which is contained in
8 the plea agreement, has anybody threatened you or promised
9 you anything in order to get you to plead guilty here today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you pleading guilty here freely
12 and voluntarily?

13 THE DEFENDANT: Yes.

14 THE COURT: Tell me what you did.

15 THE DEFENDANT: I'm pleading to my role in the
16 homicide of Tommy Young.

17 THE COURT: Tell me what you did. I understand
18 what you're pleading to. Tell me what happened on
19 November 5th, 2010.

20 THE DEFENDANT: Well, I accompanied Mr. Toy in the
21 assistance of killing of Tommy Young.

22 THE COURT: Did that occur here in Washoe County?

23 THE DEFENDANT: Yes.

24 THE COURT: Now, based upon everything we've done

1 here this morning, do you have any questions of me about
2 these proceedings?

3 THE DEFENDANT: No, sir.

4 THE COURT: Sir, as to the charge contained in the
5 information, the amended information, what is your plea,
6 guilty or not guilty?

7 THE DEFENDANT: Not guilty -- excuse me. Guilty.

8 THE COURT: As to the charge murder in the second
9 degree with the use of a deadly weapon as stated in the
10 amended information filed on or about November 22nd, 2013,
11 what is your plea, guilty or not guilty?

12 THE DEFENDANT: Guilty, sir.

13 THE COURT: The Court finds that the defendant
14 understands the nature of the offense charged, the
15 consequences of his plea, has made a knowing, voluntary and
16 intelligent waiver of his constitutional rights. The Court
17 will accept his plea at this time. Ms. Clerk, do we have a
18 date for sentencing?

19 THE CLERK: Yes, your Honor. Counsel, how does
20 January 29th at 9:00 a.m. look?

21 MR. OHLSON: 29th at 9:00. I expect to be in
22 trial next door on another homicide, but I suppose we
23 could -- I think we'll take sometime with the sentencing.

24 THE CLERK: Are you available on January 22nd?

1 MR. OHLSON: Yes.

2 THE CLERK: January 22nd at 9:00 a.m.. Mr. Hahn,
3 does that work for you?

4 MR. HAHN: It does.

5 THE COURT: Sir, you're going to be given a packet
6 of material from the Division of Parole and Probation. It's
7 mostly biographical information. Fill it out as completely
8 as possible. The more information the Court has about you at
9 the time of sentencing, the better job we're going to be able
10 to do. Do you have any questions of me about what we've done
11 here today?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. Mr. Hahn, anything further
14 on behalf of the State?

15 MR. HAHN: I would just recommend that the trial
16 date of February 15, 2014 in this case CR12-1160 be vacated.
17 And the trial date, I believe, in April for the collateral
18 matter, the bribery of a witness also be vacated.

19 THE COURT: The motions to confirm in both cases
20 will be vacated as well. Mr. Ohlson, anything on behalf of
21 your client?

22 MR. OHLSON: No, your Honor.

23 THE COURT: This court's in recess.

24 --oOo--

1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on November 25, 2013, at the hour of
8 9:00 a.m., and took verbatim stenotype notes of the
9 proceedings had upon the change of plea in the matter of THE
10 STATE OF NEVADA, Plaintiff, vs. DVAUGHN KEITHAN KING,
11 Defendant, Case No. CR12-1160 and CR13-1149, and thereafter,
12 by means of computer-aided transcription, transcribed them
13 into typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 17, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 21st day of January, 2014.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

1 John Ohlson, Esq.
2 Bar Number 1672
3 275 Hill Street, Suite 230
4 Reno, Nevada 89501
5 Telephone: (775) 323-2700
6 *Attorneys for Defendant*

7 **SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**

9 * * * * *

10 STATE OF NEVADA,

Case No. CR12-1160

11 Plaintiff,

Dept. No. 7

12 vs.

13 DVAUGHN KING,

14 Defendant.
15 _____/

16 **DEFENDANT'S PRE-SENTENCE MEMORANDUM**

17 Comes now defendant above named, and submits the following pre-sentence
18 memorandum:

19 1. P & P pre-sentence report: The department has prepared and submitted a
20 presentence report regarding the defendant dated 12/31/13. Counsel has reviewed that report, and
21 submits the following additions and corrections:

22 a. Page 3 of the report indicates that the defendant suffered 7 incarcerations in
23 prison. The defendant would note that, of those 7, 3 were parole violations, not the result
24 of separate convictions;

25 b. Page 6 of the report states that the defendant was arrested for "sex with a
26 minor with a mental disability". This charge was dismissed.
27
28

1 c. Page 8 of the report states that the defendant has 596 days credit for time
2 served based on his arrest on this offense. While technically true, it is relevant for
3 purposes described herein below that the defendant was actually arrested in California at
4 the instigation of the Sparks Police Department (on or about November 8, 2010),
5 investigating this case. California authorities arrested the defendant pursuant to this
6 Sparks request and he was convicted and given an 8 year prison sentence in California for
7 Possession of a controlled substance while armed. The defendant was arrested on this
8 case, thereafter, while serving a prison term in California.

10 d. Page 3 of the report cites the jail classes completed by the defendant.
11 Collective Exhibit 1 hereto are certificates of completion.

12 e. Paragraph V of the report is entitled "Offense Synopsis", while paragraph
13 VI is labeled "Defendant's Statement." So styling these paragraphs lends the impression
14 that paragraph V represents the truth, while paragraph VI simply records a defendant's
15 avoidance. In many cases that may be accurate. It should be remembered that paragraphs
16 V and VI are the respective accounts of co-defendants, each accusing the other of
17 committing the crime. This observation does not take away from the defendant's
18 acceptance of responsibility in any way. It is merely posed to cast these proceedings in the
19 proper perspective.
20

21 2. Consecutive or concurrent with the California sentence? As set forth above, the
22 warrant in this case was served on the defendant while he was doing an 8 year sentence in
23 California. NRS 176.045 (1) provides as follows:
24

25 Whenever a person convicted of a public offense in this State is under sentence of
26 imprisonment pronounced by another jurisdiction, federal or state, whether or not
27 the prior sentence is for the same offense, the court in imposing any sentence for
28 the offense committed in this State may, in its discretion, provide that such
sentence shall run either concurrently or consecutively with the prior sentence.

1 The statute, therefore grants this Court the unfettered discretion to run this sentence either way
2 with the existing California sentence. In this regard, it should be noted that the California arrest
3 was instigated by Sparks police desire to investigate the defendant for this crime, and is therefore
4 "collateral damage" (from the defendant's perspective). It should also be noted that the California
5 offense (possession of a controlled substance while in possession of a firearm) is a particular
6 California offense and reaches a severity not known in Nevada).

8 3. Certificate of Counsel. Undersigned counsel certifies that:

- 9 a. He personally delivered a copy of the pre-sentence report to the defendant;
10 b. He discussed the pre-sentence report in person with the defendant;
11 c. During that discussion the defendant asked all question possessed of him
12 and those questions were answered by counsel;
13 d. The defendant reads and writes extremely well;
14 e. The defendant obviously understands the report, and did articulate changes
15 and corrections to counsel;
16 f. There is no legal cause why sentence should not be imposed.

17
18
19 **AFFIRMATION**
20 **Pursuant to NRS 239B.030**

21 The undersigned does hereby affirm that the preceding document does not contain the
22 social security number of any person.

23 Dated this 16th day of January, 2014.

24 By: /s/ John Ohlson
25 John Ohlson, Esq.
26 Bar Number 1672
27 275 Hill Street, Suite 230
28 Reno, Nevada 89501
Telephone: (775) 323-2700
Attorneys for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of JOHN OHLSON, and that on this date I personally caused to be served a true copy of the foregoing **DEFENDANT'S PRE-SENTENCE MEMORANDUM**, addressed to:

Bruce Hahn, Esq.	_____	Via U.S. Mail
Washoe County District Attorney's Office	_____	Via Overnight Mail
PO BOX 30083	_____	Via Hand Delivery
Reno, NV 89520	_____	Via Facsimile
	<u> X </u>	Via ECF

Dated this 16th day of January, 2014.

/s/ Robert M. May
Robert M. May

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SCHEDULE OF EXHIBITS

EXHIBIT 1: Certificates of Completion

FILED

Electronically

01-16-2014:02:55:01 PM

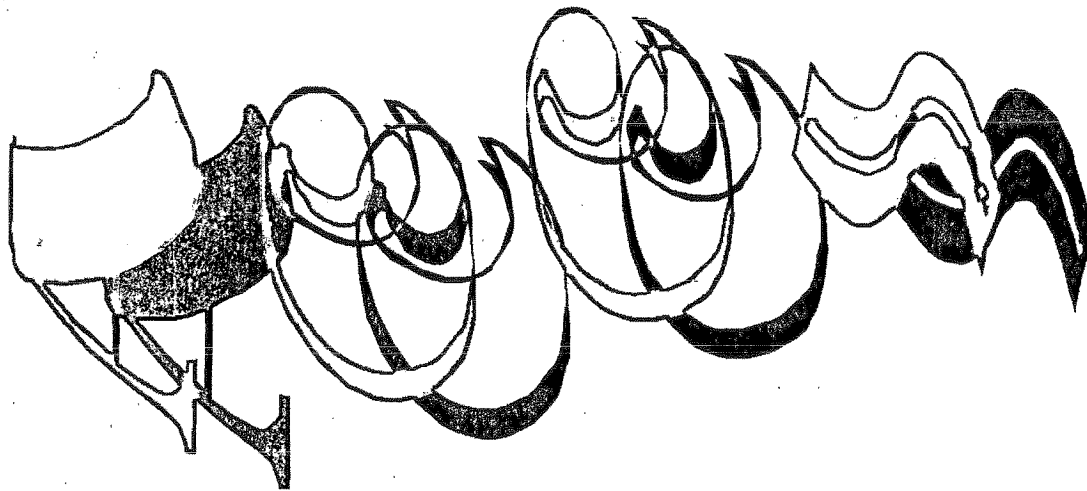
Joey Orduna Hastings

Clerk of the Court

Transaction # 4262738

EXHIBIT 1

EXHIBIT 1



Certificate Of Completion

Awarded to

D'Vaughn King

For Successful Completion of
Domestic Violence II

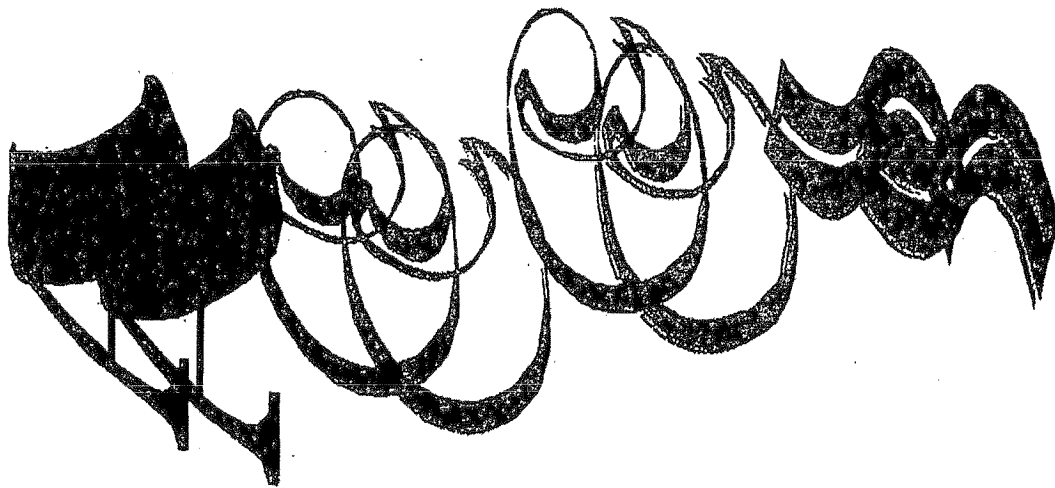
Presented By
American Comprehensive Counseling Services

Certificate
222313

Dan Leman MFT

ACCS Signature

November 21, 2013



Certificate Of Completion

Awarded to

D'Angela King

For Successful Completion of
Domestic Violence I

Presented By
American Comprehensive Counseling Services

Certificate
221769

Cassie Buck
ACCS Signature

March 20, 2013

40

CERTIFICATE of COMPLETION

KING, DVAUGHN KIETHAN

Has completed the Eleven Hour Course on

PARENTING THE ADOLESCENT
AND TEENAGER

As programmed by:

Active Parenting Series
(Atlanta, Georgia)


Dr. Pete Perriera - Instructor

May 9, 2013
Date

American Comprehensive Counseling Services

ACCS

Central Office Location:

738 Prater Way

Sparks, NV 89431

775-356-0371

Date:

Jan 15 2013

Re: ACCS Group Client:

D'Vaughn K. King

Detention Ctr Booking No:

1209206

Dear Mr. / Ms.

King

Standard disclaimer: this correspondence is not and should not be considered a comprehensive assessment of performance or of recidivism risk.

I am providing this letter to document for you and the court your participation in our in-custody group programs. You have, throughout your stay at the detention center, attended 23 weekly domestic violence groups. Please remember that our protocol prohibits sharing this information with other inmates, whether or not they are program participants.

On behalf of my colleagues at American Comprehensive Counseling Services (ACCS) I wish you the best resolving your legal entanglements and moving forward free of domestic violence. ACCS personnel will be happy to assist you with transition to community based treatment programs.

Very truly yours,

Dan Leman MFT



To whom it may concern:

Monday, September 24, 2012

Booking 12-9206

Housing: 08-26

Inmate KING,DVAUGHN KIETHAN

Total weekly sessions attended to date: 8

Successfully completed a minimum of 8 weekly Substance Abuse counseling sessions while in custody at the Washoe County Jail. The Substance Abuse counseling was provided by American Comprehensive Counseling Services (A.C.C.S.) at 911 Parr Blvd.

Under Nevada Revised Statute 211.340 this qualifies this person for a 5 day early release from the Washoe County Jail.

Attendance verified by: W 2449
WCSO staff member/ID

American Comprehensive Counseling Services

Dec 19, 2013

Dan Lemaire MFT
ACCS
860 Tyler Way,
Sparks, NV, 89431
775 356 0371

Judge Flannigan
Dept 7
Reno NV

Re: D'Vaughn King

Your Honor, Judge Flannigan;

Mr. King has been attending Domestic Violence groups at the Washoe County Detention Center on Parr Blvd., in Reno for over a year (about 60 groups at one per week; he has very rarely missed a week.) He is consistently a good participant. He will bring up situations for discussion from his own life, or he will have a question about subjects that he is interested in, sometimes from a book he is reading, always relevant to the context of a Domestic Violence group. He does not distract us from the subject matter at hand or derail the group. When he has questions from his own life, he is open to feedback from others and will give thoughtful consideration to what others suggest, making sure he understands thoroughly what others are saying. He also is able to give healthy feedback to other group members in a manner that is clear, understandable and compassionate.

Mr. King is a learner, always interested in going a little deeper than most into any given subject. He is interested in what others bring to the group, and typically is attentive to whatever is being discussed. He does not monopolize a discussion, but will be sure to give his input if he has an opinion. He seems to be well respected by others, and is certainly respectful towards everyone else in the room as I have experienced him. He speaks fondly of his children and family, and his concerns for them seem to be consistent and authentic.

Respectfully,



Dan Lemaire MFT

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR12-1160
Judge: PATRICK FLANAGAN
Official File Stamp: 01-09-2014:08:59:13
Clerk Accepted: 01-09-2014:09:07:03
Court: Second Judicial District Court - State of Nevada
Case Title: STATE OF NEVADA VS. DVAUGHN KEITHAN
KING (TN) (D7)
Document(s) Submitted: PSI - Confidential
Filed By: DIV. OF PAROLE & PROBATION

You may review this filing by clicking on the
following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

BRUCE HAHN, ESQ. for STATE OF NEVADA
JOHN OHLSON, ESQ. for DVAUGHN KING
(TN)(D7)

The following people have not been served electronically and must be served by traditional means (see Nevada electronic filing rules):

1 **CODE 1850**

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5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

Case No. CR12-1160

12 **DVAUGHN KEITHAN KING,**

Dept. No. 7

13 **Defendant.**
14 _____/

15 **JUDGMENT OF CONVICTION**

16 The Defendant, having entered a plea of guilty, and no sufficient cause
17 being shown by Defendant as to why judgment should not be pronounced against him,
18 the Court rendered judgment as follows:

19 Dvaughn Keithan King is guilty of the crime of Murder in the Second Degree
20 With the Use of a Deadly Weapon, a violation of NRS 200.010, NRS 200.030 and NRS
21 193.165, a felony, as charged in the Amended Information, and that he be punished by
22 imprisonment in the Nevada State Prison for the term of Life With the Possibility of
23 Parole, with parole eligibility beginning when a minimum of Ten (10) years has been
24 served. Further, the Court, having considered Paragraphs (a) through (e) as described in
25 NRS 193.165(1), imposes an additional penalty of a consecutive term of imprisonment in
26 the Nevada State Prison for a minimum term of Fifty-Three (53) months to a maximum
27 term of Two Hundred and Forty (240) months for the Use of a Deadly Weapon
28 enhancement. It is further ordered that both sentences will be served consecutively to

1 the sentence previously imposed in Case No. 10F07661, with credit for time served in the
2 amount of Six Hundred and Fifty-One Days (651) days.

3 It is further ordered that the Defendant shall pay the statutory Twenty-Five
4 Dollar (\$25.00) administrative assessment fee, the One Hundred Fifty Dollar (\$150.00)
5 DNA testing fee, and submit to a DNA analysis to determine the presence of genetic
6 markers, if not previously ordered, the Three Dollar (\$3.00) administrative assessment
7 fee for obtaining a biological specimen and conducting a genetic marker analysis, if not
8 previously ordered, and reimburse the County of Washoe the sum of Five Hundred
9 Dollars (\$500.00) for legal representation.

10 Any fine, fee or administrative assessment imposed upon the Defendant
11 today as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada
12 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or
13 assessments, collection efforts may be undertaken against him.

14 Dated this 23rd day of January, 2014.

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17 Patrick Flanagan
18 DISTRICT JUDGE
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Sentencing Exhibits

PLTF: STATE OF NEVADA

PATY: CDDA Bruce Hahn

DEFT: DVAUGHN KEITHAN KING

DATY: CAA John Ohlson

Case No: CR12-1160

Dept. No: 7 Clerk: K. Oates

Date: 01/22/14

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	State	Chart of Interested Parties	01-22-14	No Objection	01-22-14

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR12-1160 and
)	CR13-1149
14 DVAUGHN KEITHAN KING,)	
)	Department 7
15 Defendant.)	
_____)	

16
17
18 TRANSCRIPT OF PROCEEDINGS

19 SENTENCING

20 January 22, 2014

21 9:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207, RPR
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
4 By: BRUCE HAHN, ESQ.
5 P.O. Box 30083
6 Reno, Nevada

7 For the Defendant:

8 JOHN OHLSON, ESQ.
9 Attorney at Law
10 Reno, Nevada
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1 RENO, NEVADA, January 22, 2014, 9:00 a.m.

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3 --oOo--

4 THE CLERK: Case number CR13-1149, State of Nevada
5 versus Dvaughn King. Matter set for motion to dismiss
6 indictment. And case number CR12-1160, State of Nevada
7 versus Dvaughn Keithan King. Matter set for sentencing.
8 Counsel and the Division, please state your appearance.

9 MR. HAHN: Bruce Hahn for the State.

10 MR. OHLSON: Good morning, your Honor. John
11 Ohlson for the defendant. He's in custody and present.

12 MS. IVESON: Your Honor, Jennifer Iveson for the
13 Division. We have two corrections to make to the presentence
14 investigation report.

15 THE COURT: Just a minute. Let me pull it up.
16 This is the time set for sentencing in the above-entitled
17 case. The Court is in receipt of a presentence investigation
18 report prepared December 31st. Have counsel had an
19 opportunity to review the report and are there any facts,
20 errors or omissions you want to the bring to the Court's
21 attention? Mr. Ohlson, the Court is also in receipt of the
22 defendant's presentence memorandum filed January 16th, 2014.
23 Mr. Ohlson.

24 MR. OHLSON: Yes, your Honor. We did file a

1 presentence memorandum. And as that memorandum states, I've
2 had the opportunity to discuss the presentence report with
3 Mr. King. We've gone over it. We discussed his exceptions
4 to the report, which are noted in the memorandum. We're
5 prepared for sentencing today. Mr. King will want to address
6 the Court and I have one witness to present.

7 THE COURT: Let me hear from the Division. You
8 had some corrections to the report?

9 MS. IVESON: Yes, your Honor. On page one, under
10 sentencing date, it should be January 22nd, 2014.

11 THE COURT: All right.

12 MS. IVESON: On page eight under credit time
13 served, it should be June 6th, 2012 to January 22nd, 2014,
14 596 days is the correct amount.

15 THE COURT: 596?

16 MS. IVESON: Yes, your Honor.

17 THE COURT: All right. Mr. Ohlson.

18 MR. OHLSON: Yes, your Honor. As to the credit
19 time served, I think the record shows that Mr. King was
20 arrested on a warrant dated April 19th, 2012 on this offense.

21 THE COURT: I was confused by that as well.
22 Apparently, Mr. King was out of custody until the Sparks
23 warrant is served and then he picks up the PCS with a weapon.

24 MR. OHLSON: I think not. I think he was

1 arrested -- Sparks Police contacted the authorities in
2 California, who contacted Mr. King, and that resulted in his
3 arrest on the possession.

4 THE COURT: The PCS?

5 MR. OHLSON: Yes. And his incarceration on that
6 offense. Subsequently, he was in prison on California on
7 that offense and arrested on the Sparks warrant and brought
8 to Nevada.

9 THE COURT: How long was he in California custody
10 before that?

11 THE DEFENDANT: 11/8/2010.

12 THE COURT: So the Sparks warrant was served
13 November 8th?

14 MR. OHLSON: April 12th.

15 THE COURT: Was that the warrant or was that just
16 a request?

17 MR. HAHN: Judge, forgive me, Bruce Hahn. I have
18 a little bit different perspective. The arrest affidavit and
19 criminal complaint was filed on April 19, 2012.
20 Subsequently, the defendant, once he discovered of the hold,
21 he initiated detainers. Pursuant to the --

22 THE COURT: Was he already in custody?

23 MR. HAHN: Yes, he was serving a California prison
24 sentence. And so the defendant thereafter initiated

1 proceedings under the IAD. So it's the State's perspective
2 that any -- that the time involved here really begins when he
3 was booked in the Washoe County Jail. When he crossed over
4 the State lines, came to Washoe County from California, that
5 would have been the date that the Division reflects, which I
6 believe is June 6th, 2012.

7 THE COURT: But he's held.

8 MR. HAHN: He was being held in California, that's
9 true, under California charges.

10 THE COURT: Correct.

11 MR. HAHN: We filed the criminal complaint in
12 April of 2012, specifically the date was April 19th of 2012.
13 However, merely because we had filed a complaint, it's the
14 State's perspective that credit wouldn't begin to accrue
15 necessarily. If California wishes to give him credit for
16 that, that's fine. But until he was booked into in Washoe
17 County in June 6th, 2012, that would be effective date.

18 MR. OHLSON: Let's just say something happened in
19 California and he was released on the California charges.

20 THE COURT: He'd still be held on the Nevada
21 charges.

22 MR. OHLSON: That's right.

23 THE COURT: What would be the credit time served
24 if we backed it up to April 19th?

1 MS. IVESON: April 19th to 2012?

2 MR. OHLSON: Another 48 days, we calculate.

3 MS. IVESON: I would have 55 days, your Honor.

4 THE COURT: An additional 55 on top of 596.

5 MS. IVESON: 654, your Honor.

6 THE COURT: 54 or 51?

7 MS. IVESON: I apologize. 651.

8 THE COURT: They warned me in school not to do
9 math in public for a reason.

10 MR. OHLSON: Always an appropriate admonition.

11 THE COURT: And one other thing I had for
12 Division, one of the concerns I have in these presentence
13 investigation reports is every time a prisoner is revoked on
14 parole and reenters, it's counted as another conviction. So
15 you have somebody who is convicted, it's one conviction, he
16 or she is paroled and then parole is revoked, they're
17 returned, the Division counts that as a second conviction.

18 MS. IVESON: We count it a revocation and parole,
19 not another conviction, a felony conviction.

20 MR. OHLSON: In fairness to the department, I
21 think the report counts it as an incarceration, not a
22 separate conviction.

23 THE COURT: I see. All right.

24 MS. IVESON: I'm sorry. Yes, if he goes back to

1 prison, it's another prison sentence.

2 THE COURT: Even though he's serving the same
3 prison sentence?

4 MS. IVESON: That's how California counts it, your
5 Honor.

6 THE COURT: All right.

7 MR. OHLSON: Before we proceed further, can
8 Mr. King be relieved of one of his handcuffs so he can have a
9 drink of water, please?

10 THE COURT: Deputy, yes. You have a witness,
11 Mr. Ohlson?

12 MR. OHLSON: I do. Nancy King, your Honor.

13 (One witness sworn at this time.)

14 THE COURT: Mr. Ohlson.

15 BY MR. OHLSON:

16 Q. What is your name?

17 A. Nancy King.

18 Q. Are you related to the defendant?

19 A. Yes.

20 Q. How are you related?

21 A. I'm his wife.

22 Q. When were you married to him?

23 A. January 9th, 2004.

24 Q. Do you two have any children together?

1 A. Yes. We have a six-year-old son.

2 Q. When did Mr. King go into prison in California?

3 Do you recall? Was it 2012 -- 2010, I'm sorry.

4 A. November of 2010.

5 Q. Have you been in communication with him since he's
6 been incarcerated?

7 A. Yes.

8 Q. Have you noted any change in his character since
9 he has been incarcerated?

10 A. Yes. He's gone to counseling sessions and I see
11 that he's found a purpose in life now that he has, I want to
12 say the gift, but he knows how to reach people and I believe
13 that he wants to help people not follow in his same footsteps
14 and try to keep them from making the same horrible decisions
15 he's had.

16 Q. You're aware of the offense to which your husband
17 has pled guilty?

18 A. Yes. I do want to say that I send my condolences
19 to Mr. Young's family and I'm truly sorry for the pain and
20 the loss that you guys are dealing with.

21 Q. Have you been in regular contact with your husband
22 since he was incarcerated in 2010?

23 A. Yes.

24 Q. You continue up to this date to communicate with

1 him to the extent that you can --

2 A. Yes.

3 Q. -- during his incarceration? Do you have any
4 hopes to be reunited on the outside with your husband?

5 A. I believe that one day our family will be put back
6 together and I believe he's going to be a better person than
7 when he went into jail and that he will not -- he won't make
8 the same mistakes that he's done before. I believe that this
9 has happened for a reason in that he's finally figured out
10 what life is supposed to be about.

11 Q. What's your son's name?

12 A. Daviar King.

13 Q. Are you in contact with other members of your
14 husband's family?

15 A. Yes, all of his family.

16 Q. Are any of them present in court today?

17 A. Yes, his mom, his dad and his brother.

18 Q. Back in the back of the courtroom?

19 A. Yes.

20 Q. And they traveled here from where?

21 A. His dad traveled from Mississippi and his mom and
22 brother traveled from California.

23 Q. Okay. Do you have anything else to add?

24 A. Not that I can think of.

1 MR. OHLSON: That's all, your Honor.

2 THE COURT: Mr. Hahn, any questions?

3 MR. HAHN: I waive. Thank you for coming.

4 THE COURT: Thank you, ma'am. Watch your step.

5 THE WITNESS: Okay.

6 THE COURT: Mr. Ohlson, any further questions?

7 MR. OHLSON: Mr. King would like to be heard, your
8 Honor. I assume by statute, you want that done now.

9 THE COURT: Let me hear from the State.

10 MR. HAHN: Briefly, your Honor. What I would
11 anticipate is just a road map. I will be offering one
12 witness to address just a couple of things. Number one, to
13 address Mr. King's exceptions to the presentence report, to
14 address a few gaps that are in the presentence report, to
15 address perhaps Ms. King's perspective of a change in
16 character of her husband, and then, of course to address one
17 of the issues in this case, which is consecutive versus
18 concurrent with the California matter. So that's the purpose
19 of the statement and the State respects and intends to honor
20 the plea agreement.

21 With that, I would be offering one witness, I'll
22 offer some argument and I'm also informed that three
23 witnesses would like to offer a victim impact statements.
24 They indicate that they're statutorily qualified. Our victim

1 witnesses interviewed them and they are Evelyn Young who is
2 the sister of the deceased, Kianna Pride who is the sister of
3 the deceased and then Karen Jones who is the mother of the
4 deceased. They wish to exercise their right to be heard
5 last.

6 THE COURT: Certainly. You want to proceed with
7 the other witnesses?

8 MR. HAHN: Thank you, just one witness.

9 MR. OHLSON: Can we get a couple of chairs, your
10 Honor, it looks like we're going to be here a while.

11 THE COURT: Certainly.

12 (One witness sworn at this time.)

13 MR. HAHN: As Mr. Gallop is being seated, can I
14 approach the clerk with an exhibit?

15 THE COURT: Certainly.

16 THE CLERK: Exhibit 1 marked for identification.

17 MR. HAHN: Let the record reflect I'm showing
18 defense counsel Exhibit 1, which has been provided in the
19 course of discovery.

20 THE COURT: Mr. Hahn, your witness.

21 MR. HAHN: May I approach?

22 THE COURT: Certainly.

23 BY MR. HAHN:

24 Q. Mr. Gallop, could you share your full name and

1 spell your last name, please?

2 A. Yes. My name is Ken Gallop, G-a-l-l-o-p.

3 Q. Your occupation, sir?

4 A. Occupation is a detective with the Sparks Police
5 Department in Sparks, Nevada.

6 Q. How long have you served as a sworn law
7 enforcement peace officer in the State of Nevada?

8 A. Just over 20 years.

9 Q. Mr. Gallop, you know why I asked you here, is that
10 true?

11 A. Yes, sir.

12 Q. If I could, I would like you to address a couple
13 of matters. Specifically, I would like to offer your
14 perspective of the evidence, to address perhaps an exception
15 that Mr. Toy, the codefendant, was owed drug money from
16 Mr. Young and to also address the principal suspect, who is
17 the principal suspect in terms of the evidence that you
18 assessed in this case? May I do that?

19 A. Yes, sir.

20 Q. Are you familiar with the term case agent?

21 A. I am.

22 Q. What does it mean?

23 A. A case agent is a term used by our department to
24 define who the detectives are that are responsible for

1 overseeing the entire investigation. The case agent also is
2 an active investigator in the case. So as the investigation
3 proceeds with the numerous detectives, the case agent is
4 ultimately responsible for putting together what we call
5 binders, the binders. So it's a culmination of the entire
6 investigative effort in any case. The case agent puts
7 together a binder to demonstrate the entire case.

8 Q. Was that your role in this case?

9 A. Yes.

10 Q. Are you acquainted with all the law enforcement
11 reports gathered and garnered by the Sparks Police
12 Department?

13 A. I am.

14 Q. Does that also include California authorities as
15 well?

16 A. It did, numerous.

17 Q. With regard to some of the individuals in
18 assessing those two concerns that I addressed to you, is
19 there a document in front of you, Exhibit 1?

20 A. Yes, sir.

21 Q. Are you acquainted with it?

22 A. I am.

23 Q. What is it?

24 A. This is a report called a Penlink report and this

1 indicates some of the people involved in this case.

2 THE COURT: Could you spell that, Penlink?

3 THE WITNESS: Penlink, your Honor. It's
4 P-e-n-l-i-n-k. It's a software program that's utilized by
5 law enforcement, specifically the Sparks Police Department,
6 to enter in cellular phone data and communications and that
7 cellular phone data is used to create a chart for
8 demonstrative purposes to show communications between certain
9 cell phones. In this case, it shows communications between
10 some people involved in this case.

11 BY MR. HAHN:

12 Q. And how was that chart generated or compiled?

13 A. This chart was --

14 MR. OHLSON: Your Honor, I'm going to raise an
15 objection at this point. Testimony at this time as to the
16 defendant's guilt has been usurped by his guilty plea. If
17 we're going to have some testimony that bears upon the
18 Court's decision as to sentencing, that's one thing, but he's
19 accepted responsibility and entered his plea.

20 THE COURT: I understand that, but even under the
21 federal sentencing guidelines, role in the offense is a
22 factor to take into consideration.

23 MR. OHLSON: I understand that, as long as we're
24 not relitigating who done what.

1 THE COURT: All right, with that proviso.

2 MR. HAHN: Again, the purpose of the State
3 offering this is there's been some representations made by
4 Mr. King that I don't know would square with the evidence.
5 We're trying to offer the Court a different perspective for
6 you to make a decision today.

7 THE COURT: Well, this is argument, so go ahead.

8 BY MR. HAHN:

9 Q. Very well. You mentioned that was compiled by
10 data entered into the standard utilized software by Sparks
11 Police Department to generate that document, is that true?

12 A. Correct.

13 Q. Now, with regard to you determining who the
14 primary suspect was, are there some individuals identified on
15 that document?

16 A. Yes, there are.

17 Q. I'd like to start with an individual identified as
18 Tom Young, is that the deceased?

19 A. Yes.

20 Q. Is that person on the document?

21 A. Yes.

22 Q. How did you attempt to determine who the primary
23 suspect was from the data available from Tom Young, the
24 deceased?

1 A. Relating to this document alone, we utilized cell
2 phone data of two cellular telephones that were utilized and
3 identified as being utilized by Tommy Young in this case.

4 Q. And were you able to identify some recent phone
5 traffic between him and an individual in California?

6 A. Not specifically with Tommy Young's cellular
7 telephones.

8 Q. Very well. Did you determine any connection at
9 all between Tommy Young's cellular telephones and the
10 codefendant, Henry Toy?

11 A. No.

12 Q. Very well. With regard to the Tom Young cell
13 phones, were those analyzed?

14 A. Yes.

15 Q. And did you attempt to determine leads of the
16 primary suspect in that with the cell phone?

17 A. Yes. With the physical cell phone, we were
18 attempting to gather information of who may or may not have
19 been speaking to Tommy Young prior to the incident.

20 Q. And were you able to find someone who had been
21 speaking with him recently?

22 A. With his cellular telephones, no, not
23 specifically.

24 Q. Whose cellular telephones did you find a link?

1 A. We found a link to Tommy Young through Dvaughn
2 King's cellular telephones and some other people.

3 Q. Now, with regard to Mr. King's cell phones, how
4 did you gain access to those?

5 A. Mr. King was in possession of one cellular
6 telephone at the time of his arrest for the parole violation
7 in California and then the Sparks Police Department traveled
8 to Sacramento and continued the investigation over there. We
9 worked with the Sacramento authorities, the police department
10 and the sheriffs office, and through their efforts and our
11 investigation, we discovered another cellular telephone
12 pursuant to search warrants over there in Sacramento.

13 Q. Were you able to find communications between the
14 cell phones of Dvaughn King, the defendant, and the deceased,
15 Tommy Young?

16 A. Yes.

17 Q. How recent was that communication, if you recall?

18 A. As recent as approximately four weeks prior to the
19 murder.

20 Q. Now, with regard to another source, are you
21 acquainted with the name Henry Toy, the codefendant in this
22 case?

23 A. Yes, I am.

24 Q. Were you able to obtain information from him?

1 A. Yes.

2 Q. Was he truthful in the initial statements that he
3 made?

4 A. No.

5 MR. OHLSON: Objection.

6 THE COURT: Sustained.

7 BY MR. HAHN:

8 Q. Very well. With regard to his representations,
9 did the initial representations that Mr. Toy offered, did
10 they pan out in terms of your investigation?

11 A. No. The initial statements made by Mr. Toy were
12 not able to be corroborated and therefore our investigation
13 revealed later on that in fact the initial statements were
14 not truthful.

15 Q. With regard to further investigation, did he
16 ultimately provide some type of identification by a photo?

17 A. He did.

18 Q. Who did that lead you to?

19 A. It led us to Dvaughn King.

20 Q. With regard to another name on that Penlink
21 document that you have there, are you acquainted with the
22 name Hanna Malatu?

23 A. Yes.

24 Q. Who is she?

1 A. She was a girlfriend of Dvaughn King.

2 Q. In connection with your contact with her, did
3 you -- is that where you found the other cell phone belonging
4 to Dvaughn King that you referred to?

5 A. Yes.

6 Q. Did you discover any connection or contact between
7 Henry Toy and Ms. Malatu?

8 A. No.

9 Q. Is there another individual on that Penlink
10 document identified as an Eric King?

11 A. Yes.

12 Q. Who is Mr. Eric King?

13 A. Eric King is actually friends of the deceased in
14 this case, Tommy Young. Our investigation revealed he was
15 actually a family friend of Mr. Young's family. We also
16 discovered that he was friends and acquainted with Dvaughn
17 King, but we could not determine that there was any family
18 connection based on the same last name. That's what we found
19 out about Mr. Eric King.

20 Q. Now, with regard to Mr. Eric King, did you find
21 any connection between Mr. Eric King and Henry Toy?

22 A. No.

23 Q. And what was Mr. King, Eric King's connection with
24 Mr. Dvaughn King?

1 A. Mr. Eric King was the middle man who facilitated
2 drug deals between Dvaughn King and Tommy Young.

3 Q. Is there a further name identified on that
4 document as a Sherri Mitchell?

5 A. Yes.

6 Q. Who is Sherri Mitchell?

7 A. Sherri Mitchell is a prostitute who was acquainted
8 with and friends with Dvaughn King.

9 Q. And with regard to Sherri Mitchell, did you find
10 any connection by phone or otherwise or knowledge prior to
11 the murder of Tommy Young between her and Henry Toy?

12 A. No.

13 Q. Did Ms. Mitchell provide you some information that
14 led you to help determine a primary suspect in this case?

15 A. She did.

16 Q. Could you summarize that briefly for the Court,
17 please?

18 A. She was at the Grand Sierra Resort in Reno,
19 Nevada, the early morning hours of the murder. She was
20 picked up by Dvaughn King and Henry Toy. She provided
21 directions to Tommy Young's house, unknowingly. She did not
22 understand or know what was about to occur based on our
23 investigation.

24 The directions were provided at the request of

1 Dvaughn King. Upon arrival to Young's residence, she
2 indicated she was surprised that they actually drove past it
3 when she identified it to Mr. King and Mr. Toy. The vehicle
4 was parked kind of around the corner and she remained in the
5 vehicle when Mr. King, Dvaughn King, and Henry Toy exited the
6 vehicle and proceeded towards Tommy Young's house on foot.

7 Her attention was then drawn to Henry Toy
8 returning to the vehicle, claiming that he had been shot in
9 the legs. Dvaughn King was assisting him coming back to the
10 vehicle. She overheard Henry Toy make a comment about
11 dropping his gun. And both gentlemen got into the vehicle
12 and drove away.

13 She was present when Dvaughn King dropped off
14 Henry Toy in the 800 block of North Sierra in Reno and then
15 pleaded with Mr. King to let her out of the vehicle. She was
16 extremely afraid.

17 Q. So in fairness, did you find evidence that two
18 guns had been recently fired in connection with your
19 investigation with what happened on York?

20 A. Yes.

21 Q. I'd like to move forward, if I may. Are you
22 acquainted with the investigation of the Sacramento County
23 authorities did in connection with the charge that was
24 addressed earlier, specifically, possession of a controlled

1 substance involving Mr. King?

2 A. Yes.

3 Q. With regard to that matter, was that initiated by
4 virtue of search warrants that were obtained in connection
5 with the murder investigation in California?

6 A. The drug charges were as a result of evidence
7 found through those search warrants, yes.

8 Q. Was the approximate amount of the methamphetamine
9 in the case, was it in excess of 100 grams?

10 A. Yes. It was approximately a quarter pound of
11 methamphetamine.

12 Q. And where were the drugs located?

13 A. The drugs were located in a storage unit that was
14 rented in the name of Nancy King.

15 Q. Was there also a separate storage unit that you
16 were able to identify that Mr. Dvaughn King was associated
17 with?

18 A. Yes.

19 Q. And who was that?

20 A. That second storage unit was identified as being
21 rent the by Hannah Malatu or in the name of Hannah Malatu.

22 Q. In addressing this component, did you discover any
23 evidence that you're acquainted with to connect the drugs
24 that were found in the storage unit in Sacramento with

1 Nevada?

2 A. No.

3 Q. With regard to -- as I'm just finishing up the
4 questions I have for you -- with regard to the extradition
5 process, is it your understanding that extradition was sought
6 on or about April 30th, 2012 pursuant to the criminal
7 complaint that was filed on or about April 19, 2012 on
8 Mr. King?

9 A. That is my understanding, yes.

10 Q. And Mr. King was booked into the Washoe County
11 Jail on or about June 6th, 2012?

12 A. Correct.

13 Q. And did your investigation ultimately stop when
14 Mr. King was brought to Washoe County or did it continue?

15 A. The investigation continued.

16 Q. Did that involve monitoring of conversations
17 between Ms. King, Nancy King, the one who testified earlier
18 and Dvaughn King?

19 A. Yes. All communications that Dvaughn King
20 utilized through the detention center here at Washoe County
21 was monitored.

22 Q. Without giving us the content of that those
23 conversations between the two, did that lead you to
24 ultimately recommend a grand jury investigation into

1 Mr. King?

2 A. Yes.

3 Q. And in connection with the investigation that the
4 Grand Jury conducted into Mr. King, did you find any similar
5 conduct that was done by Henry Toy?

6 A. No.

7 MR. HAHN: I don't have any other questions.

8 THE COURT: Mr. Ohlson.

9 BY MR. OHLSON:

10 Q. So we're clear, the Sparks Police Department
11 identified Mr. King as a suspect in the Young killing before
12 he was arrested by California authorities, isn't that right?

13 A. He was identified as being involved in this case,
14 yes, prior to his arrest in California.

15 Q. Okay. And after he was identified, there was some
16 information received by Sparks Police Department that he was
17 physically located in Sacramento, isn't that right?

18 A. Yes. Sacramento contacted Sparks Police
19 Department upon his arrest.

20 Q. You weren't involved prior to his arrest in
21 California?

22 A. No. We actually left for California that night.

23 Q. Okay. Were you involved in the application for a
24 search warrant in California?

1 A. At what point?

2 Q. At any point.

3 A. Yes, I was.

4 Q. So the reports that indicate you were involved in
5 that are accurate?

6 A. Excuse me. That I was or was not?

7 Q. The reports that your department was involved in
8 the application for the search warrant are accurate, isn't
9 that right?

10 A. Yes, sir. I'm actually named in some of those
11 affidavits.

12 Q. The handgun that was recovered, that was
13 determined not to be involved in the Young killing, isn't
14 that right?

15 A. Which handgun, sir?

16 Q. The handgun that was retrieved in California, in
17 Sacramento, from Mr. King's residence?

18 A. We didn't find a gun at his residence.

19 Q. You found it in the storage facility?

20 A. No, sir.

21 Q. Where?

22 A. A handgun was located at Hanna Malatu's residence.

23 Q. And that wasn't involved?

24 A. That handgun was not involved, no, sir.

1 MR. OHLSON: Okay. That's all.

2 THE COURT: Any questions, Mr. Hahn?

3 BY MR. HAHN:

4 Q. I'm sorry. I neglected to ask one question.
5 Mr. Gallop, with regard to Mr. Toy, did you discover any
6 evidence that Mr. Toy was in any type of narcotics debt
7 relationship with Tommy Young?

8 A. Throughout this three-year investigation, we found
9 no evidence whatsoever that Henry Toy and Tommy Young knew
10 one another prior to the murder.

11 MR. HAHN: Nothing else. Thank you.

12 THE COURT: That raise any questions, Mr. Ohlson?

13 MR. OHLSON: No, thank you.

14 MR. HAHN: That's the State's representation with
15 regard to evidence. We're prepared to proceed to argument
16 when the time the Court is ready.

17 THE COURT: Let's talk about argument.
18 Mr. Ohlson.

19 MR. OHLSON: Your Honor, we raised bigger issues
20 that were supported in our presentence memorandum, basically
21 with regard to the consecutive or concurrent sentencing in
22 this case with the time that Mr. King has already been
23 sentenced in California. And we believe that the appropriate
24 sentence in this case would recognize the California sentence

1 as arising and consequential of the Nevada investigation and
2 that accordingly this Court ought to sentence Mr. King
3 concurrently with his California conviction.

4 In addition, Mr. King does have family that's
5 supportive of him that would like to see him on the outside
6 at some point in time. He has taken the effort to
7 demonstrate a path towards rehabilitation while he's been
8 both in prison and in the Washoe County Jail, which is
9 indicative of the programs that he's been involved in and his
10 behavior in jail.

11 With that, further, Mr. King would like to address
12 the Court.

13 THE COURT: I'll give him an opportunity. Let me
14 hear argument from the State.

15 MR. HAHN: I would invite the Court to reflect on
16 some of the earlier testimony that Mr. Gallop had offered
17 this Court at the time when Mr. Molezzo was Mr. King's
18 counsel and some of the representations and whatnot that
19 were, again, offered by Detective Gallop.

20 Judge, with regard to the sentence in this case,
21 the State is recommending that the Court impose a term of
22 life imprisonment with the possibility of parole within ten
23 years. Further, the State is recommending for the
24 enhancement, the 24- to 72-month consecutive to the term.

1 Judge, with regard to these two terms, we are also
2 recommending that these terms run consecutive to his
3 underlying California sentence and I would offer the Court a
4 couple of comments with regard to this.

5 Almost a quarter pound of methamphetamine that was
6 discovered in a storage unit that was being -- that was under
7 Nancy King's name, it suggests, I think, perhaps, a
8 meaningful distribution network, if not just store-housing.
9 I think the evidence is fair for the Court to conclude that
10 there was interest in opening up perhaps a new market in
11 Reno. And so when I hear a concern that Mr. King has about
12 maybe this sort of being collateral damage, the California
13 matter, with ultimately the murder that occurred in Nevada, I
14 don't have -- I don't share that same perspective, judge.

15 What we're talking about is we're talking about a
16 convicted felon who had access to a weapon, who had 100 grams
17 of methamphetamine, in excess, in a storage unit in
18 California that happened to be discovered in connection with
19 a much larger investigation, two different locations, two
20 different distribution networks. And for that reason, judge,
21 alone, I believe that mitigates in favor of the consecutive
22 sentence with whatever the Court renders here in connection
23 with the California sentence he was serving time for. Absent
24 that, I stand ready to answer any questions.

1 THE COURT: No. Thank you.

2 MR. OHLSON: One point, if I may?

3 THE COURT: Certainly.

4 MR. OHLSON: Apparently, in the California case,
5 Mr. King's conviction relates to the substances found at the
6 residence and not in the storage unit.

7 THE COURT: Storage unit.

8 MR. OHLSON: That those storage unit substances,
9 that case was dismissed upon his conviction in the other
10 matter. So that's the only final argument.

11 THE COURT: Mr. King, the law affords you an
12 opportunity to address the Court at the time of sentencing in
13 terms of the presentence investigation report, mitigation,
14 punishment, any matter you want to bring to the Court's
15 attention, I invite you to do that at this time, if you wish.

16 THE DEFENDANT: I'll take responsibility for my
17 actions. I understand you've been doing this for quite
18 sometime and you pretty much heard everything, you know. And
19 I know you're not someone who is going to be conned into
20 being swayed one way or another. But with my utmost
21 sincerity, your Honor, I stand before you today not the same
22 man that I was three years ago.

23 I'm not going to sit here and tell you that I
24 found God, because that would be lying, to much like saying I

1 found my car keys or something. But he has definitely found
2 me. On one token, I am thank you for these circumstances
3 that have produced growth and transformation in me. On
4 another, I have a great deal of sadness and empathy for the
5 families involved in this case, especially the Young family,
6 Karen, Kianna, Evelyn, Shaniqua.

7 THE WITNESS: Joseph.

8 THE DEFENDANT: Yes. And Ms. Evelyn Mount. I
9 understand that forgiveness is the result of receiving proof
10 over a period of time and needing more proof than anything.
11 So today I will not ask that of you, which makes sense to me
12 given the gravity of matters. I am deeply sorry for your
13 loss and I look forward to the day you can truly forgive me
14 for the pain and suffering my actions have caused your
15 family, which I can only imagine you might be feeling.

16 Your Honor, as I ponder my legacy I will leave, I
17 decided that 100 years from now that I want to be known as
18 somebody who brought out the best in people, somebody who
19 left the world a better place. Material accomplishments will
20 soon be forgotten. The only thing that lasts is the
21 investment we make in other people's lives.

22 With that being said, I pray to the Court and the
23 families for an opportunity to give back to the others, other
24 wayward youth who may find themselves in similar

1 circumstances from bad decision making. I pray to someday to
2 be in a position where society welcomes me and I'm able to
3 allow my life experiences to be a beacon to others.

4 At the end of the day, I'm not what I once was and
5 I know I'm not who I ought to be. He's not done with me. So
6 by the grace of God, I'm not who I used to be. I thank the
7 Court for allowing me to share and I'm prepared to accept
8 whatever you deem is appropriate.

9 THE COURT: Thank you, sir. Mr. Hahn. You may be
10 seated.

11 MR. HAHN: Court's indulgence, please.

12 THE COURT: Take your time.

13 (One witness sworn at this time.)

14 BY MR. HAHN:

15 Q. Would you tell us your name and spell your last
16 name, please?

17 A. Evelyn Young, Y-o-u-n-g.

18 Q. Are you related to the young man we were speaking
19 of earlier this morning, Tommy Young?

20 A. Yes.

21 Q. What was your relationship with him?

22 A. I'm his sister.

23 Q. Ms. Young, what I want to do, is I don't have any
24 questions for you, I just want to allow you to share from

1 your heart to Judge Flanagan some of your feelings about the
2 crime, the loss and the impact it has had upon you. Please
3 feel free.

4 A. I was there the night that the murder happened and
5 it's a huge loss. It was my brother taken away from me, my
6 friend, my -- someone who I deeply loved was taken away. And
7 there's no reason good enough for his life not being here
8 today. There's no reason good enough.

9 I mean, he had children that are now left behind.
10 He was a father, a brother, a son. He was somebody important
11 and he's not here today and there's no reason why he
12 shouldn't be here today. He will truly be missed and there's
13 no reason for him not to be here. There's no excuse
14 whatsoever.

15 THE COURT: Thank you, ma'am. Mr. Hahn, next
16 witness.

17 (One witness sworn at this time.)

18 BY MR. HAHN:

19 Q. Could you tell us your name and spell your last
20 name, please?

21 A. Kianna Young, but now it's Pride, P-r-i-d-e.

22 Q. Ma'am, could you share with us, are you related to
23 the deceased in this case, Tommy Young, that we've been
24 speaking of?

1 A. He's my older brother.

2 Q. Older brother?

3 A. He's number two of the older brothers.

4 Q. Okay. Very well. If you would, I don't have any
5 specific questions for you, I'm just going to ask you if you
6 would be so kind, if you wish, to share with the judge some
7 of the feelings on your heart about the crime, about how it's
8 impacted you and your family and the loss.

9 A. I don't even know where to start. Whatever you
10 guys had going on, it wasn't that serious. You shouldn't
11 take an incident like this to make a better man. The minute
12 you had children, you should have became that better man.
13 Whatever the issue was, it could have been prevented.

14 They speak about saying that he had -- it wasn't
15 something that he wanted to do or it wasn't intended or
16 whatever. If that's the case, then he wouldn't have gone up
17 there with that intent. This man came from across state
18 lines to inflict harm on somebody. And, obviously, whatever
19 it was he meant to do happened and to me that doesn't seem
20 like somebody -- they did something they wanted to do, ain't
21 no sorry in that. Right now I'm bitter and there's nothing
22 nobody can say can probably make me feel better right now.
23 Maybe in the future things will be better for me. For right
24 now, today, everything that Dvaughn did was intended, it's

1 what he meant to do and this is the outcome of what he did.

2 He can't take it back. You can say you're sorry
3 to however many people you want to, but you're going to go
4 home to your son and your daughters eventually, you know, or
5 however. My brother will never go back to his children. His
6 girls will never see him. He'll never see them become the
7 young women they'll become one day. And for that I don't
8 have any -- ain't nothing you can say or do can make me
9 better today, nobody.

10 To your family, I'm sorry that we all got to go
11 through this, and excuse the way I feel right now, but I
12 don't have no feelings for any of you right now. Not to say
13 that anything bad about you. Maybe in the future, like I
14 said, it will change. But I'm pretty sure you can understand
15 where I'm coming from right now.

16 I know you from school, Dvaughn. I never thought
17 we would ever come across each other's path like this. I was
18 almost at a loss when I found out who it was that they were
19 even saying. You know what I mean? Whatever it is, is
20 whatever it is, it can't be brought back now. You claim to
21 be a better man, it shouldn't have took this to become a
22 better man.

23 I don't want to see nobody go to jail. I have
24 another brother that's doing life in jail. You know what I

1 mean? That's bullshit. It's just not that serious. And I
2 don't know what to say. I'm hurt. Can't bring my brother
3 back. I'd like to see you spend the rest of your life in
4 jail. It's up to him, but that's how I feel today.

5 THE DEFENDANT: I understand.

6 THE WITNESS: That's all I got to say.

7 THE COURT: Mr. Ohlson.

8 MR. OHLSON: No, thank you.

9 (One witness sworn at this time.)

10 BY MR. HAHN:

11 Q. Would you share with us your name and spell your
12 last name, please?

13 A. My name is Karen Jones, J-o-n-e-s.

14 Q. How are you related to the deceased Tommy Young?

15 A. He's my son.

16 Q. Ms. Jones, did you ask to be able to be heard
17 today?

18 A. I did.

19 Q. Would you like to share some of your feelings on
20 the impact of the crime and the loss and the circumstances
21 with Judge Flanagan?

22 A. I would.

23 Q. Go ahead and just share from your heart, if you
24 would.

1 A. I waited a long time for this. It's been three
2 years have passed, have been lost. Horrible time that I've
3 ever had to endure, losing a child in my own home. My other
4 kids were there. So imagine when I got that phone call. It
5 was more than I thought I could bear.

6 These people invaded my home. That wasn't Tommy's
7 home, that was my home. He was there, but that was my home.
8 I wasn't their friend. They came in my home and they killed
9 my son.

10 I am grateful that I serve a God that has brought
11 me to this point. We've had to go through some changes. It
12 was months later that I found out that my youngest daughter
13 that was there was going through some things. She was at
14 school one day and she just totally freaked out thinking
15 about what she had witnessed from her brother. At the time,
16 she was 16 years old. She's gone through counseling since
17 then and she's better. She's out in the hall now. We have
18 to be in that home every day in the room where he was killed.

19 In the beginning, I was very, very angry at what
20 you had done. You had no right to do that. Your name is not
21 God, it's Dvaughn.

22 THE DEFENDANT: Yes, ma'am.

23 THE WITNESS: And you had no right to do what you
24 did. The one consolation that I do have and I'm not sure if

1 you meant it or not, but you're heading in the right
2 direction getting and developing a relationship with God,
3 because that's the only thing and the only one that is going
4 to bring you through. And it's because of him I'm able to
5 say to you today, Dvaughn, that I forgive you. I truly
6 forgive you for what you've done. And it's my true desire
7 that you do develop a righteous relationship with God and
8 learn who you can be and what you can do for the future,
9 because that's all you have to look forward to. We can't go
10 back and change anything that has happened. All of this is
11 not going to bring my son back.

12 But the fact that you even mentioned that you know
13 that there is a God brings joy to my heart. I'm able to do
14 this today. I just want you to understand, by going through
15 that, you will realize what you had done. You've changed
16 people's lives that didn't have any reason whatsoever to be
17 changed like that. You had no right to do that, none
18 whatsoever. That's all.

19 THE COURT: Thank you, ma'am.

20 MR. HAHN: Your Honor, I will advise that's the
21 sum of all the witnesses who want to be heard. And if I may,
22 I just wanted to tender Exhibit 1 for our record.

23 MR. OHLSON: No objection.

24 THE COURT: Thank you. Exhibit 1 is admitted. A

1 judge has to take a lot of things into consideration in
2 imposing judgment on a human being. The Court has to take
3 into consideration the defendant, the defendant's background,
4 the defendant's personal history, the defendant's family,
5 employment, military history, education.

6 In this case, the Court finds the defendant is a
7 very intelligent, articulate individual and that is to his
8 credit and it is in many sense a shame, a waste. So much
9 good could have been brought with the proper application of
10 that intelligence.

11 The Court has to take into consideration the
12 victim. In this case, there's not one victim, there are many
13 victims, many innocent victims. We have the parents of the
14 decedent, the parents of the defendant, children, innocent
15 children who grow up not knowing their father, fathers. Our
16 communities will lose what good could have come from the
17 contribution these men could have made.

18 The Court has to take into consideration the
19 nature of the crime. This is murder, murder most foul, shot
20 cold-blooded in a mother's home. The Court has to take into
21 consideration the impact the crime has not just on the
22 family, but on everybody.

23 The Court has to take into consideration the goals
24 of punishment, rehabilitation, isolation, revenge,

1 retribution. Those are legitimate penological
2 considerations.

3 General deterrence, specific deterrence,
4 specifically, the sentence has to deter the individual from
5 committing the crime again. Generally, whatever sentence is
6 imposed has to reflect the voice and the values of the
7 community, what the community feels about this crime such
8 that if someone reads it in the paper, hears about it, they,
9 too, will be deterred from following this example and perhaps
10 spare the life of another human being.

11 For as long as human beings have gathered together
12 in society, there have been certain immutable laws. You find
13 them in the Old Testament, in Deuteronomy and Leviticus, the
14 Decalogue log, the Ten Commandments, as old as that. The
15 Fifth Commandment, four simple words, thousand shalt not
16 kill.

17 We can go back to the Roman stoics that form much
18 of the law that we follow here today. Cicero speaks of
19 certain laws that have always been part of who we are as
20 human beings sui generis, law of the people, one of which is
21 a law against violent acts against other human beings. It's
22 that old. And yet today we have before us another example of
23 a young man's death at the hands of another man. Senseless,
24 senseless death. Senseless, senseless death.

1 Many people consider judges to be powerful people.
2 The longer I've been doing this, the more I realize what
3 little power judges have. I cannot restore to a young girl a
4 sense of innocence that has been taken from her. I cannot
5 restore to a homeowner a sense of security when their house
6 has been violated. I cannot restore to a mother the body of
7 her dead child. I cannot turn back the hands of time. And
8 while I cannot change the past, I can shape the future and
9 that's just what I'm going to do.

10 All right. Mr. King, it will be the order of this
11 Court that the defendant is to pay a \$25 administrative
12 assessment fee, \$3 DNA, \$150 DNA, \$500 attorney's fees. In
13 addition to the sentence, the underlying sentence, this Court
14 is required by law to impose a consecutive sentence pursuant
15 to NRS 193.165, subsection one. In determining the length of
16 that additional penalty for the use of a deadly weapon, this
17 Court must consider; A, the facts and circumstances of the
18 crime; B, the criminal history of the person; C, the impact
19 of the crime on any victim; D, any mitigating factors
20 presented by the person; and, E, any other relevant
21 information. The Court will state for the record it has
22 considered all of these factors in coming to the following
23 sentence.

24 Therefore, it will be the order of the Court that

1 the defendant, Dvaughn King, be sentenced to the custody of
2 the Nevada Department of Corrections for a term of
3 imprisonment of life with the possibility of parole after ten
4 calendar years. The defendant is also to serve a consecutive
5 sentence for a deadly weapon enhancement in the term of 53 to
6 240 months. That is consecutive. This crime is consecutive
7 to 10F07661 with 651 days credit time served. Anything else,
8 Ms. Iveson?

9 MS. IVESON: No, your Honor.

10 THE COURT: Mr. Hahn.

11 MR. HAHN: No, thank you, your Honor.

12 THE COURT: Mr. Ohlson.

13 MR. OHLSON: No, your Honor.

14 THE CLERK: Your Honor, is CR13-1149 dismissed?

15 THE COURT: CR13-1149 is dismissed. This Court's
16 in recess.

17 --oOo--
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24

1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on January 22, 2014, at the hour of 9:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the sentencing in the matter of THE STATE OF NEVADA,
10 Plaintiff, vs. DVAUGHN KEITHAN KING, Defendant, Case
11 No. CR12-1160 and CR13-1149, and thereafter, by means of
12 computer-aided transcription, transcribed them into
13 typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 43, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 5th day of February 2014.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

CR12-1160
DC-09900053457-002
STATE OF NEVADA VS. D'VAUGHN K. 1 Page
District Court 01/31/2014 09:45 AM
Washoe County 2515
NOC
ASMITH

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

FILED

JAN 31 2014

JOEY HASTINGS, CLERK

By [Signature] DEPUTY CLERK

THE STATE OF NEVADA,
PLAINTIFF,

CASE No. CR12-1160

v.

DEPT No. 7

D'VAUGHN KING,
DEFENDANT.

NOTICE OF APPEAL

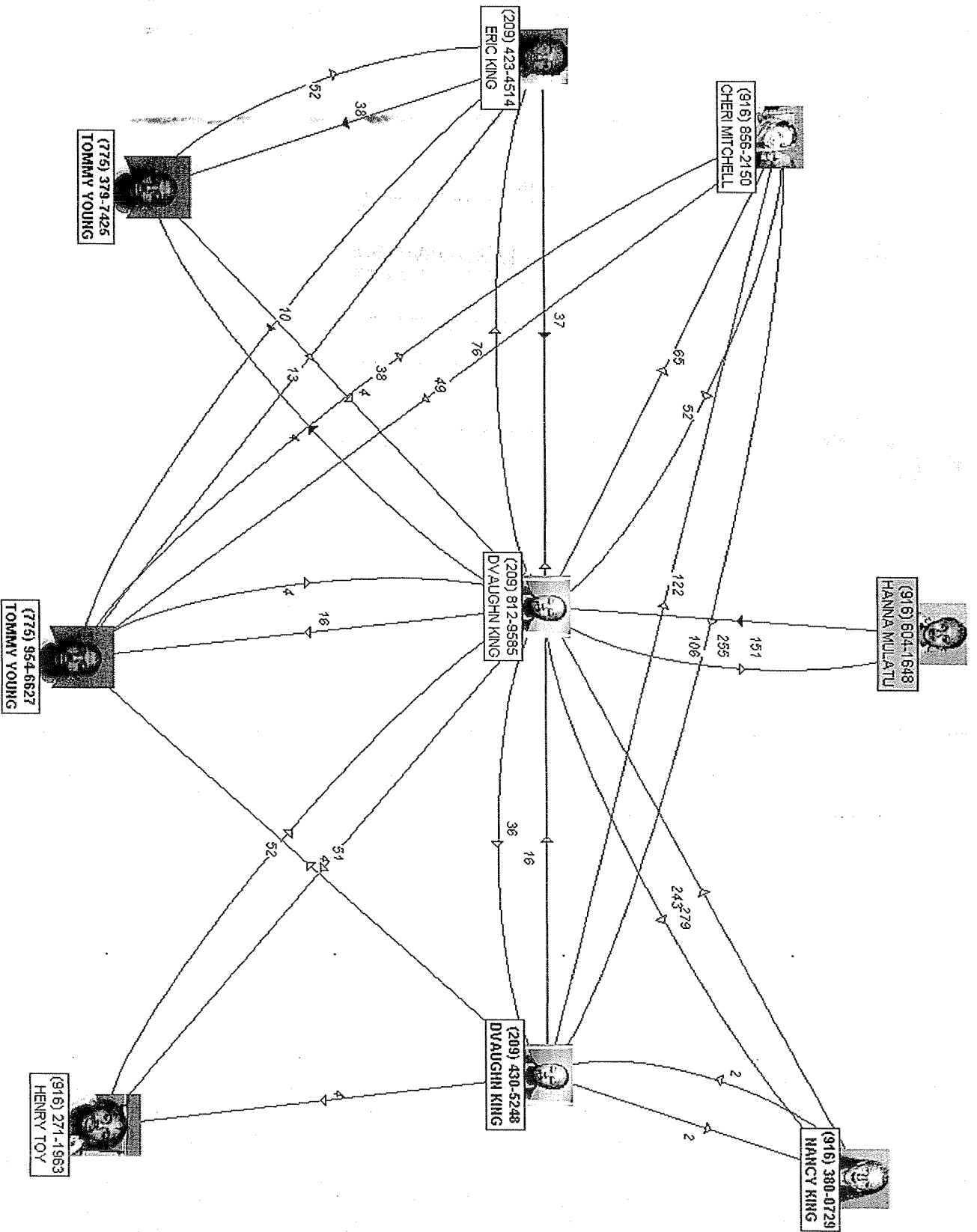
NOTICE IS HEREBY GIVEN THAT D'VAUGHN KEITHAN KING, THE DEFENDANT ABOVE NAMED, HEREBY APPEALS TO THE SUPREME COURT OF NEVADA FROM THE JUDGEMENT OF CONVECTION ENTERED IN THIS ACTION OF JANUARY 22, 2014.

THIS NOTICE OF APPEAL IS MADE IN ACCORDANCE WITH THE 30-DAY TIME CONTRAENT, AS WELL AS TO GIVE NOTICE OF SAID SUCH APPEAL.

THIS DOCUMENT DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY PERSON. (PURSUANT TO NRS 239B.030).

RESPECTFULLY SUBMITTED THIS 29TH DAY OF JANUARY, 2014.

D'Vaughn King
D'VAUGHN K. KING
DEFENDANT.



CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of Karla K. Butko, Ltd., P. O. Box 1249, Verdi, NV 89439, and that on this date I caused the foregoing document to be delivered to all parties to this action by

_____ placing a true copy thereof in a sealed, stamped envelope with the United States Postal Service at Reno, Nevada.

_____ personal delivery

_____ Facsimile (FAX)

_____ Federal Express or other overnight delivery

☒ Reno/Carson Messenger Service

addressed as follows:

RICHARD GAMMICK
DISTRICT ATTORNEY
Washoe County District Attorney's Office
P. O. Box 11130
1 South Sierra, Fourth Floor
Reno, NV 89501

DATED this 17th day of July, 2014.



KARLA K. BUTKO, ESQ.