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

3  
4 TROY MULLNER

5 Appellant,

6 vs.

7 THE STATE OF NEVADA,

8 Respondent.  
9  
10

S.Ct. No. 71030

D.C. No. C283463

Electronically Filed  
Jan 30 2017 10:42 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

11 **APPELLANT'S APPENDIX**  
12 **Volume 1: 1-100**

13  
14 STEVEN S. OWENS, ESQ.  
15 Clark County District Attorney  
16 Nevada Bar No. 4352  
17 Clark County District Attorney's Office  
18 200 Lewis Avenue  
19 Las Vegas, Nevada 89155  
20 (702) 671-2500  
21 Attorney for Respondent  
22 State of Nevada

JEAN J. SCHWARTZER, ESQ  
Nevada Bar No. 11223  
Law Office of Jean J. Schwartzer  
10620 Southern Highlands Pkwy  
Suite 110-473  
Las Vegas, Nevada 89141  
(702) 979-9941  
jean.schwartzter@gmail.com  
Attorney for Appellant  
Troy Mullner

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STEVEN S. OWENS, ESQ.

Troy Mullner  
Inmate # 54371  
High Desert Correctional Facility  
P.O. Box 650  
Indian Springs, Nevada 89070-0650

3

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**OFFICER'S REPORT**

Event #: 120630-2535

Search Warrant Service

SUBJECT

DIVISION  
REPORTING:

RH32

DIVISION OF  
OCCURRENCE:

RH32

DATE & TIME  
OCCURRED:

June 30, 2012 - 2200 hours

LOCATION OF  
OCCURRENCE:

3451 Sego Glen Circle Las Vegas, NV  
89121

NARRATIVE:

OFFICERS INVOLVED:

L. Spiotto P#4774	(Affiant)
J. Abeil P#8744	(recovering officer / scene photography)
C. Embry P#6223	(Search)
R. Cragin P#9176	(Search)
B. Kenton P#8889	(Search)
Sgt. W. Huddler P#7789	(Site security)
Sgt. P. Ziros P#4239	(Site security)

PERSONS AT SCENE:

Daniel Leathers

Jimmy Herring

Darleen Eller

Vaughn Brown

Danya Curless

Troy Mullner

DETAILS:

At approximately 2:07 PM, on 06-30-12, a White male, later identified as Troy Mullner, entered the Subway sandwich shop located at 6150 W. Charleston. Mullner was described as a White male, 6'00", 200lbs, wearing a dark button up shirt, baseball cap, sun glasses, light blue jeans armed with a handgun. Mullner approached employee Miriam Fierro who was standing at the cash register. Mullner pointed the handgun at Fierro and demanded money from the cash register. Fierro, who was in fear of being shot, opened the cash register and gave Mullner money. Mullner then reached over the counter and grabbed additional money from the register totaling \$246.40

While this was occurring, employee Edward Valdez walked up to the counter. Mullner pointed the handgun at Edward and demanded he walk with him to the front of the store. Valdez refused and took a position of cover at the rear of the store. Fierro saw what was happening and also retreated to the rear of the store. Mullner

Date and Time of Report:

06/30/2012

Officer:

C. Embry

P#:

6223

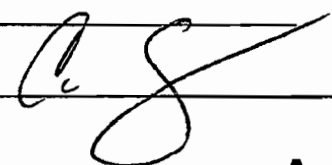
Approved By:

P. Ziros P#4239

Officer:

P#:

SIGNATURE:



## CONTINUATION

Event #: 120630-2535

fled the business and Valdez ran out the back door and watched Mullner run eastbound on foot. Valdez observed Mullner get into an older model, aqua colored, mini-van, with a sloped windshield and flee westbound on Charleston. Valdez called 911 and got a partial plate number of 489-XY (Nevada) from the rear license plate.

LVMPD Officers C. Sjoblom P#9180 and Officer M. Garcia P#7204 arrived and began a preliminary investigation. LVMPD Robbery Detective D. Miller P#6627 arrived on scene and viewed the surveillance video. The video showed the suspect to be wearing two rings and a watch on his left wrist. Detective Miller determined the suspect matched the description of a serial robbery suspect who had possibly been identified as Troy Mullner ID# 1158825. A DMV check indicated one of Mullner's register vehicles was an Oldsmobile Silhouette van with Nevada license plate 489XYL.

Detective L. Spiotto P# 4774 constructed two photo line-ups using a recent photo of Mullner along with photos of five similar looking White males. Detective Miller conducted a photo line-up with victim Miriam Fierro. When Fierro was presented with the line-up, she immediately picked Troy Mullner out as the suspect who had just robbed her. Fierro was sure of her identification but noted Mullner was heavier than depicted in the photo. For additional details see Fierro's Photo Line-up Witness Voluntary Statement.

Detective Guyer conducted a photo line-up with victim Edward Valdez. Valdez immediately identified Troy Mullner as the suspect who pointed a gun at him. Valdez based his identification on the shape of Mullner's face, forehead, and noted his ears appeared to be pulled back. Valdez was "very sure" Mullner was the robbery suspect but also noted he seemed heavier than in the photo line-up.

**ENRTY PHASE:**

At approximately 2100 hours LVMPD Officers located Mullner's Oldsmobile Van NV license plate 489XYL parked at 3451 Sago Glen Circle. Robbery Detectives initiated surveillance on the vehicle. A short time later Detective C. Embry P# 6223 observed Troy Mullner walked out of 3451 Sego Glen and walk to the van. Mullner then walked back inside 3451 Sego Glen.

Detective Spiotto authored a Search Warrant for 3451 Sago Glen Circle along with Mullner's 1994 Oldsmobile van which was parked at the residence. The Search Warrant was approved by DA Michael Watson and was signed by District Court Judge David Barker. At approximately 2215 hours, the LVMPD SWAT team supervised by Sgt. R. Hunt P#3833 executed the search warrant while wearing police identification garments. No force was used to make entry into the house and the above listed persons exited the house as directed by SWAT. SWAT members entered and cleared the residence for additional suspects. Upon clearing and securing the premise, SWAT Sgt. R. Hunt P#3833 released the scene to the Robbery Section Sgt. P. Ziros P#4239. Detectives from the LVMPD Robbery Section and South Central PSU team searched the residence for items of evidence. As items were located, Detective J. Abell would photograph the item in place, record the items location, and recover the items.

**SEARCH PHASE:**

During the search of the premises, the following property was recovered:

Item 1: Power Line model 15xt black BB gun, located in a concealed area in the dash of the 1994 Oldsmobile van.

Item 2: Samsung model m820 black cellular phone, located in the closet of the northwest bedroom, on the first story.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CONTINUATION**

Event #: 120630-2535

Item 3, Kyocera cellular phone located on the front seat of the Oldsmobile van.

Item 4, grey long sleeve shirt, located on the table in the northwest bedroom, on the first story.

Item 5, black long sleeve shirt, located on the back of the Oldsmobile van.

Item 6, white long sleeve shirt, located on the back of the Oldsmobile van.

Item 7, Rectech blue long sleeve shirt, located on the front passenger seat of the Oldsmobile van.

Item 8, Champs blue long sleeve shirt, located on the back seat of the Oldsmobile van.

Item 9, Basic Editions blue long sleeve shirt, located on the back seat of the Oldsmobile van.

Item 10, Outdoor Products grey backpack, located between the front seats of the Oldsmobile van.

Item 11, white Nike shoes, located on the back seat of the Oldsmobile van.

Item 12, John Deere hat, located on the back seat of the Oldsmobile van.

Item 13, Saranac black cyclist gloves, located on the Oldsmobile van.

Item 14, Choppers black sunglasses, located in the center console of the Oldsmobile van.

Item 15, black Bandana, located inside of the grey backpack, in the Oldsmobile van.

Item 16, green Bandana, located inside of the grey backpack, in the Oldsmobile van.

Detective Abell photographed all of the above items in place, recovered the items, transported the items to the LVMPD headquarters, and impounded each of the items.

**INTERVIEW PHASE:**

Prior to the interview Detective Spiotto read Mullner Miranda. Mullner said he understood his rights and agreed to answer questions. Mullner admitted to committing the Subway robbery along with 13 other robberies. Mullner said he walked up to the female clerk and pointed a fake gun at her. Mullner said he took the money from the register and demanded the male employee come out from behind the counter. Mullner said the male employee refused to come out. Mullner left the area driving his van. Mullner advised his clothing and fake gun could be located inside a backpack in his van. Mullen identified himself while looking at the surveillance photographs.

**SECURING PHASE:**

A copy of the Duplicate Original Search Warrant and the Return were left inside the residence in the northwest bedroom and the front seat of the 1994 Oldsmobile Silhouette Van bearing NV plate 489XYL. Those documents were photographed by Detective J. Abell P# 8744. The residence was turned over to Vaughn Brown, who is the registered tenant of the residence. Detectives cleared the scene and the search warrant concluded at approximately 0020 hours, on July 1<sup>st</sup>, 2012.

INTERVIEW WITH DAYNA CURLISS

Dayna Curliss

[REDACTED]

[REDACTED]

Curliss rents a room out of the house located at 3451 Sego Glen Circle. Troy Mullner is her off/on type boyfriend who she has been seeing since 11/2001. Mullner does not live at the house and has never lived there. Mullner supposedly does not have any belongings/clothing inside the residence because he lives at his own apartment. Curliss said Mullner lives at the apartment complex next to the Hard Rock Casino. Detective Scilimenti drove Curliss to the area around the Hard Rock and Curliss identified 370 E. Harmon as Mullner's apartment complex. Curliss identified building S apartment 309 as his apartment. Curliss said Mullner has all his property (clothing, stereo, everything he owns) inside the apartment. Curliss was recently at Mullner's apartment on June 23, 2012. Detective Scilimenti contacted Harbor Island Apartment employee Dani Carter. Carter confirmed Troy Mullner is a current resident of S/309 and has lived there since April 19, 2012. Mullner is the only registered guest of S/309 and Carter provided Detective Scilimenti with a copy of Mullner's Nevada driver's license along with the signed rental agreement. Detective Scilimenti went to apartment S/309 with Security Officer Ezekiel Deleon. S/O Deleon locked out and secured the apartment door. Detective Scilimenti placed a seal on the door at 0020 hours.

Curliss said she is not aware of Mullner committing any robberies/crimes. Curliss said Mullner is an alcoholic and she believes he is possibly smoking meth due to his recent weight loss. Mullner has mentioned to Curliss that he has a gun, but Curliss claims she has never seen it before. Curliss said Mullner has indicated he has hidden the "thing" in a tree near the church on the corner of Mojave and Sego. Curliss directed Detective Scilimenti to the specific tree area around the church, but Detective Scilimenti was unable to locate any handguns. A LVMPD K-9 Officer conducted an article search with his dog, but the dog did not locate anything.

Curliss said Mullner came over to her house on June 30, 2012 at approximately 0400 hours. Mullner left at approximately 0900 hours. Mullner returned at approximately 1200 hours where Curliss and Mullner drove together to Albertsons. Mullner and Curliss return back to the residence at approximately 1300 hours, and Mullner drops off Curliss. Mullner left the residence around 1300 hours and later returned around 1700 hours. Curliss only remembers Mullner leaving to go to the store and nothing else.

During the execution of the search warrant, SWAT was bull horning the residence. Curliss said Mullner was panicking and told Curliss to hide his cell phone. Curliss got scared in fear Mullner would beat her, and Curliss placed Mullner's cell phone in a dresser drawer in her bedroom. Curliss said Mullner did not expand on why he wanted her to hide his cell phone.



## ARREST REPORT

12F 10441 x/02

☒ City☐ County☒ Adult☐ JuvenileSector/Beat A1

ID/EVENT# <b>120411-4254</b>	ARRESTEE'S NAME (Last) (First) (Middle) <b>Mullner Troy Lee</b>			S.S.# <b>[REDACTED]</b>
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) <b>370 E Harmon S/309 Las Vegas, Nevada 89169</b>				
CHARGES <b>Robbery (19counts) Attempt Robbery (2counts) Burglary (12 counts)</b>				
OCCURRED <b>4-11-12</b>	DATE	DAY OF WEEK <b>Wednesday</b>	TIME <b>2037</b>	LOCATION OF ARREST (Number, Street, City, State, Zip Code) <b>330 S Casino Center Las Vegas Nevada 89101</b>
RACE <b>White</b>	SEX <b>Male</b>	D.O.B. <b>10-22-66</b>	HT. <b>6'02"</b>	WT. <b>200</b>
HAIR <b>Brown</b>	EYES <b>Brown</b>	PLACE OF BIRTH <b>Sioux City IA</b>		

ARRESTING OFFICER #1: <b>L. Spiotto</b>	P#: <b>4774</b>	ARRESTING OFFICER #2: <b>J Guyer</b>	P#: <b>7430</b>
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CONNECTING REPORTS (Type or Event Number) <b>120630-2535, 120623-1983, 120621-2726, 120620-3821, 120618-3052, 120616-3157, 120609-3269, 120527-3440, 120502-4244, 120424-4182, 120424-4088, 120421-3828, 120411-4254</b>
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APPROVED BY (PRINTED NAME): Lt. R. Fox #3313

## CIRCUMSTANCES OF ARREST:

Synopsis:

On April 11<sup>th</sup>, 2012 until June 30<sup>th</sup>, 2012 a series of 14 robberies occurred. This series concluded on June 30<sup>th</sup>, 2012 when Troy Mullner was arrested and confessed to all robberies. The modus operandi was a white male simulating a handgun under his shirt in order to rob stores such as Subway and Radio Shack. The robberies consisted of 13 Las Vegas Metropolitan Police Department jurisdiction and one Henderson jurisdiction. Mullner was arrested June 30<sup>th</sup>, 2012 for the robbery that occurred on June 30<sup>th</sup>. The following covers the prior 12 LVMPD robberies.

Details:120411-4254 Radio Shack 3125 E Tropicana Robbery (2cts) Burglary

On April 11<sup>th</sup>, 2012 at 20:37 hours Robert Crow and Christopher Castillo were working at Radio Shack. The store is located at 3125 E. Tropicana, Las Vegas, Nevada 89121, County of Clark. A white male wearing a black baseball cap, blue shirt, black gloves, gray pants, 40-43 years old, 6'0", 220 pounds and white shoes entered the store and approached Crow and Castillo. The male stuck his hand under his shirt and simulated holding a weapon. Castillo was ordered to open the register and the male stole \$318.00 from the drawer. The suspect walked out toward a Wal-Mart.

Castillo called the Las Vegas Metropolitan Police Department and Officer Abdal-Karim # 13724 responded under event 120411-4254. Video was recovered by Robbery Detective Flynn #6463. A crime report was taken for robbery.

## CONTINUATION REPORT

ID/EVENT #: 120411-4254120421-3828 Radio Shack 7460 W Lake Mead Robbery (2cts) Burglary

On April 21<sup>st</sup>, 2012 at 20:00 hours Loraine Allsop and Shantanae Kliebert were working at Radio Shack. The store is located at 7460 W Lake Mead, Las Vegas Nevada 89128 in the County of Clark. A white male wearing a dark hat, tan shirt, blue jeans, white shoes, approximately 40 years old, 5'10", and 185 pounds entered the store and approached Allsop and Kliebert. The male ordered Kliebert behind the counter and demanded money while simulating a weapon under his shirt. Kliebert told the male how to open the register and he stole approximately \$179.00. The male ordered both victims to the back of the store and made them get down on the floor. The male left in an unknown direction.

Kliebert called the Las Vegas Metropolitan Police Department and Officer Dixon #14105 responded under event 120421-3828. Video was recovered by Robbery Detective Abell #8744 and the scene was processed by Crime Scene Analyst Vaandering # 13575.

120424-4088 Subway 1105 S Rainbow Robbery (2cts) Burglary

On April 24<sup>th</sup>, 2012 at 20:03 hours Saavedra Fausto and Graciela Perez-Sanchez were working at Subway. The store is located at 1105 S Rainbow, Las Vegas Nevada 89117, County of Clark. A white male adult wearing a black baseball cap, brown shirt, blue jeans, white shoes, between 35-45, 5'8", 200 pounds, with red hair and mustache entered the store and approached Saavedra and witness Robert Shuey. The male simulated a weapon under his shirt and ordered Shuey to put his hands on the counter. The male then ordered Saavedra to "give me all the money". Saavedra handed over \$90 as the male ordered Perez-Sanchez "get the fuck back". The male then left the business.

Saavedra called the Las Vegas Metropolitan Police Department and Officer P. DeLeon #10067 responded under event 120424-4088. Crime Scene Analyst C. Toeppen #14372 responded for photos and prints. Quadrox US President Andy Cormier provided video to me, Detective L. Spiotto #4774 via internet. This video was later downloaded by LVMPD Forensic Video Lab and impounded.

120424-4182 Subway 6980 W Tropicana Robbery Burglary

On April 24, 2012 at 20:32 hours Lyndsey Horito and Aaron Miles were working at Subway. Witness Greg Bedoho was inside ordering a sandwich. The store is located at 6980 W Tropicana #502, Las Vegas Nevada 89103, County of Clark. A white male adult wearing a black baseball cap, brown shirt, blue jeans, white shoes, black gloves, between 30-45, 6'3", 200 pounds, entered the store and appeared to point a gun around the store. He approached Miles and demanded all the money. The male took \$693 and told Miles to turn around and walk away. The male left and entered a small white two door pick up with an unknown male driver.

Horito called the Las Vegas Metropolitan Police Department and Officer Booze #6394 responded under event 120424-4182. A crime report was authored for Robbery with Deadly Weapon. The store was not processed due to gloves. Video was obtained by me on the following day and sent to the forensic video lab.

## CONTINUATION REPORT

ID/EVENT #: 120411-4254120502-4244 Subway 3180 E Desert Inn Robbery (2cts) Burglary

On May 2<sup>nd</sup>, 2012 at 20:39 hours Carmelo Monterroso-Solares and Savannah Speer were working at Subway. The store is located at 3180 E Desert Inn, Las Vegas Nevada 89121, County of Clark. A white male adult entered the store and approached Monterroso-Solares at the register. The male revealed the wooden handle of a knife in his waistband and demanded money. Monterroso-Solares ran out of the Subway and the male went behind the counter where he found Speer washing dishes. The male ordered her to open the register and then to get down on the floor. The male stole \$350 and fled out the store North on Mojave. Witness Michelle Blaylock observed him get into a small white single cab pickup, 85-90 model years with an unknown driver.

Monterroso-Solares called the Las Vegas Metropolitan Police Department and officers responded under event 120502-4244. Cadet Roman #14097 authored a crime report for Robbery WDW, Kidnap, and Burglary. Crime Scene Analyst B. Grover responded for pictures and prints. I responded to observe the scene. No video was recording.

120527-3440 Radio Shack 3531 S. Rainbow Robbery, Burglary

On May 27<sup>th</sup>, 2012 at 18:25 hrs Chris Cunningham Jr. was working at Radio Shack. The store is located at 3531 S. Rainbow, Las Vegas Nevada 89103, County of Clark. A white male adult walked into the Radio Shack and told the employee, Cunningham to open the cash register. Cunningham said "what". The suspect continued walking at a high pace towards the register, while telling him to open the register. Cunningham opened the register. The suspect told him to put his hands on the counter and not to move. Cunningham put his hands on the counter. The suspect asked where the bank bags are. Cunningham stated that they don't have any bank bags. The suspect pulled the till out and spilled the money on the floor. The suspect then picked up all the money, which was approx 225 in cash and coin, and told Cunningham to lie down. Cunningham laid down on the floor. The male told him don't even think about moving and walked out of the store. Cunningham waited a few seconds after hearing the door chime before he got up.

Cunningham called the Las Vegas Metropolitan Police Department and officers responded under event 120527-3440. Officer K. Koval #7781 authored a crime report for robbery. I responded and viewed video. The video showed the event as stated and that the white male is now clean shaven. The video showed him meeting up with the driver of a small white pick up and getting in the passenger side. Manager Christopher Waterson burned a copy of the video and gave it to me. It was forwarded to the forensic video lab. Crime Scene Analyst Olivia Klosterman #13177 responded and processed the scene.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CONTINUATION REPORT**

ID/EVENT #: 120411-4254

120609-3269 Subway 6980 W Tropicana Robbery (2cts), Burglary

On June 9<sup>th</sup>, 2012 at 1726 hours, Harley Swan and Antwan Williams were working at Subway. The store is located at 6980 W Tropicana, Las Vegas Nevada 89147, County of Clark. A white male adult walked into Subway and told customer Jonathan Medina not to turn around. The male ordered Williams to open the register. Swan heard the subject and walked from the back toward the register. The male ordered Swan to place his hands on the counter. Williams then placed the register drawer on the counter and the male took approximately \$250. The male told the victims to get on the floor. The male stated he would not shoot if the victims complied.

Las Vegas Metropolitan Police Department Officer B Young #13236 responded under event 120609-3269. Cadet Necas authored a crime report for Robbery. Crime Scene Analyst B. Vaandering #13575 responded for photos, prints, and collection of a discarded suspect shirt. Video was collected by M. Moses #13637. The suspect was described as a white male, 35 years, 6'1", large build, blue or green eyes, goatee, camouflage bandana, with a white shirt over his head, sunglasses, light shirt, blue jeans, and work boots.

120616-3157 Radio Shack 3125 E Tropicana Robbery (3cts), Burglary

On June 16<sup>th</sup>, 2012 at 17:31 hours Jeannette Knighton, Ronald Uliano, and Cristal Flores were working at Radio Shack. The store is located at 3125 E Tropicana, Las Vegas Nevada 89121, County of Clark. Customers Juan Sanchez, and Joe Camarena were also in the store at the front counter. A white male adult entered with his right hand in the waistband of his jeans and pointed at everyone in the store with his left hand and stated "get on the ground and give me all the money out of the register." All employees and customers complied. Flores stated that the suspect reached across the counter and took cash out of the register. Flores stated that the male told her to lift up the "till" in the register to see if there was any money underneath. Flores stated the "till" is the top cash drawer. When the suspect did not see any money under the top cash drawer he turned around and walked out the front door and left eastbound on Tropicana on foot.

Knighton called the Las Vegas Metropolitan Police Department and Officer L Braun #12946 responded under event 120616-3157. A report was taken for robbery. Robbery Detective P. Flynn #6463 and M. Scimienti #6239 responded. I recovered video from Radio Shack on 6-17-12.

120618-3052 Subway 3654 E Flamingo Robbery (2cts), Burglary

On June 18<sup>th</sup>, 2012 at 16:23 hours Jaime Arteaga-Vargas and Teresa Fernandez were working at Subway located at 3654 E Flamingo Las Vegas Nevada, 89121 County of Clark. A white male adult entered and told Arteaga-Vargas to get behind the counter and open the register while simulating a weapon under his shirt. Jaime walked back opened the register and the male grabbed the register drawer and pulled it all the way out. The male told all employees to turn away and took all the money out of the register. A total of \$168 was taken. The suspect then walked east bound from the business. Fernandez observed the male run to a small white pick-up which drove off West on Flamingo.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CONTINUATION REPORT**

ID/EVENT #: 120411-4254

Arteaga-Vargas called the Las Vegas Metropolitan Police Department Officer M Bordonni #8428 responded under event 120618-3052. A report was taken for robbery. Officers checked the area east of the business and found a pair of sunglasses and a black object wrapped in black electrical tape. The glasses were shown to the employees and they stated that they belonged to the male. The male was wearing them when he came into the store. The Subway has video which was obtained by Crime Scene Analyst E. Tuffeland #8971. Crime Scene Analyst O. Klosterman #13177 responded to photograph the area and collect the glasses and tape. Detectives K. Lorson #5746 and I responded to investigate.

120620-3821 Radio Shack 2370 E Serene Attempt Robbery (2cts), Burglary

On June 20<sup>th</sup>, 2012 at approximately 1950 hours George Olurin along with Rana Walker were working at the Radio Shack at 2370 E Serene Ave, Las Vegas Nevada, 89123 County of Clark. A white male described as being approximately 40-50 year old, 6', 180-200 entered the store. The male is further described as having short cut but balding grey hair, wearing a blue shirt with black sleeves, and blue jeans, white shoes.

Olurin proceeded to ask the white male if he needed help. The male ordered George to get behind the register and give him all the money. Walker was standing just in front of the register when this was occurring. The suspect kept reaching into his waist as if he had a weapon and was going to use it. George slowly walked toward the registered and was pushed by the male due to moving too slow. Olurin advised the male that there was no money and that he did not have access to the register. The male told Olurin and Walker to hurry up, that he needed the money and that he'd "Bring this whole thing".

Approximately a minute later another customer walked in and George told the suspect that he should walk out. The suspect proceeded to leave and walk east bound to the side of Port Of Subs where he had a black bike and black back pack stationed. The suspect proceeded to take off his blue shirt and place it in the back pack and head south bound on Eastern Ave and then East on Serene Ave.

Olurin called the Las Vegas Metropolitan Police Department. Officer Tlockowski # 5858 responded under event 120620-3821. A report was taken for Attempt Robbery. C08 L. Renhard #5223 responded and processed the scene prints as well as photographed the scene. I responded and viewed video which was obtained by Detective M. Scimenti #6239.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CONTINUATION REPORT**

ID/EVENT #: 120411-4254

120621-2726 Port of Subs 3720 E Sunset Robbery, Burglary

On June 21st, 2012 at approximately 1511 hours Shevella Barnes and Ana Meza were working at Port of Subs at 3720 E Sunset Rd #111 Las Vegas, Nevada 89120, County of Clark. Barnes was on break in the back office with her co-worker Ana Meza. The two women observed a white male enter the store and stand near the counter. Barnes went to the counter to wait on the customer as Meza stayed in the office. Barnes stated the male said to her, "I hate to ruin your day, but I need you to open the register." Barnes said the man simulated that he had something under his shirt, tucked in his waistband that she assumed was a gun. Barnes opened the register, but then took off running from behind the counter, ran out the front door and to the next door business to call police. Barnes said as she was calling police she saw the man exit the front door, (which faces to the East) ran along the south side of the business then run northbound through the parking lot. Barnes ran out and followed and observed the man take off the blue cut off t-shirt which he was wearing over a white t-shirt. The male then jumped the North wall and disappeared. Barnes describes the male as white, in his 40's, reddish/brown hair, short with a trimmed goatee. He was approximately 6'0", 200 lbs, wearing a royal blue t-shirt with the sleeves cut off, over a white t-shirt, light blue jean shorts, white shoes, a green camouflage hat, and black sunglasses. The man was not wearing gloves. He appears to have reached over the counter and removed the cash drawer. He set it on the counter in front and removed all the bills from the drawer. Barnes stated it was approximately \$150.00 in cash.

Shevella Barnes called the Las Vegas Metropolitan Police Department. Officer M. Kehrli # 13243 responded under event 120621-2726. A report was taken for Robbery. Detectives Flynn #6463 and Scimienti #6239 responded and video was obtained. Crime Scene Analyst J. Reiner #8167 responded to process the scene.

120623-1983 Subway 3160 E Desert Inn Robbery, Burglary

On June 23<sup>rd</sup>, 2012 at approximately 1157 hours, Gladiola Juarez was working at Subway located at 3160 E. Desert Inn Las Vegas, Nevada 89121 County of Clark. Juarez advised that she observed a white male adult, wearing a khaki colored long sleeve shirt with khaki colored dickie style pants, entered the business through the main doors. Juarez greeted the male and the male yelled "I need to take your register!" The male then runs towards the register and hops over the counter. Juarez stated she was in fear that the male would hurt her so she ran towards the back room in an attempt to hide. Juarez advised she could hear him ripping off the register. She then sees him run towards their back door and continue Northbound towards the mini mart. Another witness, who could not be located, stated he observed the suspect run towards the nearby apartment complex and get into a yellow or green van. The van was last seen Southbound towards Desert Inn.

Juarez called the Las Vegas Metropolitan Police Department and Officer H. Singh #14310 responded under event 120623-1983. The cash register with \$420.00 was stolen. Detectives M. Dosch #7907 and E. LaNeve #5612 responded. There is no video at Subway but 7-11 across the street captured the getaway van on surveillance. I picked this video up on June 25<sup>th</sup>, 2012. Crime Scene Analyst McPhail #3326 responded and processed the scene.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CONTINUATION REPORT**

ID/EVENT #: 120411-4254

Investigation:

On June 29<sup>th</sup>, 2012 Officer T. Carrigy #9860 came into contact with Troy Mullner #1158825. Carrigy believed Mullner could be the serial robber based on articles of clothing he had and physical description. This information was forwarded to me. On June 30<sup>th</sup>, 2012 another robbery occurred to a Subway at 6150 W Charleston. A vehicle description was obtained which matched that of a 1994 Oldsmobile Silhouette van registered to Mullner. The van has Nevada plates 489XYL. I created a photo line-up and the two victims of robbery at the Subway viewed the line-ups. Mullner was picked out by both victims as the robber. Detectives were able to locate the van in a driveway at 3451 Sego Glen Circle, Las Vegas Nevada 89121. A search warrant was executed and Mullner was taken into custody. Items of clothing worn in robberies and a bb gun were seized and impounded.

I interviewed Mullner at 400 S. Martin L King. I read him Miranda from a card I carry. Mullner understood his rights and agreed to talk. Mullner explained he has an alcohol and methamphetamine addiction. Mullner admitted to 14 robberies and stated he would drink a couple Steel Reserve malt liquor to boost his confidence. Mullner stated that he obtained \$200 on average and used the money to pay bills and score meth. Mullner did not involve anyone else in the robberies but does recall a female named Zoey driving him once. He said she believed he was buying meth and had no idea about the robbery. The interview was taped and has been sent in for transcription. Mullner was booked at that time for the robbery under event 120630-2535. Due to the aforementioned facts and circumstances Mullner was rebooked for 19 counts of Robbery, 2 counts of Attempt Robbery, and 12 counts of Burglary.

ORIGINAL

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1 IND

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ALICIA ALBRITTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #009492  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

FILED

AUG 15 12 29 PM '12

*Ann L. Lamm*  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 TROY LEE MULLNER, #1158825

14 Defendant.

CASE NO: C-12-283463-1

DEPT NO: XXI

INDICTMENT

C-12-283463-1  
IND  
Indictment  
1933009



17 STATE OF NEVADA }  
18 COUNTY OF CLARK } ss.

19 The Defendant above named, TROY LEE MULLNER, accused by the Clark County  
20 Grand Jury of the crime(s) of BURGLARY (Category B Felony - NRS 205.060);  
21 ROBBERY (Category B Felony - NRS 200.380); FIRST DEGREE KIDNAPPING  
22 (Category A Felony - NRS 200.310, 200.320); COERCION (Category B Felony - NRS  
23 207.190); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B  
24 Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
25 Felony - NRS 200.380, 193.165); ATTEMPT ROBBERY WITH USE OF A DEADLY  
26 WEAPON (Category B Felony - NRS 200.380, 193.330, 193.165); ATTEMPT ROBBERY  
27 (Category B Felony - NRS 200.380, 193.330) and POSSESSION OF FIREARM BY EX-  
28 FELON (Category B Felony - NRS 202.360), committed at and

RECEIVED

AUG 15 2012

AA12

CLERK OF THE COURT



1 within the County of Clark, State of Nevada, on or between April 11, 2012 and June 30,  
2 2012, as follows:

3 COUNT 1 - BURGLARY

4 did on or about April 11, 2012, then and there wilfully, unlawfully, and feloniously  
5 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
6 occupied by RADIO SHACK, located at 3125 East Tropicana Avenue, Las Vegas, Clark  
7 County, Nevada.

8 COUNT 2 - ROBBERY

9 did on or about April 11, 2012, then and there wilfully, unlawfully, and feloniously  
10 take personal property, to-wit: U.S. currency, from the person of ROBERT CROW, or in his  
11 presence, by means of force or violence, or fear of injury to, and without the consent and  
12 against the will of the said ROBERT CROW.

13 COUNT 3 - ROBBERY

14 did on or about April 11, 2012, then and there wilfully, unlawfully, and feloniously  
15 take personal property, to-wit: U.S. currency, from the person of CHRISTOPHER  
16 CASTILLO, or in his presence, by means of force or violence, or fear of injury to, and  
17 without the consent and against the will of the said CHRISTOPHER CASTILLO.

18 COUNT 4 - BURGLARY

19 did on or about April 21, 2012, then and there wilfully, unlawfully, and feloniously  
20 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
21 occupied by RADIO SHACK, located at 7460 West Lake Mead Boulevard, Las Vegas,  
22 Clark County, Nevada.

23 COUNT 5 - ROBBERY

24 did on or about April 21, 2012, then and there wilfully, unlawfully, and feloniously  
25 take personal property, to-wit: U.S. currency, from the person of LORAIN ALLSOP, or in  
26 her presence, by means of force or violence, or fear of injury to, and without the consent and  
27 against the will of the said LORAIN ALLSOP.

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1 COUNT 6 - ROBBERY

2 did on or about April 21, 2012, then and there wilfully, unlawfully, and feloniously  
3 take personal property, to-wit: U.S. currency, from the person of SHANTANAE  
4 KLIEBERT, or in her presence, by means of force or violence, or fear of injury to, and  
5 without the consent and against the will of the said SHANTANAE KLIEBERT.

6 COUNT 7 - FIRST DEGREE KIDNAPPING

7 did on or about April 21, 2012, wilfully, unlawfully, feloniously, and without  
8 authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry  
9 away LORAIN AL SOP, a human being, with the intent to hold or detain the said  
10 LORAIN AL SOP against her will, and without her consent, for the purpose of robbery.

11 COUNT 8 - FIRST DEGREE KIDNAPPING

12 did on or about April 21, 2012, wilfully, unlawfully, feloniously, and without  
13 authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry  
14 away SHANTANAE KLIEBERT, a human being, with the intent to hold or detain the said  
15 SHANTANAE KLIEBERT against her will, and without her consent, for the purpose of  
16 robbery.

17 COUNT 9 - BURGLARY

18 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
19 enter with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
20 occupied by SUBWAY, located at 1105 South Rainbow Boulevard, Las Vegas, Clark  
21 County, Nevada.

22 COUNT 10 - ROBBERY

23 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
24 take personal property, to-wit: U.S. currency, from the person of FAUSTO SAAVEDRA, or  
25 in her presence, by means of force or violence, or fear of injury to, and without the consent  
26 and against the will of the said FAUSTO SAAVEDRA.

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1 COUNT 11 - ROBBERY

2 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
3 take personal property, to-wit: U.S. currency, from the person of GRACIELA PEREZ-  
4 SANCHEZ, or in her presence, by means of force or violence, or fear of injury to, and  
5 without the consent and against the will of the said GRACIELA PEREZ-SANCHEZ.

6 COUNT 12 - COERCION

7 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
8 use physical force, or the immediate threat of such force, against ROBERT SHUEY, with  
9 intent to compel him to do, or abstain from doing, an act which he had a right to do, or  
10 abstain from doing, by simulating a weapon and forcing said ROBERT SHUEY to place his  
11 hands on the counter and/or glass preventing said ROBERT SHUEY from leaving.

12 COUNT 13 - BURGLARY

13 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
14 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
15 occupied by SUBWAY, located at 6980 West Tropicana Avenue, Las Vegas, Clark County,  
16 Nevada, the Defendant did possess and/or gain possession of a deadly weapon consisting of  
17 a firearm during the commission of the crime and/or before leaving the structure.

18 COUNT 14 - ROBBERY

19 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
20 take personal property, to-wit: U.S. currency, from the person of AARON MILES, or in his  
21 presence, by means of force or violence or fear of injury to, and without the consent and  
22 against the will of the said AARON MILES, said Defendant using a deadly weapon, to-wit:  
23 a firearm, during the commission of said crime.

24 COUNT 15 - ROBBERY

25 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
26 take personal property, to-wit: U.S. currency, from the person of LYNDESEY HORITO, or in  
27 her presence, by means of force or violence or fear of injury to, and without the consent and

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1 against the will of the said LYNDSEY HORITO, said Defendant using a deadly weapon, to-  
2 wit: a firearm, during the commission of said crime.

3 COUNT 16 – COERCION

4 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
5 use physical force, or the immediate threat of such force, against GREG BEDOHO, with  
6 intent to compel him to do, or abstain from doing, an act which he had a right to do, or  
7 abstain from doing, by forcing said GREG BEDOHO to remain in Subway during the  
8 robbery, said Defendant using a deadly weapon, to-wit: a firearm, during the commission of  
9 said crime.

10 COUNT 17 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

11 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
12 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
13 occupied by SUBWAY, located at 3180 East Desert Inn, Las Vegas, Clark County, Nevada,  
14 the Defendant did possess and/or gain possession of a deadly weapon consisting of a knife  
15 during the commission of the crime and/or before leaving the structure.

16 COUNT 18 - ROBBERY WITH USE OF A DEADLY WEAPON

17 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
18 take personal property, to-wit: U.S. currency, from the person of CAMELO  
19 MONTERROSO, or in his presence, by means of force or violence or fear of injury to, and  
20 without the consent and against the will of the said CAMELO MONTERROSO, said  
21 Defendant using a deadly weapon, to-wit: a knife and/or firearm, during the commission of  
22 said crime.

23 COUNT 19 - ROBBERY WITH USE OF A DEADLY WEAPON

24 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
25 take personal property, to-wit: U.S. currency, from the person of SAVANNAH SPEER, or in  
26 her presence, by means of force or violence or fear of injury to, and without the consent and  
27 against the will of the said SAVANNAH SPEER, said Defendant using a deadly weapon, to-  
28 wit: a knife, during the commission of said crime.

1 COUNT 20 - BURGLARY

2 did on or about May 27, 2012, then and there wilfully, unlawfully, and feloniously  
3 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
4 occupied by RADIO SHACK, located at 3531 South Rainbow Boulevard, Las Vegas, Clark  
5 County, Nevada.

6 COUNT 21 - ROBBERY

7 did on or about May 27, 2012, then and there wilfully, unlawfully, and feloniously  
8 take personal property, to-wit: U.S. currency, from the person of CHRISTOPHER  
9 CUNNINGHAM, JR., or in his presence, by means of force or violence, or fear of injury to,  
10 and without the consent and against the will of the said CHRISTOPHER CUNNINGHAM.

11 COUNT 22 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

12 did on or about June 9, 2012, then and there wilfully, unlawfully, and feloniously  
13 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
14 occupied by SUBWAY, located at 6980 West Tropicana Avenue, Las Vegas, Clark County,  
15 Nevada, the Defendant did possess and/or gain possession of a deadly weapon consisting of  
16 a firearm during the commission of the crime and/or before leaving the structure.

17 COUNT 23 - ROBBERY WITH USE OF A DEADLY WEAPON

18 did on or about June 9, 2012, then and there wilfully, unlawfully, and feloniously  
19 take personal property, to-wit: U.S. currency, from the person of ANTWAN WILLIAMS, or  
20 in his presence, by means of force or violence, or fear of injury to, and without the consent  
21 and against the will of the said ANTWAN WILLIAMS, said Defendant using a deadly  
22 weapon, to-wit: a firearm, during the commission of said crime.

23 COUNT 24 - ROBBERY WITH USE OF A DEADLY WEAPON

24 did on or about June 9, 2012, then and there wilfully, unlawfully, and feloniously  
25 take personal property, to-wit: U.S. currency, from the person of HARLEY SWAN, or in  
26 her presence, by means of force or violence, or fear of injury to, and without the consent and  
27 against the will of the said HARLEY SWAN, said Defendant using a deadly weapon, to-wit:  
28 a firearm, during the commission of said crime.

1 COUNT 25 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

2 did on or about June 9, 2012, then and there wilfully, unlawfully, and feloniously  
3 attempt to take personal property, to-wit: U.S. currency, from the person of JONATHAN  
4 MEDINA, or in his presence, by means of force or violence, or fear of injury to, and without  
5 the consent and against the will of the said JONATHAN MEDINA, by demanding the wallet  
6 of said JONATHAN MEDINA, said Defendant using a deadly weapon, to-wit: a firearm,  
7 during the commission of said crime.

8 COUNT 26 - BURGLARY

9 did on or about June 16, 2012, then and there wilfully, unlawfully, and feloniously  
10 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
11 occupied by RADIO SHACK, located at 3125 East Tropicana Avenue, Las Vegas, Clark  
12 County, Nevada.

13 COUNT 27 - ROBBERY

14 did on or about June 16, 2012, then and there wilfully, unlawfully, and feloniously  
15 take personal property, to-wit: U.S. currency, from the person of RONALD ULIANO, or in  
16 his presence, by means of force or violence, or fear of injury to, and without the consent and  
17 against the will of the said RONALD ULIANO.

18 COUNT 28 - ROBBERY

19 did on or about June 16, 2012, then and there wilfully, unlawfully, and feloniously  
20 take personal property, to-wit: U.S. currency, from the person of CRISTAL FLORES, or in  
21 her presence, by means of force or violence, or fear of injury to, and without the consent and  
22 against the will of the said CRISTAL FLORES.

23 COUNT 29 - ROBBERY

24 did on or about June 16, 2012, then and there wilfully, unlawfully, and feloniously  
25 take personal property, to-wit: U.S. currency, from the person of JEANNETTE  
26 KNIGHTON, or in her presence, by means of force or violence, or fear of injury to, and  
27 without the consent and against the will of the said JEANNETTE KNIGHTON.

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1 COUNT 30 – COERCION

2 did on or about June 16, 2012, then and there wilfully, unlawfully, and feloniously  
3 use physical force, or the immediate threat of such force, against JUAN SANCHEZ, with  
4 intent to compel him to do, or abstain from doing, an act which he had a right to do, or  
5 abstain from doing, by simulating a weapon and forcing said JUAN SANCHEZ to place his  
6 hands on the counter thereby preventing said JUAN SANCHEZ from leaving.

7 COUNT 31 – COERCION

8 did on or about June 16, 2012, then and there wilfully, unlawfully, and feloniously  
9 use physical force, or the immediate threat of such force, against JOE CAMARENA, with  
10 intent to compel him to do, or abstain from doing, an act which he had a right to do, or  
11 abstain from doing, by simulating a weapon and forcing said JOE CAMARENA to place his  
12 hands on the counter thereby preventing said JOE CAMARENA from leaving.

13 COUNT 32 - BURGLARY

14 did on or about June 18, 2012, then and there wilfully, unlawfully, and feloniously  
15 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
16 occupied by SUBWAY, located at 3654 East Flamingo Road, Las Vegas, Clark County,  
17 Nevada.

18 COUNT 33 - ROBBERY

19 did on or about June 18, 2012, then and there wilfully, unlawfully, and feloniously  
20 take personal property, to-wit: U.S. currency, from the person of IRMA TERESA  
21 FERNANDEZ, or in her presence, by means of force or violence, or fear of injury to, and  
22 without the consent and against the will of the said IRMA TERESA FERNANDEZ.

23 COUNT 34 - ROBBERY

24 did on or about June 18, 2012, then and there wilfully, unlawfully, and feloniously  
25 take personal property, to-wit: U.S. currency, from the person of JAMIE ARTEAGA-  
26 VARGAS, or in her presence, by means of force or violence, or fear of injury to, and without  
27 the consent and against the will of the said JAMIE ARTEAGA-VARGAS.

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1 COUNT 35 - BURGLARY

2 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
3 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
4 occupied by LITTLE CAESARS, located at 10608 South Eastern, Henderson, Clark County,  
5 Nevada.

6 COUNT 36 - ATTEMPT ROBBERY

7 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
8 attempt to take personal property, to-wit: U.S. currency, from the person of SEAN WINN,  
9 or in his presence, by means of force or violence, or fear of injury to, and without the  
10 consent and against the will of the said SEAN WINN, by simulating he had a weapon and  
11 demanding money form the cash drawer register.

12 COUNT 37 - BURGLARY

13 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
14 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
15 occupied by RADIO SHACK, located at 2370 East Serene, Las Vegas, Clark County,  
16 Nevada.

17 COUNT 38 - ATTEMPT ROBBERY

18 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
19 attempt to take personal property, to-wit: U.S. currency, from the person of RANA  
20 WALKER, or in her presence, by means of force or violence, or fear of injury to, and  
21 without the consent and against the will of the said RANA WALKER, by simulating he had  
22 a weapon and demanding money form the cash drawer register.

23 COUNT 39 - ATTEMPT ROBBERY

24 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
25 attempt to take personal property, to-wit: U.S. currency, from the person of GEORGE  
26 OLURIN, or in his presence, by means of force or violence, or fear of injury to, and without  
27 the consent and against the will of the said GEORGE OLURIN, by simulating he had a  
28 weapon and demanding money form the cash drawer register.



1 COUNT 40 - BURGLARY

2 did on or about June 21, 2012, then and there wilfully, unlawfully, and feloniously  
3 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
4 occupied by PORT OF SUBS, located at 3720 East Sunset Road, Suite 111, Las Vegas,  
5 Clark County, Nevada.

6 COUNT 41 - ROBBERY

7 did on or about June 21, 2012, then and there wilfully, unlawfully, and feloniously  
8 take personal property, to-wit: U.S. currency, from the person of SHEVELLA BARNES, or  
9 in her presence, by means of force or violence, or fear of injury to, and without the consent  
10 and against the will of the said SHEVELLA BARNES.

11 COUNT 42 - BURGLARY

12 did on or about June 23, 2012, then and there wilfully, unlawfully, and feloniously  
13 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
14 occupied by SUBWAY, located at 3180 East Desert Inn, Las Vegas, Clark County, Nevada.

15 COUNT 43 - ROBBERY

16 did on or about June 23, 2012, then and there wilfully, unlawfully, and feloniously  
17 take personal property, to-wit: U.S. currency, from the person of GLADIOLA JUAREZ, or  
18 in her presence, by means of force or violence, or fear of injury to, and without the consent  
19 and against the will of the said GLADIOLA JUAREZ.

20 COUNT 44 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

21 did on or about June 29, 2012, then and there wilfully, unlawfully, and feloniously  
22 enter with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
23 occupied by SUBWAY, located at 183 N. Gibson, Henderson, Clark County, Nevada, the  
24 Defendant did possess and/or gain possession of a deadly weapon consisting of a firearm  
25 during the commission of the crime and/or before leaving the structure.

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1 COUNT 45 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

2 did on or about June 29, 2012, then and there wilfully, unlawfully, and feloniously  
3 attempt to take personal property, to-wit: U.S. currency, from the person of NOEMI  
4 MARTINEZ, or in her presence, by means of force or violence, or fear of injury to, and  
5 without the consent and against the will of the said NOEMI MARTINEZ, by demanding  
6 money, said Defendant using a deadly weapon, to-wit: a firearm, during the commission of  
7 said crime.

8 COUNT 46 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

9 did on or about June 30, 2012, then and there wilfully, unlawfully, and feloniously  
10 enter with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
11 occupied by SUBWAY, located at 6150 West Charleston Boulevard, Las Vegas, Clark  
12 County, Nevada, the Defendant did possess and/or gain possession of a deadly weapon  
13 consisting of a firearm during the commission of the crime and/or before leaving the  
14 structure.

15 COUNT 47 - ROBBERY WITH USE OF A DEADLY WEAPON

16 did on or about June 30, 2012, then and there wilfully, unlawfully, and feloniously  
17 take personal property, to-wit: U.S. currency, from the person of MIRIAM FIERO, or in her  
18 presence, by means of force or violence or fear of injury to, and without the consent and  
19 against the will of the said MIRIAM FIERO, said Defendant using a deadly weapon, to-wit:  
20 a handgun, during the commission of said crime.

21 COUNT 48 - ROBBERY WITH USE OF A DEADLY WEAPON

22 did on or about June 30, 2012, then and there wilfully, unlawfully, and feloniously  
23 take personal property, to-wit: U.S. currency, from the person of EDWARD VALDEZ, or in  
24 his presence, by means of force or violence or fear of injury to, and without the consent and  
25 against the will of the said EDWARD VALDEZ, said Defendant using a deadly weapon, to-  
26 wit: a handgun, during the commission of said crime.

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1 COUNT 49 - POSSESSION OF FIREARM BY EX-FELON

2 did then and there wilfully, unlawfully, and feloniously own or have in his  
3 possession, or under his control, a weapon, to-wit: Daisy/Powerline model 15XT .177  
4 caliber semiautomatic firearm, the said Defendant being an ex-felon, having in 2006 been  
5 convicted of Robbery in case C226003 in the Eighth Judicial District Court, Clark County,  
6 Nevada, and/or having in 1997 been convicted of Second Degree Kidnapping in case  
7 C134948 in the Eighth Judicial District Court, Clark County, Nevada, both felonies under  
8 the laws of the State of Nevada.

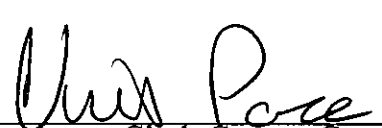
9 DATED this 14th day of August, 2012.

10  
11 STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
12

13  
14 BY

  
ALICIA ALBRITTON  
Chief Deputy District Attorney  
Nevada Bar #009492  
15  
16

17 ENDORSEMENT: A True Bill

18  
19   
20 Foreperson, Clark County Grand Jury  
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1 Names of witnesses testifying before the Grand Jury:  
2 ALLSOP, LORAIN, c/o CCDA, 200 Lewis Ave, LV, NV  
3 ARTEAGA-VARGAS, JAIME, c/o CCDA, 200 Lewis Ave, LV, NV  
4 BARNES, SHEVELLA, c/o CCDA, 200 Lewis Ave, LV, NV  
5 CASTILLO, CHRISTOPHER, c/o CCDA, 200 Lewis Ave, LV, NV  
6 CUNNINGHAM, CHRISTOPHER, c/o CCDA, 200 Lewis Ave, LV, NV  
7 EMBRY, CHAD, LVMPD# 6223  
8 FAUSTO, SAAVEDRA, c/o CCDA, 200 Lewis Ave, LV, NV  
9 FERNANDEZ, TERESA, c/o CCDA, 200 Lewis Ave, LV, NV  
10 FIERO, MIRIAM, c/o CCDA, 200 Lewis Ave, LV, NV  
11 FLORES, CRISTAL, c/o CCDA, 200 Lewis Ave, LV, NV  
12 GUYER, JEFFREY, LVMPD# 7430  
13 HORITO, LYNDSEY, c/o CCDA, 200 Lewis Ave, LV, NV  
14 JUAREZ, GLADIOLA, c/o CCDA, 200 Lewis Ave, LV, NV  
15 KLIEBERT, SHANTANAE, c/o CCDA, 200 Lewis Ave, LV, NV  
16 KRYLO, JAMES, LVMPD# 5945  
17 MARTINEZ, NOEMI, c/o CCDA, 200 Lewis Ave, LV, NV  
18 MILLER, DAVID, LVMPD# 6627  
19 MONTERROSO-SOLARES, CARMEN, c/o CCDA, 200 Lewis Ave, LV, NV  
20 OLURIN, GEORGE, c/o CCDA, 200 Lewis Ave, LV, NV  
21 PEREZ-SANCHEZ, GARCIELA, c/o CCDA, 200 Lewis Ave, LV, NV  
22 SANCHEZ, JUAN, c/o CCDA, 200 Lewis Ave, LV, NV  
23 SPEER, SAVANNAH, c/o CCDA, 200 Lewis Ave, LV, NV  
24 SPIOTTO, LANCE, LVMPD# 4774  
25 SWAN, HARLEY, c/o CCDA, 200 Lewis Ave, LV, NV  
26 ULIANO, RONALD, c/o CCDA, 200 Lewis Ave, LV, NV  
27 VALDEZ, EDWARD, c/o CCDA, 200 Lewis Ave, LV, NV  
28 WALKER, RANA, c/o CCDA, 200 Lewis Ave, LV, NV

1 WILLIAMS, ANTWAN, c/o CCDA, 200 Lewis Ave, LV, NV  
2 WINN, SEAN ALLEN, c/o CCDA, 200 Lewis Ave, LV, NV  
3 Additional witnesses known to the District Attorney at time of filing the Indictment:  
4  
5 ABDAL-KARIM, SHAKEEL, LMVPD# 13724  
6 ABELL, JEFFREY, LVMPD# 8744  
7 BEDOHO, GREG, c/o CCDA, 200 Lewis Ave, LV, NV  
8 BLAYLOCK, MICHELLE, c/o CCDA, 200 Lewis Ave, LV, NV  
9 BOOZE, RUSSELL, LVMPD# 6394  
10 BORDONI, MARK, LVMPD# 8428  
11 BRAUN, LAURA, LVMPD# 12946  
12 BROWNLEE, TRACY, LMVPD# 9975  
13 BRUNO, BERNARD, LVMPD# 7912  
14 CAMARENA, JOE, c/o CCDA, 200 Lewis Ave, LV, NV  
15 CROW, ROBERT, c/o CCDA, 200 Lewis Ave, LV, NV  
16 CUSTODIAN OF RECORDS, CCDC  
17 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS  
18 CUSTODIAN OF RECORDS, LVMPD RECORDS  
19 DELEON, PAOLO, LVMPD# 10067  
20 DIXON, BLAKE, LVMPD# 14105  
21 DOSCH, MITCHELL, LVMPD# 7907  
22 FLETCHER, SHAWN, LVMPD# 5221  
23 FLYNN, PATRICK, LVMPD# 6463  
24 GARCIA, MIGUEL, LVMPD# 7204  
25 GROVER, BRADLEY, LVMPD# 4934  
26 KEHRLT, MONICA, LVMPD# 13243  
27 KLOSTERMAN, OLIVIA, LVMPD# 13177  
28 KNIGHTON, JEANNETTE, c/o CCDA, 200 Lewis Ave, LV, NV

1 KOVAL, KEVIN, LVMPD# 7781  
2 LEMUS-BARCENA, CLAUDIA, LVMPD# 8063  
3 LORSON, KARL, LVMPD# 5746  
4 MEDINA, JONATHAN, c/o CCDA, 200 Lewis Ave, LV, NV  
5 BEZA, ANA, c/o CCDA, 200 Lewis Ave, LV, NV  
6 MILES, AARON, c/o CCDA, 200 Lewis Ave, LV, NV  
7 MCPHAIL, RANDALL, LVMPD# 3326  
8 NECAS, CHRISTOPHER, LVMPD# 14101  
9 PARK, JASPER, LVMPD# 10011  
10 REINER, JENNIFER, LVMPD# 8167  
11 RENHARD, LOUISE, LVMPD# 5223  
12 REVAS-GUEVARA, WARREN, LVMPD# 7412  
13 ROMAN, FRANKIE, LVMPD# 14097  
14 ROYBAL, JESSE, LVMPD# 7523  
15 SCLIMENTI, MICHAEL, LVMPD# 6239  
16 SHUEY, ROBERT, c/o CCDA, 200 Lewis Ave, LV, NV  
17 SIMENTAL, CORRAL, LVMPD# 9844  
18 SINGH, HAMRIC, LVMPD# 14310  
19 SJOBLUM, CHRISTOPHER, LVMPD# 9180  
20 ///  
21 ///  
22 ///  
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24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1 TERESA, IRMA, c/o CCDA, 200 Lewis Ave, LV, NV  
2 TLOCKOWSKI, WALTER, LVMPD# 5858  
3 TOEPPEN, CAITLIN, LVMPD# 14372  
4 VAANDERING, BRENDA, LVMPD# 13575  
5 WEIRAUCH, THEODORE, LVMPD# 7465

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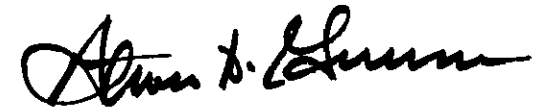
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24 12AGJ033X/12F10411X/ed  
LVMPD EV# 1206302535;  
25 1206231983; 1206212726;  
1206203821; 1206183052;  
26 1206163157; 1206093269;  
1205273440; 1205024244;  
1204244182; 1204244088;  
27 1204213828; 1204114254;  
HPD EV# 12-10819; 12-11376  
28 (TK12)



CLERK OF THE COURT

1 **NOTC**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 Alicia A. Albritton  
6 Chief Deputy District Attorney  
7 Nevada Bar #9492  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 TROY LEE MULLNER, #1158825

13 Defendant.  
14

Case No. C-12-283463-1

Dept No. XXI

15 **NOTICE OF INTENT TO SEEK PUNISHMENT AS**  
16 **A HABITUAL CRIMINAL**

17 TO: TROY MULLNER, Defendant, and

18 TO: FRANK KOCKA, ESQ., Attorney of Record.

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that in accordance  
20 with the authorization of NRS 207.012, punishment imposed pursuant to the above-stated  
21 habitual felon statue is mandatory if said Defendant TROY LEE MULLNER is found guilty  
22 of ROBBERY (Category B Felony - NRS 200.380); FIRST DEGREE KIDNAPPING  
23 (Category A Felony - NRS 200.310, 200.320); BURGLARY WHILE IN POSSESSION OF  
24 A DEADLY WEAPON (Category B Felony - NRS 205.060); or ROBBERY WITH USE OF  
25 A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165), for which Defendant  
26 is presently charged in the above-entitled action, as Defendant TROY LEE MULLNER has  
27 been previously convicted of THREE (3) prior offenses, as stated in NRS 207.012(2), to wit:

28 //



1           1. That in 2006, the Defendant was convicted in the Eighth Judicial District  
2 Court, Clark County, Nevada for the crime of Robbery, in Case No. C226003.

3           2. That in 1997, the Defendant was convicted in the Eighth Judicial District  
4 Court, Clark County, Nevada for the crime of Second Degree Kidnapping, in Case No.  
5 C134348.

6           3. That in 1984, the Defendant was convicted in the State of South Dakota,  
7 for the crime of First Degree Robbery, in Case No. CR84-147.

8           In addition, NRS 201.012(2) provides, in relevant part, “that the district attorney shall  
9 include a count under this section in any information or shall file a notice of habitual felon if  
10 an indictment is found.” Furthermore, NRS 207.012(3) provides that the trial judge may not  
11 dismiss a count under this section that is included in the indictment or information.

12           Defendant TROY LEE MULLNER, hereinbefore named, is also placed on notice  
13 that, in accordance with the authorization of NRS 207.010, punishment imposed pursuant to  
14 the above-stated habitual criminal statute will be urged upon the Court, if Defendant TROY  
15 LEE MULLNER is found guilty of BURGLARY (Category B Felony - NRS 205.060);  
16 ROBBERY (Category B Felony - NRS 200.380); FIRST DEGREE KIDNAPPING  
17 (Category A Felony - NRS 200.310, 200.320); COERCION (Category B Felony – NRS  
18 207.190); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B  
19 Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
20 Felony - NRS 200.380, 193.165); ATTEMPT ROBBERY WITH USE OF A DEADLY  
21 WEAPON (Category B Felony - NRS 200.380, 193.330, 193.165); ATTEMPT ROBBERY  
22 (Category B Felony - NRS 200.380, 193.330); or POSSESSION OF FIREARM BY EX-  
23 FELON (Category B Felony - NRS 202.360), for which Defendant is presently charged in  
24 the above-entitled action, as Defendant TROY LEE MULLNER has been previously  
25 convicted of FOUR (4) prior felony offenses.

26 //

27 //

28 //

1 The STATE OF NEVADA will ask the court to sentence the Defendant as an  
2 Habitual Criminal based upon the following felony conviction, to-wit:

3 1. That in 2006, the Defendant was convicted in the Eighth Judicial District  
4 Court, Clark County, Nevada for the crime of Robbery, in Case No. C226003.

5 2. That in 1997, the Defendant was convicted in the Eighth Judicial District  
6 Court, Clark County, Nevada for the crime of Second Degree Kidnapping, in Case No.  
7 C134348.

8 3. That in 1984, the Defendant was convicted in the State of South Dakota,  
9 for the crime of First Degree Robbery, in Case No. CR84-147.

10 4. That in 1984, the Defendant was convicted in the State of South Dakota,  
11 for the crime of Third Degree Burglary, in Case No. CR84-142.

12 STEVEN B. WOLFSON  
13 Clark County District Attorney  
14 Nevada Bar #001565

15 BY /s//ALICIA A. ALBRITTON  
16 ALICIA A. ALBRITTON  
17 Chief Deputy District Attorney  
18 Nevada Bar #009492

19 **CERTIFICATE OF ELECTRONIC FILING**

20 I hereby certify that service of State's Notice, was made this 13th day of March, 2013,  
21 by Electronic Filing to:

22 FRANK KOCKA, ESQ.  
23 E-mail Address: frank@kockaandbolton.com

24 Shellie Warner  
25 Secretary for the District Attorney's Office

26  
27  
28 mmw/GCU

ORIGINAL

1 IND

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ALICIA ALBRITTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #009492  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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

OCT 21 2013

BY *Billie Jo Craig*  
BILLIE JO CRAIG, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 TROY LEE MULLNER, #1158825

14 Defendant.  
15

CASE NO: C-12-283463-1

DEPT NO: XXI

AMENDED  
INDICTMENT

17 STATE OF NEVADA }  
18 COUNTY OF CLARK } ss.

19 The Defendant above named, TROY LEE MULLNER, accused by the Clark County  
20 Grand Jury of the crime(s) of BURGLARY (Category B Felony - NRS 205.060);  
21 ROBBERY (Category B Felony - NRS 200.380); COERCION (Category B Felony - NRS  
22 207.190); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B  
23 Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
24 Felony - NRS 200.380, 193.165); ATTEMPT ROBBERY (Category B Felony - NRS  
25 200.380, 193.330) and POSSESSION OF FIREARM BY EX-FELON (Category B Felony -  
26 NRS 202.360), committed at and within the County of Clark, State of Nevada, on or between  
27 April 11, 2012 and June 30, 2012, as follows:

28 ///

AA31

1 COUNT 1 - BURGLARY

2 did on or about April 11, 2012, then and there wilfully, unlawfully, and feloniously  
3 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
4 occupied by RADIO SHACK, located at 3125 East Tropicana Avenue, Las Vegas, Clark  
5 County, Nevada.

6 COUNT 2 - ROBBERY

7 did on or about April 21, 2012, then and there wilfully, unlawfully, and feloniously  
8 take personal property, to-wit: U.S. currency, from the person of LORAIN ALLSOP, or in  
9 her presence, by means of force or violence, or fear of injury to, and without the consent and  
10 against the will of the said LORAIN ALLSOP.

11 COUNT 3 - COERCION

12 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
13 use physical force, or the immediate threat of such force, against GREG BEDOHO, with  
14 intent to compel him to do, or abstain from doing, an act which he had a right to do, or  
15 abstain from doing, by forcing said GREG BEDOHO to remain in Subway during the  
16 robbery, said Defendant <sup>wa</sup>using a deadly weapon, to-wit: a firearm, during the commission of  
17 said crime.

18 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

19 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
20 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
21 occupied by SUBWAY, located at 3180 East Desert Inn, Las Vegas, Clark County, Nevada,  
22 the Defendant did possess and/or gain possession of a deadly weapon consisting of a knife  
23 during the commission of the crime and/or before leaving the structure.

24 COUNT 5 - ROBBERY

25 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
26 take personal property, to-wit: U.S. currency, from the person of SAVANNAH SPEER, or in  
27 her presence, by means of force or violence or fear of injury to, and without the consent and  
28 against the will of the said SAVANNAH SPEER.

1 COUNT 6 – ROBBERY WITH USE OF A DEADLY WEAPON

2 did on or about June 9, 2012, then and there wilfully, unlawfully, and feloniously  
3 take personal property, to-wit: U.S. currency, from the person of ANTWAN WILLIAMS, or  
4 in his presence, by means of force or violence, or fear of injury to, and without the consent  
5 and against the will of the said ANTWAN WILLIAMS, said Defendant using a deadly  
6 weapon, to-wit: a firearm, during the commission of said crime.

7 COUNT 7 - ATTEMPT ROBBERY

8 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
9 attempt to take personal property, to-wit: U.S. currency, from the person of SEAN WINN,  
10 or in his presence, by means of force or violence, or fear of injury to, and without the  
11 consent and against the will of the said SEAN WINN, by simulating he had a weapon and  
12 demanding money form the cash drawer register.

13 COUNT 8 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

14 did on or about June 20<sup>2009</sup>, 2012, then and there wilfully, unlawfully, and feloniously  
15 enter with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
16 occupied by SUBWAY, located at 183 N. Gibson, Henderson, Clark County, Nevada, the  
17 Defendant did possess and/or gain possession of a deadly weapon consisting of a firearm  
18 during the commission of the crime and/or before leaving the structure.

19 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

20 did on or about June 30, 2012, then and there wilfully, unlawfully, and feloniously  
21 take personal property, to-wit: U.S. currency, from the person of MIRIAM FIERO, or in her  
22 presence, by means of force or violence or fear of injury to, and without the consent and  
23 against the will of the said MIRIAM FIERO, said Defendant using a deadly weapon, to-wit:  
24 a handgun, during the commission of said crime.

25 COUNT 10 - POSSESSION OF FIREARM BY EX-FELON

26 did then and there wilfully, unlawfully, and feloniously own or have in his  
27 possession, or under his control, a weapon, to-wit: Daisy/Powerline model 15XT .177  
28 caliber semiautomatic firearm, the said Defendant being an ex-felon, having in 2006 been

1 convicted of Robbery in case C226003 in the Eighth Judicial District Court, Clark County,  
2 Nevada, and/or having in 1997 been convicted of Second Degree Kidnapping in case  
3 C134948 in the Eighth Judicial District Court, Clark County, Nevada, both felonies under  
4 the laws of the State of Nevada.

5 DATED this 21<sup>st</sup> day of October, 2013.

6  
7 STEVEN B. WOLFSON  
Clark County District Attorney  
8 Nevada Bar #001565

9  
10 BY



11 ALICIA ALBRITTON  
12 Chief Deputy District Attorney  
13 Nevada Bar #009492  
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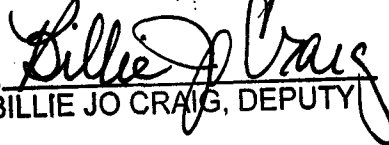
24 12AGJ033X/12F10411X/ckb  
25 LVMPD EV# 1206302535;  
1206231983; 1206212726;  
26 1206203821; 1206183052;  
1206163157; 1206093269;  
27 1205273440; 1205024244;  
1204244182; 1204244088;  
28 1204213828; 1204114254;  
HPD EV# 12-10819; 12-11376  
(TK12)

1 GPA

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ALICIA A. ALBRITTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #9492  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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

OCT 21 2013

BY   
BILLIE JO CRAIG, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,  
13  
14 Plaintiff,

15 -vs-

16 TROY LEE MULLNER,  
17 #1158825

18 Defendant.

CASE NO: C-12-283463-1

DEPT NO: XXI

19 GUILTY PLEA AGREEMENT

20 I hereby agree to plead guilty to: BURGLARY (Category B Felony - NRS 205.060);  
21 ROBBERY (Category B Felony - NRS 200.380); COERCION (Category B Felony - NRS  
22 207.190); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B  
23 Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
24 Felony - NRS 200.380, 193.165); ATTEMPT ROBBERY (Category B Felony - NRS  
25 200.380, 193.330) and POSSESSION OF FIREARM BY EX-FELON (Category B Felony -  
26 NRS 202.360), as more fully alleged in the charging document attached hereto as Exhibit  
27 "1".

28 My decision to plead guilty is based upon the plea agreement in this case which is as  
follows:

The State retains the full right to argue, including for habitual criminal treatment. All  
victims originally named in the Indictment have the right speak at sentencing. The  
Defendant agrees to pay restitution for all counts, including those to be dismissed. I agree to

1 the forfeiture as set forth in the Stipulation for Compromise of Seized Property which is  
2 attached hereto and incorporated herein by reference as Exhibit 2.

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

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

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

#### 18 CONSEQUENCES OF THE PLEA

19 I understand that by pleading guilty I admit the facts which support all the elements of  
20 the offense(s) to which I now plead as set forth in Exhibit "1".

21 **As to Count 1**, I understand that as a consequence of my plea of guilty the Court  
22 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
23 term of not less than ONE (1) year and a maximum term of not more than TEN (10) years.  
24 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
25 term of imprisonment. I understand that I may also be fined up to \$10,000.00.

26 **As to Counts 2 and 5**, I understand that as a consequence of my plea of guilty the  
27 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
28 minimum term of not less than TWO (2) years and a maximum term of not more than



1 FIFTEEN (15) years. The minimum term of imprisonment may not exceed forty percent  
2 (40%) of the maximum term of imprisonment

3 **As to Count 3**, I understand that as a consequence of my plea of guilty the Court  
4 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
5 term of not less than ONE (1) year and a maximum term of not more than SIX (6) years.  
6 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
7 term of imprisonment. I understand that I may also be fined up to \$5,000.00.

8 **As to Counts 4 and 8**, I understand that as a consequence of my plea of guilty the  
9 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
10 minimum term of not less than TWO (2) years and a maximum term of not more than  
11 FIFTEEN (15) years. The minimum term of imprisonment may not exceed forty percent  
12 (40%) of the maximum term of imprisonment. I understand that I may also be fined up to  
13 \$20,000.00.

14 **As to Counts 6 and 9**, I understand that as a consequence of my plea of guilty the  
15 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
16 minimum term of not less than TWO (2) years and a maximum term of not more than  
17 FIFTEEN (15) years, plus a minimum term of ONE (1) year and a maximum term of  
18 FIFTEEN (15) years, for the Deadly Weapon enhancement. The minimum term of  
19 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.

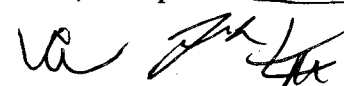
20 **As to Count 10**, I understand that as a consequence of my plea of guilty the Court  
21 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
22 term of not less than ONE (1) year and a maximum term of not more than SIX (6) years.  
23 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
24 term of imprisonment. I understand that I may also be fined up to \$5,000.00.

25 Further, I understand that if I am sentenced under the "small" habitual criminal  
26 enhancement, the Court must sentence me to a term not less than FIVE (5) years and a  
27 maximum of TWENTY (20) years in the Nevada Department of Corrections. I understand  
28 that if I am sentenced under the "large" habitual criminal enhancement the Court must

1 sentence me to LIFE without the possibility of parole; life with the possibility of parole,  
2 parole eligibility begins after a minimum term of TEN (10) years has been served; OR a  
3 definite term of TWENTY FIVE (25) years, parole eligibility begins after a minimum of  
4 TEN (10) years has been served. I understand that the law requires me to pay an  
5 Administrative Assessment Fee.

6 Further, I understand that under NRS 207.012 (2) for the convictions of ROBBERY,  
7 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON, ROBBERY WITH  
8 USE OF A DEADLY WEAPON the Court must sentence me to LIFE without the possibility  
9 of parole in the Nevada Department of Corrections; LIFE with the possibility of parole, with  
10 eligibility for parole beginning when a minimum of 10 years has been served in the Nevada  
11 Department of Corrections; or a definite term of 25 years, with eligibility for parole  
12 beginning when a minimum of 10 years has been served in the Nevada Department of  
13 Corrections.

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

18 ~~I understand that I am eligible for probation for the offense(s) to which I am pleading~~  
19 ~~guilty. I understand that, except as otherwise provided by statute, the question of whether I~~  
20 ~~receive probation is in the discretion of the sentencing judge.~~ 

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

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

28 I also understand that information regarding charges not filed, dismissed charges, or

1 charges to be dismissed pursuant to this agreement may be considered by the judge at  
2 sentencing.

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

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

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

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

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

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

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

28 I understand that the Division of Parole and Probation will prepare a report for the

1 sentencing judge prior to sentencing. This report will include matters relevant to the issue of  
2 sentencing, including my criminal history. This report may contain hearsay information  
3 regarding my background and criminal history. My attorney and I will each have the  
4 opportunity to comment on the information contained in the report at the time of sentencing.  
5 Unless the District Attorney has specifically agreed otherwise, then the District Attorney  
6 may also comment on this report.

#### 7 WAIVER OF RIGHTS

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

- 10 1. The constitutional privilege against self-incrimination, including the  
11 right to refuse to testify at trial, in which event the prosecution would  
not be allowed to comment to the jury about my refusal to testify.
- 12 2. The constitutional right to a speedy and public trial by an impartial jury,  
13 free of excessive pretrial publicity prejudicial to the defense, at which  
14 trial I would be entitled to the assistance of an attorney, either appointed  
or retained. At trial the State would bear the burden of proving beyond  
a reasonable doubt each element of the offense(s) charged.
- 15 3. The constitutional right to confront and cross-examine any witnesses  
16 who would testify against me.
- 17 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 18 5. The constitutional right to testify in my own defense.
- 19 6. The right to appeal the conviction with the assistance of an attorney,  
20 either appointed or retained, unless specifically reserved in writing and  
21 agreed upon as provided in NRS 174.035(3). I understand this means I  
22 am unconditionally waiving my right to a direct appeal of this  
23 conviction, including any challenge based upon reasonable  
constitutional, jurisdictional or other grounds that challenge the legality  
of the proceedings as stated in NRS 177.015(4). However, I remain free  
to challenge my conviction through other post-conviction remedies  
including a habeas corpus petition pursuant to NRS Chapter 34.

#### 24 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

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

16 DATED this 2 day of October, 2013.

  
TROY LEE MULLNER  
Defendant

18 AGREED TO BY:

19  
20   
21 ALICIA A. ALBRITTON  
22 Chief Deputy District Attorney  
23 Nevada Bar #9492  
24  
25  
26  
27  
28

1 CERTIFICATE OF COUNSEL:

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

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

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

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

Dated: This 2 day of October, 2013.

  
ATTORNEY FOR DEFENDANT

ckb

1 **IND**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ALICIA ALBRITTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #009492  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 TROY LEE MULLNER, #1158825

14 Defendant.

CASE NO: C-12-283463-1

DEPT NO: XXI

14 AMENDED  
15 INDICTMENT

17 STATE OF NEVADA )  
18 COUNTY OF CLARK ) ss.

19 The Defendant above named, TROY LEE MULLNER, accused by the Clark County  
20 Grand Jury of the crime(s) of BURGLARY (Category B Felony - NRS 205.060);  
21 ROBBERY (Category B Felony - NRS 200.380); COERCION (Category B Felony - NRS  
22 207.190); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B  
23 Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
24 Felony - NRS 200.380, 193.165); ATTEMPT ROBBERY (Category B Felony - NRS  
25 200.380, 193.330) and POSSESSION OF FIREARM BY EX-FELON (Category B Felony -  
26 NRS 202.360), committed at and within the County of Clark, State of Nevada, on or between  
27 April 11, 2012 and June 30, 2012, as follows:

28 ///

**EXHIBIT "1"**

**AA43**

1 COUNT 1 - BURGLARY

2 did on or about April 11, 2012, then and there wilfully, unlawfully, and feloniously  
3 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
4 occupied by RADIO SHACK, located at 3125 East Tropicana Avenue, Las Vegas, Clark  
5 County, Nevada.

6 COUNT 2 - ROBBERY

7 did on or about April 21, 2012, then and there wilfully, unlawfully, and feloniously  
8 take personal property, to-wit: U.S. currency, from the person of LORAIN ALLSOP, or in  
9 her presence, by means of force or violence, or fear of injury to, and without the consent and  
10 against the will of the said LORAIN ALLSOP.

11 COUNT 3 - COERCION

12 did on or about April 24, 2012, then and there wilfully, unlawfully, and feloniously  
13 use physical force, or the immediate threat of such force, against GREG BEDOHO, with  
14 intent to compel him to do, or abstain from doing, an act which he had a right to do, or  
15 abstain from doing, by forcing said GREG BEDOHO to remain in Subway during the  
16 robbery, said Defendant using a deadly weapon, to-wit: a firearm, during the commission of  
17 said crime.

18 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

19 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
20 enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
21 occupied by SUBWAY, located at 3180 East Desert Inn, Las Vegas, Clark County, Nevada,  
22 the Defendant did possess and/or gain possession of a deadly weapon consisting of a knife  
23 during the commission of the crime and/or before leaving the structure.

24 COUNT 5 - ROBBERY

25 did on or about May 2, 2012, then and there wilfully, unlawfully, and feloniously  
26 take personal property, to-wit: U.S. currency, from the person of SAVANNAH SPEER, or in  
27 her presence, by means of force or violence or fear of injury to, and without the consent and  
28 against the will of the said SAVANNAH SPEER.



1 COUNT 6 – ROBBERY WITH USE OF A DEADLY WEAPON

2 did on or about June 9, 2012, then and there wilfully, unlawfully, and feloniously  
3 take personal property, to-wit: U.S. currency, from the person of ANTWAN WILLIAMS, or  
4 in his presence, by means of force or violence, or fear of injury to, and without the consent  
5 and against the will of the said ANTWAN WILLIAMS, said Defendant using a deadly  
6 weapon, to-wit: a firearm, during the commission of said crime.

7 COUNT 7 - ATTEMPT ROBBERY

8 did on or about June 20, 2012, then and there wilfully, unlawfully, and feloniously  
9 attempt to take personal property, to-wit: U.S. currency, from the person of SEAN WINN,  
10 or in his presence, by means of force or violence, or fear of injury to, and without the  
11 consent and against the will of the said SEAN WINN, by simulating he had a weapon and  
12 demanding money form the cash drawer register.

13 COUNT 8 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

14 did on or about June 29, 2012, then and there wilfully, unlawfully, and feloniously  
15 enter with intent to commit larceny and/or a felony, to-wit: robbery, that certain building  
16 occupied by SUBWAY, located at 183 N. Gibson, Henderson, Clark County, Nevada, the  
17 Defendant did possess and/or gain possession of a deadly weapon consisting of a firearm  
18 during the commission of the crime and/or before leaving the structure.

19 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

20 did on or about June 30, 2012, then and there wilfully, unlawfully, and feloniously  
21 take personal property, to-wit: U.S. currency, from the person of MIRIAM FIERO, or in her  
22 presence, by means of force or violence or fear of injury to, and without the consent and  
23 against the will of the said MIRIAM FIERO, said Defendant using a deadly weapon, to-wit:  
24 a handgun, during the commission of said crime.

25 COUNT 10 - POSSESSION OF FIREARM BY EX-FELON

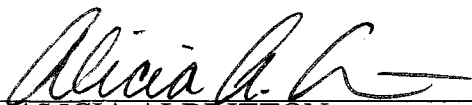
26 did then and there wilfully, unlawfully, and feloniously own or have in his  
27 possession, or under his control, a weapon, to-wit: Daisy/Powerline model 15XT .177  
28 caliber semiautomatic firearm, the said Defendant being an ex-felon, having in 2006 been

1 convicted of Robbery in case C226003 in the Eighth Judicial District Court, Clark County,  
2 Nevada, and/or having in 1997 been convicted of Second Degree Kidnapping in case  
3 C134948 in the Eighth Judicial District Court, Clark County, Nevada, both felonies under  
4 the laws of the State of Nevada.

5 DATED this 21<sup>st</sup> day of October, 2013.

6  
7 STEVEN B. WOLFSON  
Clark County District Attorney  
8 Nevada Bar #001565

9  
10 BY

  
11 ALICIA ALBRITTON  
Chief Deputy District Attorney  
12 Nevada Bar #009492  
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24 12AGJ033X/12F10411X/ckb  
25 LVMPD EV# 1206302535;  
1206231983; 1206212726;  
26 1206203821; 1206183052;  
1206163157; 1206093269;  
27 1205273440; 1205024244;  
1204244182; 1204244088;  
28 1204213828; 1204114254;  
HPD EV# 12-10819; 12-11376  
(TK12)

## STIPULATION FOR COMPROMISE OF SEIZED PROPERTY

Defendant TROY LEE MULLNER ID# 1158825 CRIMINAL CASE# C-12-283463-1  
Seizing Law Enforcement Agency LAS VEGAS METROPOLITAN POLICE DEPARTMENT; HENDERSON POLICE DEPARTMENT  
Seizure Event Number 1206302535; 1206231983; 1206212726; 1206203821; 1206183052; 1206163157; 1206093269; 1205273440; 1205024244; 1204244182; 1204244088; 1204213828; 1204114254; HPD EV# 12-10819; 12-11376

IT IS HEREBY STIPULATED and AGREED by and between STEVEN B. WOLFSON, Clark County District Attorney through his undersigned Deputy, and the Defendant that a stipulation for compromise be entered into and resolved as part of the negotiations in the aforementioned criminal case(s) pertaining to property impounded or seized by the aforementioned law enforcement agency under the aforementioned event number(s), as follows:

### 1. PROSECUTOR CHECKS THE APPROPRIATE PARAGRAPHS:

X a. TOTAL FORFEITURE: That Defendant agrees to release and waive any and all right, title and interest in said property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: ANY AND ALL PROPERTY SEIZED IN THE EVENT NUMBERS LISTED ABOVE.

2. That the Defendant hereby authorizes the District Attorney's Office and the seizing law enforcement agency to take such action as is necessary, including, but not limited to, using this agreement to secure a judgment or an ex-parte order in any contemplated or pending companion forfeiture proceeding in order to give full force and effect to this agreement.
3. That the parties agree that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, **does not and will not be considered** as putting the Defendant in jeopardy of life, limb or property for the same offense under the Fifth Amendment of the United States Constitution and under Section Eight of Article One of the Nevada Constitution; and, that this forfeiture, or any subsequent action taken to secure full force and effect of this agreement, does not or will not constitute an excessive fine under the Eighth Amendment of the United States Constitution and under Section Six of Article One of the Nevada Constitution.
4. That the parties agree that any breach, withdrawal, repeal, rejection or any other abrogation of the negotiations in the aforementioned criminal case(s) shall not have any effect upon the finality of this stipulation; and, that any breach, withdrawal, repeal, rejection or any other abrogation of this stipulation shall not have any effect upon the finality of the negotiations in the aforementioned criminal case(s).
5. That this Stipulation for Compromise shall incorporate all of the protections attendant to such stipulations as contemplated under the provisions of NRS 48.105 as to all parties named herein; and, this Stipulation for Compromise shall not be construed in any fashion as an admission pertaining to any criminal charges, and shall not and does not constitute an admission of civil liability or fault on the part of any of the undersigned parties, or their present or former agents, servants, employees or others.
6. That the parties agree to accept these terms in full settlement and satisfaction of any and all civil claims and demands which each party or assignees may have against each other, agents and employees on account of the seizure or impoundment of said property.
7. That this Stipulation for Compromise shall forever, and completely bar any action or claim in any tribunal in any matter whatsoever, whether State, Federal or otherwise by the Defendant herein concerning the forfeiture of said property.

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8. That the respective parties bear their own civil costs and attorney's fees which may have been occasioned and occurred as a result of the seizure and forfeiture of said property.

**IT IS SO STIPULATED and AGREED**

Defendant

Date

Attorney for Defendant, Nevada Bar #

Date

Clark County Deputy District Attorney, Nevada Bar # 9492

Date



CLERK OF THE COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TROY LEE MULLNER  
#1158825

Defendant.

CASE NO. C283463-1

DEPT. NO. XXI

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – BURGLARY (Category B Felony) in violation of NRS 205.060, COUNTS 2, 5 – ROBBERY (Category B Felony) in violation of NRS 200.380; COUNT 3 – COERCION (Category B Felony) in violation of NRS 207.190; COUNTS 4, 8 – BURGLARY WHILE IN THE POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 6, 9 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 7 – ATTEMPT BURGLARY (Category B Felony) in violation of NRS 200.380, 193.330; and COUNT 10 – POSSESSION OF FIREARM BY EX-FELON (Category B Felony) in

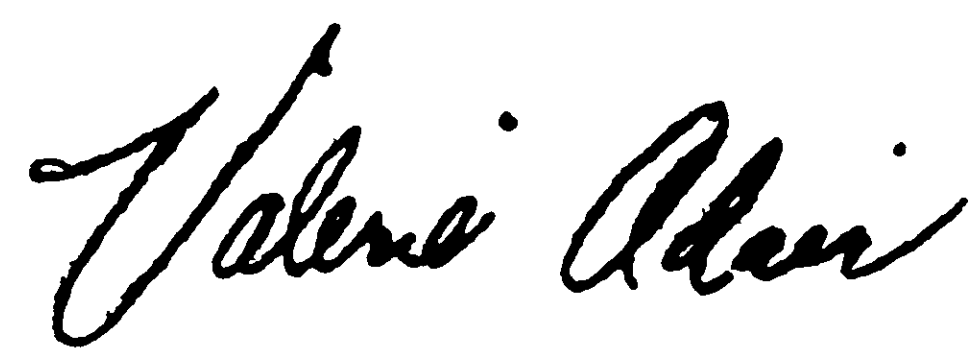
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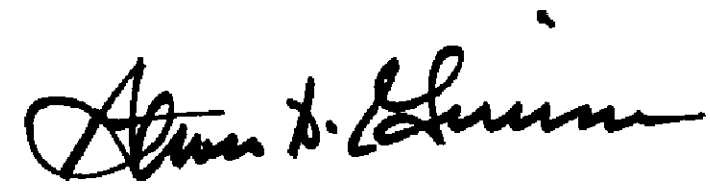
1 violation of NRS 202.360; thereafter, on the 23<sup>rd</sup> day of January, 2014 , the Defendant  
2 was present in court for sentencing with his counsel, FRANK KOCKA, ESQ., and good  
3 cause appearing,  
4

5 THE DEFENDANT IS HEREBY ADJUDGED guilty under the Large Habitual  
6 Criminal Statue as to COUNTS 1, 2, 4, 5, 6, 7, 8 & 9 of said offenses and, in addition to  
7 the \$25.00 Administrative Assessment, Restitution in the amount of \$3,089.46 plus  
8 \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of  
9 Corrections (NDC) as follows: as to COUNT 1 - to a MAXIMUM of LIFE with a  
10 MINIMUM Parole Eligibility of TEN (10) YEARS; and as to COUNT 2 – to a MAXIMUM  
11 of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 2 to run  
12 CONSECUTIVE TO COUNT 1; COUNT 3 – to a MAXIMUM of SEVENTY-TWO (72)  
13 MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, COUNT  
14 3 to run CONSECUTIVE TO COUNT 2; COUNT 4 – to a MAXIMUM of LIFE with a  
15 MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 4 to run CONCURRENT WITH  
16 COUNT 3; COUNT 5 – to a MAXIMUM of LIFE with a MINIMUM Parole Eligibility of  
17 TEN (10) YEARS, COUNT 5 to run CONCURRENT WITH COUNT 4; COUNT 6 – to a  
18 MAXIMUM of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 6 to  
19 run CONCURRENT WITH COUNT 5; COUNT 7 – to a MAXIMUM of LIFE with a  
20 MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 7 to run CONCURRENT WITH  
21 COUNT 6; COUNT 8 – to a MAXIMUM of LIFE with a MINIMUM Parole Eligibility of  
22 TEN (10) YEARS, COUNT 8 to run CONCURRENT WITH COUNT 7; COUNT 9 – to a  
23 MAXIMUM of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 9 to  
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1 run CONCURRENT WITH COUNT 8; COUNT 10 - to a MAXIMUM of FORTY-EIGHT  
2 (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, COUNT  
3 10 to run CONSECUTIVE TO COUNT 9; with FIVE HUNDRED SEVENTY-TWO (572)  
4 DAYS Credit for Time Served. DNA Fee - WAIVED  
5

6  
7 DATED this 28<sup>th</sup> day of January, 2014  
8

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11 \_\_\_\_\_  
12 VALERIE P. ADAIR  
13 DISTRICT COURT JUDGE  
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CLERK OF THE COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TROY LEE MULLNER  
#1158825

Defendant.

CASE NO. C283463-1

DEPT. NO. XXI

AMENDED JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – BURGLARY (Category B Felony) in violation of NRS 205.060, COUNTS 2, 5 – ROBBERY (Category B Felony) in violation of NRS 200.380; COUNT 3 – COERCION (Category B Felony) in violation of NRS 207.190; COUNTS 4, 8 – BURGLARY WHILE IN THE POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 6, 9 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 7 – ATTEMPT BURGLARY (Category B Felony) in violation of NRS 200.380, 193.330; and COUNT 10 – POSSESSION OF FIREARM BY EX-FELON (Category B Felony) in

//



1 violation of NRS 202.360; thereafter, on the 23<sup>rd</sup> day of January, 2014 , the Defendant  
2 was present in court for sentencing with his counsel, FRANK KOCKA, ESQ., and good  
3 cause appearing,  
4

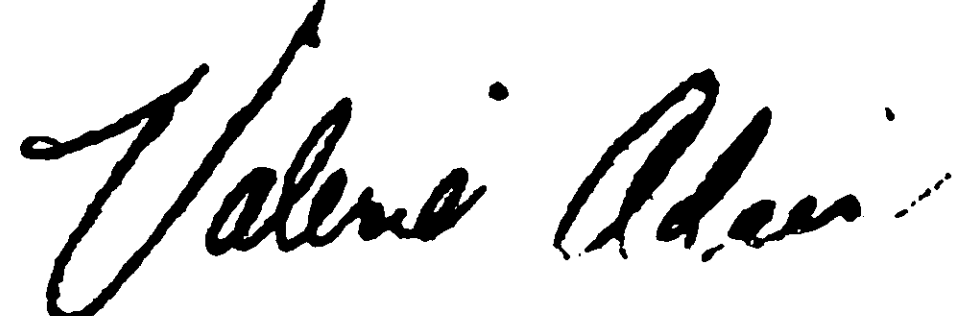
5 THE DEFENDANT WAS THEREBY ADJUDGED guilty under the Large Habitual  
6 Criminal Statue as to COUNTS 1, 2, 4, 5, 6, 7, 8 & 9 of said offenses and, in addition to  
7 the \$25.00 Administrative Assessment, Restitution in the amount of \$3,089.46 plus  
8 \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of  
9 Corrections (NDC) as follows: as to COUNT 1 - to a MAXIMUM of LIFE with a  
10 MINIMUM Parole Eligibility of TEN (10) YEARS; and as to COUNT 2 – to a MAXIMUM  
11 of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 2 to run  
12 CONSECUTIVE TO COUNT 1; COUNT 3 – to a MAXIMUM of SEVENTY-TWO (72)  
13 MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, COUNT  
14 3 to run CONSECUTIVE TO COUNT 2; COUNT 4 – to a MAXIMUM of LIFE with a  
15 MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 4 to run CONCURRENT WITH  
16 COUNT 3; COUNT 5 – to a MAXIMUM of LIFE with a MINIMUM Parole Eligibility of  
17 TEN (10) YEARS, COUNT 5 to run CONCURRENT WITH COUNT 4; COUNT 6 – to a  
18 MAXIMUM of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 6 to  
19 run CONCURRENT WITH COUNT 5; COUNT 7 – to a MAXIMUM of LIFE with a  
20 MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 7 to run CONCURRENT WITH  
21 COUNT 6; COUNT 8 – to a MAXIMUM of LIFE with a MINIMUM Parole Eligibility of  
22 TEN (10) YEARS, COUNT 8 to run CONCURRENT WITH COUNT 7; COUNT 9 – to a  
23 MAXIMUM of LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, COUNT 9 to  
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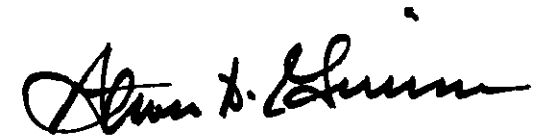
25  
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1 run CONCURRENT WITH COUNT 8; COUNT 10 - to a MAXIMUM of FORTY-EIGHT  
2 (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, COUNT  
3 10 to run CONSECUTIVE TO COUNT 9; with FIVE HUNDRED SEVENTY-TWO (572)  
4 DAYS Credit for Time Served. DNA Fee – WAIVED  
5

6 THEREAFTER a clerical error having been discovered, the Amended Judgment  
7 of Conviction is corrected to read as follows: COUNT 7 – ATTEMPT ROBBERY.  
8

9 DATED this 3<sup>rd</sup> day of February, 2014  
10  
11

12   
13 \_\_\_\_\_  
14 VALERIE P. ADAIR  
15 DISTRICT COURT JUDGE  
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CLERK OF THE COURT

DISTRICT COURT  
Clark County Nevada

TROY LEE MULLNER  
#54371 Plaintiff,

VS.

THE STATE OF NEVADA  
Defendant,


CASE NO. C283463-1

DEPT. NO. XX1

NOTICE OF APPEAL

Comes now, TROY LEE MULLNER, plaintiff in pro.  
PER. Submits this NOTICE OF APPEAL to  
THIS COURT to appeal THE JUDGEMENT  
OF CONVICTION and SENTENCE in the above  
Said Case No.

Submitted this 13 day of APRIL 2014

Respectfully,  


RECEIVED

APR 15 2014

CLERK OF THE COURT

AA55

CERTIFICATE OF SERVICE

I, TROY LEE MULLER, HEREBY CERTIFY  
pursuant to FRCP. 5(b) THAT ON THIS 13 day  
OF APRIL, 2014, I DID SERVED TRUE AND  
CORRECT COPY OF THE FOREGOING, "NOTICE  
OF appeal" By giving it to a prison guard  
AT ELI STATE PRISON TO DEPOSIT IN THE U.S.  
MAIL, SEALED IN AN ENVELOPE, POSTAGE PRE-  
PAID, ADDRESSED TO THE FOLLOWING:

CLARK COUNTY DISTRICT ATT.  
200 S. 3RD ST.  
LAS VEGAS, NV.  
89101

REGIONAL JUSTICE CEN.  
200 LEWIS AVE. 3RD FL.  
LAS VEGAS, NV.

89155-1160

Signed and dated on this 13 day of  
APRIL 2014.

RESPECTFULLY,

Troy Muller

7201 MILLER  
PO BOX 1989454371  
ELY, NEVADA  
89301



Courtesy check  
Regional Justice Center  
200 Lewis Ave. 3rd Fl.  
LAS VEGAS, NEVADA  
89055-1100  
OFFICIAL BUSINESS

LEONARD  
CONSTRUCTION  
4-13-2014

ELY STATE PRISON  
MAY 6 1 34 PM  
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IN THE SUPREME COURT OF THE STATE OF NEVADA

TROY LEE MULLNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65449

**FILED**

**MAY 13 2014**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a proper person appeal from a judgment of conviction.  
Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

The notice of appeal was untimely filed. NRAP 4(b). Because  
an untimely notice of appeal fails to vest jurisdiction in this court, *Lozada*  
*v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), we conclude that we  
lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

cc: Hon. Valerie Adair, District Judge  
Troy Lee Mullner  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk



CASE NO. C283463-1

DEPT. NO. XXI

FILED

JUN 13 2014

*Alvin L. Blum*  
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

TROY L. MULLINER,  
PETITIONER,

V.

WARDEN ELY STATE PRISON

RENE BAKER,  
RESPONDENT.

C-12-283463-1  
PWHC  
Petition for Writ of Habeas Corpus  
3905991



petition for writ  
OF HABEAS CORPUS  
(post conviction)

petition

- 1). petitioner is presently RESTRAINED AT THE ELY  
STATE PRISON, WHITE PINE CO. NEVADA.
- 2). 8<sup>th</sup> JUDICIAL DISTRICT COURT, CLARK COUNTY, NV.  
IS THE COURT AND LOCATION WHICH ENTERED THE  
JUDGMENT UNDER ATTACK.
- 3). DATE OF JUDGMENT OF CONVICTION: FEB. 03, 2014
- 4). CASE NUMBER: C283463-1 DEPT. NO. XXI
- 5). (A) LENGTH OF SENTENCES: Ct. 1: 10 YR. - LIFE;  
Ct. 2: 10 YR. - LIFE; (CS to count 1): Ct. 3: 24 mon. - 72 mon.  
(CS to count 2): Ct. 4: 10 YR - LIFE (CC to count 3)  
Ct. 5: 10 YR. - to LIFE (CC to count 4)  
Ct. 6: 10 YR. - to LIFE (CC to count 5)  
Ct. 7: 10 YR. - LIFE (CC to count 6)  
Ct. 8: 10 YR. - LIFE (CC to count 7)

RECEIVED

JUN 12 2014

CLERK OF THE COURT

AA61

13

5). Cont. Ct. 9: 10-yr. - Life (cc to count 8)  
Ct. 10: 12 mon. - 48 mon. (cc to count 9)

6). PETITIONER IS NOT SERVING ANY OTHER SENTENCES OTHER THAN THE SENTENCES FROM THE CONVICTIONS UNDER ATTACK.

7). NATURE OF OFFENSES INVOLVED IN CONVICTION BEING CHALLENGED. Ct. 1: BURGLARY NRS 205.060

Ct. 2; 5: ROBBERY NRS 200.380

Ct. 3: COERCION NRS 207.190

Ct. 4; 8: BURGLARY WHILE IN THE POSSESSION OF A DEADLY WEAPON NRS 205.060

Ct. 6; 9: ROBBERY WITH THE USE OF A DEADLY WEAPON NRS 200.380, 193.165

Ct. 7: ATTEMPTED BURGLARY NRS 200.380, 193.330

Ct. 10: POSSESSION OF FIREARM BY EX-FELON NRS 202.340

large habitual criminal statute

8). PETITIONER'S PLEA WAS: Guilty

9). A PLEA OF GUILTY WAS NEGOTIATED, DETAILS ARE:

PETITIONER'S ATTORNEY NEGOTIATED A PLEA DEAL OF THE PETITIONER PLEADING GUILTY TO COUNTS 1-10 AND RECEIVING A 10-25 yr. SENTENCE FOR BEING A HABITUAL CRIMINAL. THATS THE ONLY SENTENCE THAT WAS SUPPOSED TO BE IMPOSED.

10). PETITIONER WAS NOT FOUND GUILTY BY A JURY.

11). PETITIONER DID NOT TESTIFY AT TRIAL.

12). PETITIONER DID NOT APPEAL FROM THE JUDGMENT OF CONVICTION.

13). Since no appeal from the Judgment of conviction was ~~delivered~~, no answer to question 13.

14). petitioner's reason for not appealing the Judgment of conviction is due to ineffective assistance of counsel. As soon as petitioner was sentenced to a sentence other than the sentence promised by petitioner's attorney, petitioner notified attorney of record to file an appeal, NOTICE OF APPEAL AND DIRECT APPEAL. petitioner notified attorney of record both verbally and in writing to file the notice of appeal and Direct appeal. No appeal was ever filed.

15). petitioner filed a notice of appeal on his own as well as a writ of mandamus in the 8<sup>th</sup> Judicial District Court CS# C283463-1 DEPT. No. XXI, and a writ of mandamus in the Nevada Supreme Court. CASE NO. 65542. Both these petitions of mandamus are still pending in court, petitioner notified the 8<sup>th</sup> Judicial District Court as well as the Nevada Sup. CRT. that ~~the~~ counsel of record refuses to file a notice of appeal or direct appeal despite being notified on numerous occasions verbally and in writing to do so by petitioner. In addition to this counsel of record refuses to send or give

petitioner a copy of the papers on file of the record so that petitioner may execute and file a proper appeal on his own behalf.

petitioner has not received a evidentiary hearing. THE NOTICE OF appeal WAS DISMISSED BY THE NEVADA SUP. CRT. ON 5.13.2014 AS UNTIMELY (CASE NO. 65449)

16). Ground one in this petition "ineffective ASSISTANCE OF COUNSEL" WAS PRESENTED IN A WRIT OF HABEAS CORPUS TO BOTH THE 8<sup>TH</sup> JUD. DIST. CRT. CS# 0183463-1 DEPT. NO. XXI AND TO THE NEVADA SUPREME COURT CS# 65542 (STILL PENDING) SINCE PETITIONER ON NUMEROUS OCCASIONS NOTIFIED COUNSEL, TO FILE A DIRECT appeal and NOTICE OF appeal, both verbally and in writing. COUNSEL OF RECORD REFUSED TO DO SO. PETITIONER SOUGHT TO HAVE THE 8<sup>TH</sup> JUD. DIST. CRT. AND NEV. SUP. CRT. ORDER AND COMMAND COUNSEL OF RECORD FILE A NOTICE OF appeal and DIRECT appeal TO PROTECT PETITIONERS (65) A MENA. RIGHT.

17). THE Ground one in this petition WAS NOT PRESENTED IN A DIRECT appeal OR NOTICE OF appeal STATE OR FEDERAL BECAUSE COUNSEL OF RECORD REFUSED TO FILE AN appeal OF ANY kind EVEN THOUGH PETITIONER NOTIFIED COUNSEL NUMEROUS TIMES verbally and in writing TO DO SO.

- 18). THIS PETITION IS BEING FILED WELL WITH IN  
A ONE YEAR PERIOD OF THE JUDGEMENT  
OF CONVICTION.
- 19). PETITIONER DOES NOT HAVE ANY OTHER  
PETITION OR APPEAL PENDING IN ANOTHER  
COURT STATE OR FEDERAL CHALLENGING THE  
CONVICTION.
- 20). THE ATTORNEY WHO REPRESENTED PETITIONER  
RESULTING IN THIS CONVICTION IS:  
FRANK KOCKA ESQ.  
THE ATTORNEY WHO WAS SUPPOSED TO  
FILE A NOTICE OF APPEAL AND DIRECT  
APPEAL BUT REFUSED TO DO SO, IS:  
FRANK KOCKA ESQ.
- 21). PETITIONER DOES NOT HAVE ANY FUTURE  
SENTENCES TO SERVE AFTER COMPLETING  
THE SENTENCE IMPOSED BY THE JUDGEMENT  
UNDER ATTACK.
- 22). THE GROUND(S) PETITIONER IS BEING  
UNLAWFULLY HELD ARE:  
GROUND ONE: SIXTH (6) AMENDMENT  
RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL  
(DURING THE PLEA NEGOTIATIONS AND ON  
DIRECT APPEAL)

## Ground one Supporting Facts:

IN THE SUMMER OF 2013 PETITIONER FILED A MOTION IN THE 8<sup>TH</sup> JUDICIAL DIST. CRT. REQUESTING TO DISMISS COUNSEL OF RECORD "FRANK KOLKA ESQ" PETITIONERS MOTION NOTIFIED THE 8<sup>TH</sup> JUD. DIST. CRT. OF COUNSEL'S FAILURE TO COMMUNICATE WITH PETITIONER AT ALL, FAILURE TO PROVIDE PETITIONER WITH ANY INFORMATION CONCERNING PETITIONERS CASE, FAILURE TO PROVIDE PETITIONER WITH ANY PAPERS INCLUDING THE DISCOVERY IN THIS CASE, FAILURE TO FOLLOW UP ON ANY INFORMATION PETITIONER PROVIDED OR/AND REQUESTED COUNSEL FOLLOW UP ON.

COUNSEL OF RECORD MAINTAINED THIS COURSE OF ACTION THROUGHT. COUNSEL OF RECORD FRANK KOLKA ESQ. PRESENTED PETITIONER WITH A PLEA AGREEMENT PRIOR TO COURT, IN THIS PLEA AGREEMENT, PETITIONER WOULD PLEAD GUILTY TO COUNTS 1-10 NO ARGUMENT AND IN RETURN PETITIONER WOULD RECEIVE AND BE SENTENCED TO ONE SENTENCE ONLY OF 10-25 YRS. THATS IF NO OTHER SENTENCES WOULD BE IMPOSED.

PETITIONER DISCUSSED THIS WITH COUNSEL FRANK KOLKA ESQ. COUNSEL ASSURED AND GUARANTEED PETITIONER THIS INFORMATION WAS CORRECT AND ACCURATE.

when PETITIONER WALKED INTO COURT, COUNSEL PRESENTED PETITIONER WITH A PLEA AGREEMENT TO SIGN PETITIONER

read over this plea agreement and it was the same plea agreement as before, petitioner signed this plea agreeing to plead guilty to Counts 1-10 and to receive a sentence of 10-25 yrs and no other sentences would be imposed.

Petitioner requested a copy of this plea from Counsel, Frank Kocka Esq. of course petitioner didn't get one; at sentencing petitioner was sentenced to way more than a 10-25 yr. sentence and multiple sentences, violating the plea bargain petitioner signed. Petitioner immediately notified Counsel of Record Frank Kocka Esq. right there in open court to file a notice of appeal and direct appeal. in addition petitioner notified Counsel Frank Kocka Esq. in writing to file a direct appeal. Counsel of Record never filed a notice of appeal, or a direct appeal. Petitioner finally received a copy of the plea agreement on file with this court; this plea agreement is NOT the plea agreement signed by petitioner even though it bears petitioners signature, pages are switched with the plea bargain petitioner signed and the plea on file with this court. There's absolutely no way on earth petitioner would of signed the plea on file with this court. Counsel of


RECORD FRANK KOCKA ESQ. SWITCHED PAGES FROM THE ORIGINAL PLEA PRESENTED TO PETITIONER BY FRANK KOCKA ESQ. READING PETITIONER AGREES TO PLEAD GUILTY TO COUNTS 1-10 AND RECEIVE ONE SENTENCE OF 10-25-YRS WITH NO OTHER SENTENCES TO BE IMPOSED, WITH THE PLEA ON FILE WITH THIS COURT.

THEN WHEN PETITIONER NOTIFIED COUNSEL FRANK KOCKA ESQ. VERBALLY AND IN WRITING TO FILE A NOTICE OF APPEAL AND DIRECT APPEAL COUNSEL REFUSED TO DO SO, PETITIONER NOTIFIED THIS COURT OF THIS BY WAY OF WRIT OF HABEAS CORPUS AND THE NEVADA SUPREME COURT AS WELL. WHAT COUNSEL OF RECORD DID IS NOT ONLY UNETHICAL BUT ILLEGAL, FURTHER REFUSING TO FILE A NOTICE OF APPEAL AND DIRECT APPEAL VIOLATES PETITIONER'S 6th AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.



WHEREFORE, PETITIONER PRAYS THE COURT  
GRANT PETITIONER RELIEF TO WHICH HE MAY BE  
ENTITLED IN THIS PROCEEDING.

EXECUTED AT ELY, STATE PRISON, ON THE 9<sup>th</sup>  
DAY OF JUNE 2014.



SIGNATURE OF PETITIONER

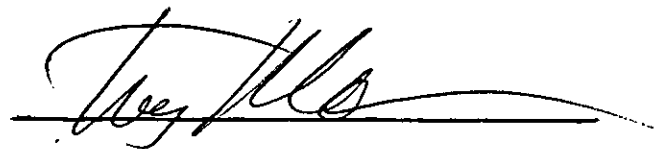
ELY STATE PRISON

PO BOX 1989 #54371

ELY, NEVADA, 89301

VERIFICATION

UNDER PENALTY OF PERJURY, THE UNDERSIGNED DECLARES THAT  
HE IS THE PETITIONER NAMED IN THE FOREGOING PETITION  
AND KNOWS THE CONTENTS THEREOF; THAT THE PLEADING IS  
TRUE OF HIS OWN KNOWLEDGE, EXCEPT AS TO THOSE MATTERS  
STATED ON INFORMATION AND BELIEF, AND AS TO SUCH  
MATTERS HE BELIEVES THEM TO BE TRUE.



- PETITIONER -

CERTIFICATE OF SERVICE BY MAIL

I, TROY L. MILLNER, hereby certify pursuant to N.R.C.P.  
5(b), that on this 9th day of JUNE, of the year 2014 I mailed a true and  
correct copy of the foregoing ~~petition for writ of habeas corpus~~ petition for writ of habeas corpus post conviction;

<u>ATTORNEY GENERAL</u>	<u>COURT CLERK</u>	<u>C.C. DIST. ATT.</u>
Name	Name	Name

<u>100 N. CARSON ST</u>	<u>200 LEONIS AVE. 3RD FL.</u>	<u>200 S. 3RD ST.</u>
<u>CARSON CITY NV</u>	<u>LAS VEGAS NV</u>	<u>LAS VEGAS NV.</u>
<u>89701</u>	<u>8955160</u>	<u>8901</u>
Address	Address	Address

  
Petitioner

**AFFIRMATION PURSUANT TO: N.R.S. 239B.010**

I, HEREBY CERTIFY THAT I AM THE UNDERSIGNED  
INDIVIDUAL AND THAT THE ATTACHED DOCUMENT  
THAT IS ENTITLED: PETITION FOR WRIT OF HABEAS  
CORPUS POST CONVICTION, DOES NOT  
CONTAIN THE SOCIAL SECURITY NUMBER OF ANY  
PERSON, UNDER THE PAINS AND PENALTIES OF  
PERJURY, THIS, 9<sup>th</sup> DAY OF, JUNE, 2014.

SIGNATURE: \_\_\_\_\_

INMATE NAME PRINTED: TROY L. MULLER

INMATE NUMBER: 54371

ADDRESS: ELY STATE PRISON, P.O. BOX 1989, ELY, NV 89301

T. MUMFORD # 54371  
P.O. Box 1989-ESP.  
ELY NV 89301

CLARK County Clerk of Courts  
200 LEWIS AVE, 3RD FLR  
LAS VEGAS NV 89155-1160

CLARK COUNTY  
CLERK OF COURTS  
200 LEWIS AVE  
LAS VEGAS NV 89155-1160

AA72

U.S. POSTAGE >> PITNEY BOWES



ZIP 89301 \$003.08<sup>0</sup>  
02 1W  
0001371980 JUN 11 2014



GOT KW. 6/10/14

AA73

IN THE SUPREME COURT OF THE STATE OF NEVADA

TROY LEE MULLNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 65449  
District Court Case No. C283463

**FILED**

JUN 24 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk ✓

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: June 12, 2014

Tracie Lindeman, Clerk of Court

By: Sally Williams  
Deputy Clerk

cc (without enclosures):

Hon. Valerie Adair, District Judge  
Troy Lee Mullner  
Clark County District Attorney  
Attorney General/Carson City

**RECEIPT FOR REMITTITUR**

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on JUN 18 2014.

*[Signature]*  
Deputy District Court Clerk

**RECEIVED**

JUN 17 2014

**RECEIVED**

JUN 23 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

CLERK OF THE COURT

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

TROY LEE MULLNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 65449**  
District Court Case No. C283463

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

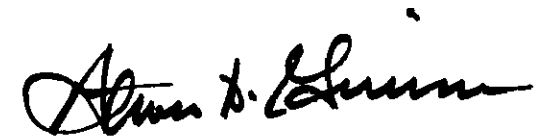
"ORDER this appeal DISMISSED."

Judgment, as quoted above, entered this 13<sup>th</sup> day of May, 2014.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
June 12, 2014.

Tracie Lindeman, Supreme Court Clerk

By: Sally Williams  
Deputy Clerk



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

TROY LEE MULLNER,

Defendant.

CASE NO. C283463-1  
DEPT. XXI

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

THURSDAY, JANUARY 23, 2014

TRANSCRIPT OF PROCEEDINGS RE:  
SENTENCING

APPEARANCES:

FOR THE STATE:

ALICIA A. ALBRITTON, ESQ.  
Chief Deputy District Attorney

FOR THE DEFENDANT:

FRANK P. KOCKA, ESQ.

RECORDED BY: JANIE L. OLSEN, COURT RECORDER/TRANSCRIBER



1 LAS VEGAS, CLARK COUNTY, NV., THURS., JAN. 23, 2014

2  
3 THE COURT: State versus Troy Lee Mullner. He is present in custody with  
4 Mr. Kocka. We have Ms. Albritton for the State. We did receive the supplemental  
5 PSI.

6 Ms. Albritton, where are we?

7 MS. ALBRITTON: We already did argument. I'm not going to rehash  
8 anything. The State would just note that it's not necessarily spelled out completely  
9 in the PSI that Counts 2, 4, 5, 6, 8 and 9 are all violent felonies, and due to his priors  
10 and the prior JOCs that have been filed, he's essentially violent, mandatory habitual,  
11 which is the 10 and 25, 10 to life or life without on those counts.

12 On everything else, we've already rehashed and been here enough  
13 times on Mr. Mullner.

14 THE COURT: Okay. And refresh my memory, Ms. Albritton, what is the State  
15 requesting?

16 MS. ALBRITTON: The State was requesting 40 years to life for Mr. Mullner.

17 THE COURT: All right. Thank you.

18 MR. KOCKA: I believe, Your Honor, we actually made it through Count 6 on  
19 the sentencing before --

20 THE COURT: Well, that's when we realized that everything was wrong on  
21 this.

22 MR. KOCKA: I've gone through it and compared line by line the prior PSI on  
23 this one, and this one appears to be right.

24 THE COURT: And this one appears to be correct?

25 MR. KOCKA: Yes, Your Honor.

1 THE COURT: Counsel approach.

2 (Conference at the bench not recorded.)

3 THE COURT: All right. Mr. Mullner, I'll start over on your sentencing. By  
4 virtue of your pleas of guilty, you're hereby adjudged guilty of Count No. 1, Burglary,  
5 Counts 2 and 5, Robbery, Count 3, Coercion, Count 4 and 8, Burglary while in  
6 possession of a deadly weapon, Count 6 and 9, Robbery with use of a deadly  
7 weapon, Count 7, Attempt robbery and Count 10, Possession of a firearm by an ex-  
8 felon.

9 In addition to the \$25 administrative assessment -- you've already given  
10 your DNA so you don't need to do it again -- the \$3 DNA collection fee, whatever  
11 that is, on Count No. 1, you are adjudged guilty under the large habitual criminal  
12 statute and sentenced to a minimum term of 10 years Nevada Department of  
13 Corrections and a maximum term of life.

14 On Count No. 2, Robbery, you are adjudged guilty under the large  
15 habitual criminal statute and sentenced to a minimum term of 10 years Nevada  
16 Department of Corrections and a maximum term of life. That is imposed  
17 consecutively.

18 On Count No. 3, Coercion, you're sentenced to a minimum term of 24  
19 months Nevada Department of Corrections and a maximum term of 72 months.  
20 That is imposed consecutively to the time I gave you on Count No. 2.

21 On Count No. 4, Burglary while in possession of a deadly weapon,  
22 you're adjudged guilty under the large habitual criminal statute and sentenced to a  
23 minimum term of 10 years, maximum term of life. That is imposed concurrently with  
24 Count 3.

25 On Count No. 5, Robbery, you're adjudged guilty under the large

1 habitual criminal statute and sentenced to a minimum term of 10 years, a maximum  
2 term of life. That is imposed concurrently with the time I gave you on Count No. 4.

3 On Count No. 6, Robbery with use of a deadly weapon, you're  
4 adjudged guilty under the large habitual criminal statute. You're sentenced to a  
5 minimum term of life -- I'm sorry, a minimum term of 10 years, a maximum term of  
6 life. That is imposed concurrently with the time I gave you on Count No. 5.

7 On Count No. 7, Attempt robbery, you are adjudged guilty under the  
8 large habitual criminal statute and sentenced to 10 to life. That is imposed  
9 concurrently.

10 On Count No. 8, Burglary while in possession of a deadly weapon,  
11 you're adjudged guilty under the large habitual criminal statute and sentenced to a  
12 minimum term of 10 years, a maximum term of life. That is imposed concurrently.

13 On Count No. 9, Robbery with use of a deadly weapon, you are  
14 adjudged guilty under the large habitual criminal statute and sentenced to 10 to life  
15 imposed concurrently.

16 On Count No. 10, Possession of firearm by an ex-felon, you're  
17 sentenced to a minimum term of 12 months, a maximum term of 48 months. That is  
18 imposed consecutively.

19 You are entitled to a total of -- is this accurate? Yes. 572 days of credit  
20 for time served.

21 MS. ALBRITTON: And, Your Honor, there would be restitution in the amount  
22 of \$3,089.40.

23 THE COURT: All right. Thank you. That restitution will be imposed as well.

24 MS. ALBRITTON: Thank you.

25 MR. KOCKA: Thank you, Your Honor.

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THE CLERK: Can I have the --

MS. ALBRITTON: The sheet with the breakdown? Yes.

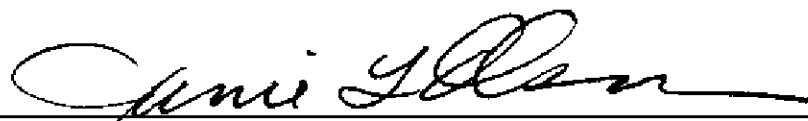
MS. ALBRITTON: Thank you.

THE COURT: All right. Thank you.

MR. KOCKA: Thank you, Your Honor.

-oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.



---

JANIE L. OLSEN  
Recorder/Transcriber

  
CLERK OF THE COURT

1 **SPPL**  
2 **JEAN J. SCHWARTZER, ESQ.**  
Nevada Bar No. 11223  
3 **LAW OFFICE OF JEAN J. SCHWARTZER**  
10620 Southern Highlands Parkway, Suite 110-473  
4 Las Vegas, Nevada 89141  
Phone: (702) 979-9941  
5 Fax: (702) 447-5044  
Email: jean.schwartzter@gmail.com  
6 Counsel for Petitioner

7  
8 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
9 **STATE OF NEVADA FOR THE COUNTY OF CLARK**

10 TROY LEE MULLNER	}	Case No.: C283463
11                   Petitioner,		Dept No.: XXI
12                   vs.		
13 THE STATE OF NEVADA,		
14                   Respondent.	}	

15  
16 **SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PETITION FOR WRIT OF**  
17 **HABEAS CORPUS (POST-CONVICTION)**

18 **DATE: MARCH 8, 2015**  
19 **TIME: 9:30 A.M.**

20  
21 COMES NOW, TROY LEE MULLNER, by and through his attorney, JEAN J.  
22 SCHWARTZER, ESQ., and hereby files the instant Supplemental Memorandum of Points and  
23 Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction).

24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1        This Supplemental Memorandum is made and based upon all the papers and pleadings on file  
2 herein, the attached points and authorities in support hereof, the attached exhibits, and oral argument  
3 at the time of hearing, if deemed necessary by this Honorable Court.  
4

5        DATED this 3<sup>rd</sup> day of December, 2015.  
6

7                                Respectfully submitted,  
8

9                                /s/ Jean J. Schwartzer  
10                                JEAN J. SCHWARTZER, ESQ.  
11                                Nevada Bar No. 11223  
12                                LAW OFFICE OF JEAN J. SCHWARTZER  
13                                10620 Southern Highlands Parkway, Suite 110-473  
14                                Las Vegas, Nevada 89141  
15                                (702) 979-9941  
16                                Counsel for Petitioner  
17  
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**STATEMENT OF PROCEDURE**

On August 15, 2012, the State charged Mullner TROY LEE MULLNER (“Mullner”) by way of Indictment with the following: Eleven (11) counts of BURGLARY (Category B Felony – NRS 205.060); Sixteen (16) counts of ROBBERY (Category B Felony – NRS 200.380); Two (2) counts of FIRST DEGREE KIDNAPPING (Category A Felony – NRS 200.310, 200.320); Four (4) counts of COERCION (Category B Felony – NRS 207.190); Four (4) counts of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony – NRS 200.380, NRS 193.165); Two (2) Counts of ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.380, 193.330, 193.165); Three (3) counts of ATTEMPT ROBBERY (Category B Felony – NRS 200.380, 193.330) and One (1) count of POSSESSION OF FIREARM BY EX-FELON (Category B Felony – NRS 202.360).

Pursuant to negotiations, on October 21, 2013, the State charged Mullner by way of Amended Indictment with the following: One(1) count of BURGLARY (Category B Felony – NRS 205.060); Two (2) counts of ROBBERY (Category B Felony – NRS 200.380); One (1) count of COERCION (Category B Felony – NRS 207.190); Two (2) counts of BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony – NRS 200.380, NRS 193.165); Two (2) Counts of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.380, 193.165); One (1) count of ATTEMPT ROBBERY (Category B Felony – NRS 200.380, 193.330) and One (1) count of POSSESSION OF FIREARM BY EX-FELON (Category B Felony – NRS 202.360).

On October 21, 2013, Mullner was arraigned on the Amended Indictment, and a Guilty Plea Agreement (“GPA”) was filed. The State reserved the full right to argue, including for habitual criminal treatment. Mullner pleaded guilty to the charges alleged in the Amended Indictment. On January 23, 2014, Mullner was adjudged a habitual criminal and sentenced to TEN (10) YEARS to LIFE on Count 1; TEN (10) YEARS to LIFE on COUNT 2 to run consecutive to Count 1; TWO (2) to SIX (6) YEARS on COUNT 3 to run consecutive to COUNT 2; TEN (10) YEARS to LIFE on COUNT 4 to run concurrent to Count 3; TEN (10) YEARS to LIFE on COUNT 5 to run concurrent to Count 4; TEN (10) YEARS to LIFE on COUNT 6 to run concurrent to COUNT 5; TEN (10) YEARS

1 to LIFE on COUNT 7 to run concurrent to COUNT 6; TEN (10) YEARS to LIFE on COUNT 8 to run  
2 concurrent to COUNT 7; TEN (10) YEARS to LIFE on COUNT 9 to run concurrent to COUNT 8;  
3 and ONE (1) to FOUR (4) YEARS on COUNT 10 to run consecutive to COUNT 9. Mullner received  
4 FIVE HUNDRED SEVENTY-TWO (572) DAYS credit for time served. On January 28, 2014, the  
5 Judgment of Conviction was filed. On February 5, 2014, an Amended Judgment of Conviction was  
6 filed because of a clerical error which was corrected to read as follows; COUNT 7 – ATTEMPT  
7 ROBBERY.

8 On April 15, 2014, Mullner filed an untimely Notice of Appeal after repeatedly requested that  
9 his attorney do so with no success. On April 17, 2014, Mullner filed a Writ of Mandamus. On May 13,  
10 2014, the Nevada Supreme Court issued an Order of Dismissal because Mullner's untimely filed his  
11 Notice of Appeal. Remittur issued on June 12, 2014. On June 13, 2014, Mullner filed a Petition for  
12 Writ of Habeas Corpus. On June 13, 2014, Mullner filed a Motion for Appointment of Counsel and  
13 Request for Evidentiary Hearing. On May 22, 2014, the Court appointed Jean Schwartzer as counsel  
14 for Mullner. Mullner files the instant Supplemental Memorandum of Points and Authorities in Support  
15 of his Petition for Writ of Habeas Corpus (Post-Conviction).

### 16 **STATEMENT OF FACTS**

17 Between the dates of April 11, 2012 and June 30, 2012, a series of 14 robberies were  
18 committed in Las Vegas, Nevada and Henderson, Nevada. A man entered these stores and demanded  
19 that the cash registers be emptied. He accomplished this by simulating the act of holding a weapon  
20 under his shirt, showing the handle of knife tucked into his pants or wielding a fake handgun. After  
21 the last robbery of a Subway sandwich shop on June 30<sup>th</sup>, one of the victims followed the fleeing  
22 perpetrator; he watched the man get into an older model mini-van and collected a partial plate number  
23 for police officers.

24 After the June 30, 2012 robbery of a Subway, Las Vegas Metro Police Department ("Metro")  
25 Officers reviewed surveillance video and determined that the suspect matched the description of a  
26 serial robbery suspect identified as Mullner. Metro officers constructed two photo line-ups using  
27 recent photographs of Mullner and presented them to the two victims/eyewitnesses of the June 30<sup>th</sup>  
28 robbery. Both witnesses identified Mullner as the suspect.



1 Metro officers located Mullner's mini-van parked in front of a house and began surveillance of  
2 the vehicle. After witnessing Mullner's presence at the home, Metro officers obtained and executed a  
3 search warrant for the house and mini-van. Mullner, along with other individuals in the house, exited  
4 the house as directed and without any use of force and without incident. During a search of the  
5 property Metro Officers found two cell phones, multiple articles of clothing supposedly worn during  
6 the robberies, and a fake gun; all such items belonged to Mullner.

7 Dayna Curliss, Mullner's girlfriend, stated during an interview that she was unaware of  
8 Mullner committing any robberies, but that Mullner had told her previously that he owns a gun.  
9 Curliss had never actually seen the gun. Curliss also stated that Defendant is an alcoholic and  
10 suspected Mullner of smoking meth due to his recent weight loss.

11 After the execution of the warrant, Mullner was read his Miranda rights, which he later  
12 waived. Mullner admitted to committing the June 30<sup>th</sup> Subway robbery along with thirteen other  
13 robberies. He further stated that he had used a fake handgun on one of the robberies. He voluntarily  
14 identified himself in the surveillance photographs. During his interview, Mullner also admitted to  
15 having a methamphetamine addiction and stated that he committed the robberies to pay his bills as  
16 well as to support his drug habit.

## 17 ARGUMENT

### 18 **I. GROUND ONE: MULLNER DID NOT ENTER HIS PLEA** 19 **KNOWINGLY, INTELLIGENTLY OR** 20 **VOLUNTARILY <sup>1</sup>**

21 NRS 176.165 states that a motion to withdraw a plea of guilty may be made only before  
22 sentence is imposed, but: "[t]o correct manifest injustice, the court after sentence may set aside the  
23 judgment of conviction and permit the defendant to withdraw his plea." See NRS 176.165; Baal v.  
24 State, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990). Three important factors in making the  
25 determination of the presence of a "manifest injustice" are whether the defendant: 1) acted

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26 1 Pursuant to Harris v. State, a post-conviction Petition for Writ of Habeas Corpus is now the  
27 exclusive remedy for challenging the validity of a guilty plea made after sentencing. 130 Nev. Adv.  
28 Op at 18, overruling Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000)(holding that a request to withdraw  
a guilty must be raised in a Motion and not a post-conviction Petition for Writ of Habeas Corpus).

1 voluntarily; 2) understood the nature of the charges against him; and 3) understood the consequences  
2 of his plea. Bryant v. State, 102 Nev. 268, 273, 721 P.2d 364, 368, Wilson v. State, 99 Nev. 362, 373,  
3 664 P.2d 328, 334 (1983). In determining whether a guilty plea is knowingly and voluntarily entered,  
4 the court will review the totality of the circumstances surrounding the defendant's plea. Bryant, 102  
5 Nev. at 271. This includes, but is not limited to, a canvass wherein the court personally addresses the  
6 defendant at the time he enters his plea in order to determine whether he understands the nature of the  
7 charges to which he is pleading. Id.; State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000).  
8 The inquiry into the voluntariness of a plea involves not only the canvass but the totality of  
9 circumstances surrounding the plea. Bryant, 102 Nev. at 271.

10 On October 21, 2013, Mullner entered his plea of guilty to Counts 1 through 10. Prior to  
11 entering this plea, his attorney reviewed the GPA with him and informed him that he would be  
12 receiving one sentence of ten (10) to twenty-five (25) years. Instead Mullner received a sentence of,  
13 *inter alia*, three consecutive ten (10) to life terms and a term of twelve (12) to forty-eight (48) months,  
14 amounting to a total sentence of thirty-one (31) years on the bottom end with the potential of a life  
15 term. While the GPA does mention the small and large habitual term, it does so after specifying the  
16 potential sentence for each count individually. (See GPA at 2-3, attached hereto as Exhibit 1). The  
17 GPA then outlines the habitual criminal ranges but fails to state that the habitual sentence can be  
18 applied to each count as opposed to functioning as only one sentence. (Exhibit 1 at 3-4). Due to the  
19 discussion with his attorney as well as the language in the GPA, it is very plausible that Mullner  
20 believed that he could get either the ten individual sentences on each count (to run either  
21 consecutively or concurrently at the Court's discretion) or one habitual sentence. This specific aspect  
22 of the GPA was not addressed during the plea canvass. (See Transcript of Entry of Plea, *generally*,  
23 attached hereto as Exhibit 2). Therefore, Mullner did not enter his plea knowingly or intelligently and  
24 he requests that the Court allow him to withdraw his plea of guilty. 2

25  
26  
27 2 Additionally, Mullner believes that the GPA he signed is not the GPA filed with the Court. Mullner  
28 believes pages were switched after he signed but before filing. This is based upon Mullner's  
allegations in his pro per Petition for Writ of Habeas Corpus. (See Pro Per Petition for Writ of Habeas  
Corpus at 7-8, attached hereto as Exhibit 3).

## 1           **II.       GROUND TWO:     DEPRIVATION OF APPEAL**

2           The United States Supreme Court requires courts to review three factors when determining  
3 whether a defendant was deprived of his right to an appeal: 1) whether the defendant asked counsel to  
4 file an appeal; 2) whether the conviction was the result of a trial or a guilty plea; and 3) whether the  
5 defendant had any non-frivolous issues to raise on appeal. Roe v. Ortega, 528 U.S. 470, 480, 120 S.  
6 Ct. 1029, 1036 (2000). The Nevada Supreme Court has held that the court can assess the credibility  
7 of witnesses when conducting an evidentiary hearing to determine whether a defendant was deprived  
8 of an appeal. Barnhart v. State, 122 Nev. 301, 130 P.3d 650, 652 (2006).

9           Mullner asked his attorney repeatedly to file a direct appeal. However, his attorney did not do  
10 so. While Mullner's conviction was the result of a guilty plea agreement, the appellate issues he  
11 wishes to raise relate to his sentence. Therefore, the fact that his conviction is the result of a guilty  
12 plea agreement is a factor that should not be weighed heavily if at all. The following issues are not  
13 frivolous and warrant appellate review:

### 14                   **A.       Mullner's Sentence Amounts to Cruel and Unusual Punishment**

15           The Eighth Amendment to the United States Constitution as well as Article 1, Section 6 of the  
16 Nevada Constitution prohibits the imposition of cruel and unusual punishment. The Nevada Supreme  
17 Court has stated that "[a] sentence within the statutory limits is not 'cruel and unusual punishment  
18 unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably  
19 disproportionate to the offense as to shock the conscience.'" Allred v. State, 120 Nev. 410, 92 P.2d  
20 1246, 1253 (2004) *quoting* Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) *quoting*  
21 Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)(emphasis added); *see also*  
22 Harmelin v. Michigan, 501 U.S. 957, 1001, 111 S.Ct. 2680, 115 L.Ed.2d 836 (1991) (plurality  
23 opinion) *quoting* Solem v. Helm, 463 U.S. 277, 288, 103 S.Ct. 3001, 77 L.Ed.2d 637 (1983).

24           Here, Mullner pleaded guilty to committing numerous robberies and burglaries. That being  
25 said, this was done over the course of three months, and appears to have been drug fueled. He  
26 admitted to stealing a total of \$3,089.40 combined from fourteen different victims. Although  
27 someone could have been harmed physically and no doubt there was a certain amount of emotional  
28 and mental harm, no one was physically harmed and the monetary impact on each individual victim

1 was not incredibly large. Therefore, his sentence of thirty-one (31) years to life is so unreasonably  
2 disproportionate to the offense as to shock the conscience and amounts to cruel and unusual  
3 punishment in violation of The Eighth Amendment to the United States Constitution as well as Article  
4 1, Section 6 of the Nevada Constitution. Allred v. State, 120 Nev. 410, 92 P.2d at 1253. Therefore, on  
5 appeal, Mullner would argue that his sentenced should be reduced.

6  
7 **B. The District Court Erred in Adjudicating Mullner a Large Habitual**  
8 **Criminal Based Upon Stale Prior Convictions and a Conviction Stemming**  
9 **from an Crime Committed as a Juvenile**

10 On March 13, 2013, the State filed a Notice of Intent to Seek Punishment as a Habitual  
11 Criminal pursuant to NRS 207.012 and NRS 207.101. (See Notice of Intent to Seek Punishment as a  
12 Habitual Criminal, attached hereto as Exhibit 4). In this Notice the State listed following three prior  
13 convictions: 2006 Robbery in Case No. C226003 (Clark County, Nevada); 1997 Second Degree  
14 Kidnapping in Case No C134348 (Clark County, Nevada); and 1984 First Degree Robbery in Case  
15 No. CR84-147 (South Dakota). Exhibit 4 at 2. Although the state sought habitual criminal treatment  
16 under either NRS 207.012 or NRS 207.010, it appears from the Judgment of Conviction and the  
17 sentencing transcript that Mullner was adjudicated a Large Habitual Criminal under NRS 207.010.  
18 (See Judgment of Conviction at 2, attached hereto as Exhibit 5; See Transcript of Sentencing at 3-4,  
19 attached hereto as Exhibit 6).

20 NRS 207.010 provides in relevant part:

21 1. Unless the person is prosecuted pursuant to NRS 207.012 or 207.014, a  
22 person convicted in this State of:

23 (a) Any felony, who has previously been two times convicted, whether in this  
24 State or elsewhere, of any crime which under the laws of the situs of the crime  
25 or of this State would amount to a felony is a habitual criminal and shall be  
26 punished for a category B felony by imprisonment in the state prison for a  
27 minimum term of not less than 5 years and a maximum term of not more than  
28 20 years.

(b) Any felony, who has previously been three times convicted, whether in this  
State or elsewhere, of any crime which under the laws of the situs of the crime  
or of this State would amount to a felony is a habitual criminal and shall be

1 punished for a category A felony by imprisonment in the state prison:

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

7 Pursuant to NRS 207.010(2), "It is within the discretion of the prosecuting attorney whether to  
8 include a count under this section in any information or file a notice of habitual criminality if an  
9 indictment is found. The trial judge may, at his or her discretion, dismiss a count under this section  
10 which is included in any indictment or information." The purpose of this section is to permit dismissal  
11 "when the prior offenses are stale or trivial, or in other circumstances where an adjudication of  
12 habitual criminality would not serve the purposes of the statute or the interests of justice." Sessions v.  
13 State, 106 Nev. 186, 190, 789 P.2d 1242, 1244 (1990) *quoting* French v. State, 98 Nev. 235, 237, 645  
14 P.2d 440, 441 (1982).

15 In Sessions, Sessions was convicted of drug trafficking and drug possession adjudicated a  
16 Habitual Criminal under NRS 207.010. 106 Nev. at 187, 789 P.2d at 1242-43. Sessions was sentenced  
17 to, *inter alia*, life without the possibility of parole. Id. at 187-88, 789 P.2d at 1243. The prior  
18 convictions used to obtain habitual criminal status were for theft, grand theft and escape, which  
19 ranged from twenty-three (23) to thirty (30) years old. Id. The high Court held that it was an abuse of  
20 discretion for the district court to sentence Sessions as a Habitual Criminal and impose the maximum  
21 sentence because "surely a case involving crimes less violent and more stale than presented here  
22 would be hard to find; hence, the adjudication of habitual criminality in this case serves neither the  
23 purpose of the statute nor the interests of justice." Id. at 191, 789 P.2d at 1245.

24 Here, Mullner had three prior felony convictions, which were used to adjudicate Mullner a  
25 Large Habitual Criminal. At the time of the commission of these crimes, these convictions were six  
26 (6), fifteen (15) and twenty-eight (28) years old. The fifteen (15) year old conviction for Second  
27 Degree Kidnapping is arguably stale and the twenty-eight (28) year old conviction for Robbery is  
28 most certainly stale. More important is the fact that Mullner was a juvenile at the time he committed

1 this stale crime. (See Presentence Investigation Report at 5). <sup>3</sup>

2 Juvenile convictions are civil in nature pursuant to Chapter 62 of the Nevada Revised Statutes  
3 and that because of this, the activity is not “felonious.” In State v. Javier, this Court recently  
4 addressed the civil nature of juvenile adjudications. 289 P.3d 1194, 128 Nev. Adv. Op. 50 (Oct. 4,  
5 2012). In Javier, Javier C. was adjudicated delinquent and committed to the Nevada Youth Training  
6 Center (NYTC), “a state facility for the detention or commitment of [delinquent] children.” NRS  
7 62A.330. While there, he allegedly battered a group supervisor. The State charged him as an adult  
8 with battery by a prisoner under NRS 200.481(2)(f), a category B felony. Id. The Court dismissed and  
9 held that, because Javier C.’s detention at NYTC was civil, not criminal, he was not a “prisoner” to  
10 whom NRS 200.481(2)(f) could apply. Id. The State appealed. Id. However, the Supreme Court of  
11 Nevada disagreed and held that Javier’s confinement was civil in nature, not criminal, and that he was  
12 not a prisoner for purposes of the charge of battery by a prisoner, despite the fact that had he  
13 committed these crimes as an adult, he would have been in prison being punished for a felony. Id., at  
14 1196-97.

15 While Mullner recognizes that Chapter 62 of the Nevada Revised Statutes and the Supreme  
16 Court’s holding in Javier are not directly applicable to the instant case due to the fact that, according  
17 to his PSI, Mullner was certified up as an adult, Muller would ask on appeal that the Supreme Court  
18 extend its holding in Javier to instances where a juvenile is certified up to District Court and then  
19 convicted of a felony. The argument would be that this felony conviction, although not a juvenile  
20 adjudication, is the result of the actions of a juvenile, and therefore it should not be used to enhance  
21 the sentence of the defendant twenty-eight (28) years later. This argument is not frivolous in nature,  
22 Mullner has a right to make this argument on appeal, and that right was denied when his counsel  
23 refused to file a notice of appeal on his behalf.

24 Mullner has requested an evidentiary hearing pursuant to NRS 34.770 for every ground raised  
25 in the instant Supplemental Memorandum, discussed *infra* in section III of the instant pleading.  
26 However, he is also entitled to an evidentiary hearing specifically with respect to his deprivation of

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27  
28 <sup>3</sup> This document is not attached due to privacy concerns. However, a courtesy copy will be provided to the Court.

1 appeal claim pursuant to Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003), Lozada v. State, 110  
2 Nev. 349, 871 P.2d 944 (1994), and Roe v. Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000).

3  
4  
5 **III. MULLNER IS ENTITLED TO AN EVIDENTIARY HEARING PURSUANT**  
6 **TO NRS 34.770**

7 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. NRS 34.770  
8 provides:

- 9 1. The judge or justice, upon review of the return, answer and all  
10 supporting documents which are filed, shall determine whether an  
11 evidentiary hearing is required. A petitioner must not be discharged  
12 or committed to the custody of a person other than the respondent  
13 *unless an evidentiary hearing is held*.  
14 2. If the judge or justice determines that the petitioner is not entitled  
15 to relief and an evidentiary hearing is not required, he shall dismiss  
16 the petition without a hearing.  
17 3. If the judge or justice determines that an evidentiary hearing is  
18 required, he shall grant the writ and shall set a date for the hearing.

19 The Nevada Supreme Court has held that if a petition can be resolved without expanding the  
20 record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328, 885 P.2d 603  
21 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A defendant is entitled to an  
22 evidentiary hearing if his petition is supported by specific factual allegations, which, if true, would  
23 entitle him to relief unless the factual allegations are repelled by the record. Marshall, 110 Nev. at  
24 1331, 885 P.2d at 605; See also Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984)  
25 (1984) (holding that “[a] defendant seeking post-conviction relief is not entitled to an evidentiary  
26 hearing on factual allegations belied or repelled by the record”). “A claim is ‘belied’ when it is  
27 contradicted or proven to be false by the record as it existed at the time the claim was made.” Mann,  
28 118 Nev. at 354, 46 P.3d at 1230 (2002). The district court cannot rely on affidavits submitted with a  
response or answer in determining whether the factual allegations are belied by the record. Id. at 354-  
56, 46 P.3d at 1230-31. Additionally, the district court cannot make credibility decisions without an  
evidentiary hearing. See Id. at 356, 46 P.3d at 1231 (rejecting suggestion that district court can resolve  
factual dispute within an evidentiary hearing and noting than “by observing the witnesses’ demeanors

1 during an evidentiary hearing, the district court will be better able to judge credibility”).

2 Here, Mullner asserts that he did not enter his plea knowingly, voluntarily, or intelligently  
3 because his previous attorney did not properly advise him with regard to the sentence he was facing.  
4 Mullner also claims that he asked his attorney to file a direct appeal but that his attorney refused.  
5 These claims involve factual allegations that are outside the current record. Therefore, Mullner is  
6 entitled to an evidentiary pursuant to NRS 34.770.

7  
8 **CONCLUSION**

9 Based upon the foregoing TROY LEE MULLNER respectfully requests that the Court grant  
10 his Petition for Writ of Habeas Corpus and allow him appeal his conviction or, in the alternative, set  
11 an evidentiary hearing on all grounds raised in his Petition.

12 DATED this 3<sup>rd</sup> day of December, 2015.

13 Respectfully submitted,

14  
15 /s/ Jean J. Schwartzer

16 JEAN J. SCHWARTZER, ESQ.

17 Nevada Bar No. 11223

18 LAW OFFICE OF JEAN J. SCHWARTZER

10620 Southern Highlands Parkway, Suite 110-473

Las Vegas, Nevada 89141

(702) 979-9941

19 Counsel for Petitioner  
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**VERIFICATION**

State of Nevada        )  
                              )ss.  
County of Clark        )

JEAN J. SCHWARTZER, ESQ., declares:

That I am the attorney for TROY MULLNER, the Petitioner in the above entitled action; that I have read the foregoing Supplemental Memorandum of Points and Authorities in Support of his Petition for Writ of Habeas Corpus (Post-Conviction) and know the contents thereof; and that the same is true of my own knowledge except for those matters therein stated on information and belief, and as to those matters, I believe them to be true.

/s/ Jean J. Schwartzer  
Jean J. Schwartzer, Esq.

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**CERTIFICATE OF SERVICE**

**IT IS HEREBY CERTIFIED** by the undersigned that on 3<sup>rd</sup> day of December, 2015, I served a true and correct copy of the foregoing **SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)** on the parties listed on the attached service list via one or more of the methods of service described below as indicated next to the name of the served individual or entity by a checked box:

**VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada.

**VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party who has filed a written consent for such manner of service.

**BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such designated individual whose particular duties include delivery of such on behalf of the firm, addressed to the individual(s) listed, signed by such individual or his/her representative accepting on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document will be maintained with the document and is attached.

**BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the electronic-mail address designated by the attorney or the party who has filed a written consent for such manner of service.

**BY:** /s/ Jean J. Schwartz

**JEAN J. SCHWARTZER, ESQ.**

Nevada Bar No. 11223

Law Office of Jean J. Schwartz

10620 Southern Highlands Parkway, Suite 110-473

Phone: (702) 979-9941

Fax: (702) 447-5044

jean.schwartz@gmail.com

Counsel for Petitioner

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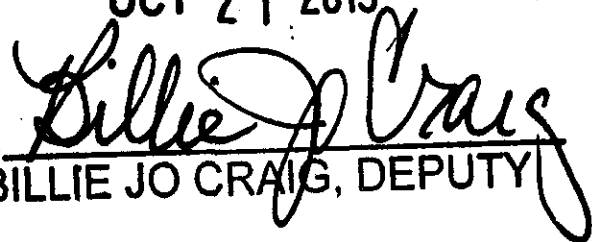
**SERVICE LIST**

<b>ATTORNEYS OF RECORD</b>	<b>PARTIES REPRESENTED</b>	<b>METHOD OF SERVICE</b>
CLARK COUNTY DISTRICT ATTORNEY’S OFFICE 200 E. Lewis Ave Las Vegas, NV 89101  pdmotions@clarkcountyda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service

# EXHIBIT 1

1 **GPA**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ALICIA A. ALBRITTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #9492  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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

OCT 21 2013  
BY   
BILLIE JO CRAIG, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,  
9  
10 Plaintiff,

11 -vs-

12 TROY LEE MULLNER,  
13 #1158825

Defendant.

CASE NO: C-12-283463-1

DEPT NO: XXI

14 GUILTY PLEA AGREEMENT

15 I hereby agree to plead guilty to: BURGLARY (Category B Felony - NRS 205.060);  
16 ROBBERY (Category B Felony - NRS 200.380); COERCION (Category B Felony - NRS  
17 207.190); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B  
18 Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
19 Felony - NRS 200.380, 193.165); ATTEMPT ROBBERY (Category B Felony - NRS  
20 200.380, 193.330) and POSSESSION OF FIREARM BY EX-FELON (Category B Felony -  
21 NRS 202.360), as more fully alleged in the charging document attached hereto as Exhibit  
22 "1".

23 My decision to plead guilty is based upon the plea agreement in this case which is as  
24 follows:

25 The State retains the full right to argue, including for habitual criminal treatment. All  
26 victims originally named in the Indictment have the right speak at sentencing. The  
27 Defendant agrees to pay restitution for all counts, including those to be dismissed. I agree to  
28

1 the forfeiture as set forth in the Stipulation for Compromise of Seized Property which is  
2 attached hereto and incorporated herein by reference as Exhibit 2.

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

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

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

#### 18 CONSEQUENCES OF THE PLEA

19 I understand that by pleading guilty I admit the facts which support all the elements of  
20 the offense(s) to which I now plead as set forth in Exhibit "1".

21 **As to Count 1**, I understand that as a consequence of my plea of guilty the Court  
22 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
23 term of not less than ONE (1) year and a maximum term of not more than TEN (10) years.  
24 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
25 term of imprisonment. I understand that I may also be fined up to \$10,000.00.

26 **As to Counts 2 and 5**, I understand that as a consequence of my plea of guilty the  
27 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
28 minimum term of not less than TWO (2) years and a maximum term of not more than

1 FIFTEEN (15) years. The minimum term of imprisonment may not exceed forty percent  
2 (40%) of the maximum term of imprisonment

3 **As to Count 3**, I understand that as a consequence of my plea of guilty the Court  
4 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
5 term of not less than ONE (1) year and a maximum term of not more than SIX (6) years.  
6 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
7 term of imprisonment. I understand that I may also be fined up to \$5,000.00.

8 **As to Counts 4 and 8**, I understand that as a consequence of my plea of guilty the  
9 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
10 minimum term of not less than TWO (2) years and a maximum term of not more than  
11 FIFTEEN (15) years. The minimum term of imprisonment may not exceed forty percent  
12 (40%) of the maximum term of imprisonment. I understand that I may also be fined up to  
13 \$20,000.00.

14 **As to Counts 6 and 9**, I understand that as a consequence of my plea of guilty the  
15 Court must sentence me to imprisonment in the Nevada Department of Corrections for a  
16 minimum term of not less than TWO (2) years and a maximum term of not more than  
17 FIFTEEN (15) years, plus a minimum term of ONE (1) year and a maximum term of  
18 FIFTEEN (15) years, for the Deadly Weapon enhancement. The minimum term of  
19 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.

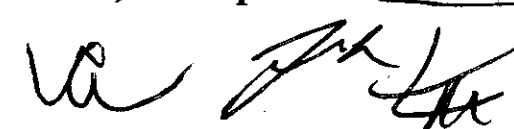
20 **As to Count 10**, I understand that as a consequence of my plea of guilty the Court  
21 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
22 term of not less than ONE (1) year and a maximum term of not more than SIX (6) years.  
23 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
24 term of imprisonment. I understand that I may also be fined up to \$5,000.00.

25 Further, I understand that if I am sentenced under the "small" habitual criminal  
26 enhancement, the Court must sentence me to a term not less than FIVE (5) years and a  
27 maximum of TWENTY (20) years in the Nevada Department of Corrections. I understand  
28 that if I am sentenced under the "large" habitual criminal enhancement the Court must

1 sentence me to LIFE without the possibility of parole; life with the possibility of parole,  
2 parole eligibility begins after a minimum term of TEN (10) years has been served; OR a  
3 definite term of TWENTY FIVE (25) years, parole eligibility begins after a minimum of  
4 TEN (10) years has been served. I understand that the law requires me to pay an  
5 Administrative Assessment Fee.

6 Further, I understand that under NRS 207.012 (2) for the convictions of ROBBERY,  
7 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON, ROBBERY WITH  
8 USE OF A DEADLY WEAPON the Court must sentence me to LIFE without the possibility  
9 of parole in the Nevada Department of Corrections; LIFE with the possibility of parole, with  
10 eligibility for parole beginning when a minimum of 10 years has been served in the Nevada  
11 Department of Corrections; or a definite term of 25 years, with eligibility for parole  
12 beginning when a minimum of 10 years has been served in the Nevada Department of  
13 Corrections.

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

18 ~~I understand that I am eligible for probation for the offense(s) to which I am pleading~~  
19 ~~guilty. I understand that, except as otherwise provided by statute, the question of whether I~~  
20 ~~receive probation is in the discretion of the sentencing judge.~~ 

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

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

28 I also understand that information regarding charges not filed, dismissed charges, or