

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

GARY LAMAR CHAMBERS

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed  
Aug 09 2018 08:42 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
S.Ct. No. 73446  
D.C. No. C292987-1

**APPELLANT'S APPENDIX**

**Volume 3**

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**Chambers v. State Case No. 73446**

**AMENDED INDEX TO APPELLANT'S APPENDIX**

<b><u>Document</u></b>	<b><u>Page</u></b>
Affidavit of CDDA Megan Thomson filed 2/27/2017	199-205
Defendant's Motion in Limine filed 1/26/2016	147-157
Defendant's Proposed Jury Instructions Not Used At Trial filed 2/27/2017	192-198
Defendant's Reply to State's Opp to Motion in Limine filed 4/28/2016	166-169
Defendant's Sentencing Memorandum filed 5/22/2017	290-301
Guilty Plea Agreement filed 3/1/2017	271-280
Information filed 10/10/2013	1-4
Instructions to the Jury filed 3/1/2017	206-267
Judgment of Conviction filed 6/5/2017	302-303
Notice of Appeal filed 7/2/2017	304-306
Notice of Intent to Seek Punishment as a Habitual Criminal filed 2/21/2017	170-172
State's Motion to Admit Preliminary Hearing Transcript filed 2/22/2017	173-175
State's Motion to Use Audio Visual Testimony filed 2/24/2017	176-191
State's Proposed Jury Instructions Not Used At Trial filed 2/27/2017	195-198
State's Opposition to Motion in Limine filed 3/2/2016	158-165
State's Sentencing Memorandum (no exhibits) filed 4/10/2017	281-289
Verdict Form filed 3/1/2017	268-270

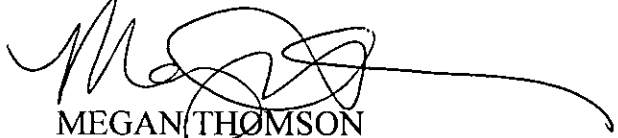
<b><u>Transcript</u></b>	<b><u>Page</u></b>
Transcript of Hearing on Motion in Limine filed 9/13/2017	307-309
Transcript of Jury Trial Day 1 filed 10/30/2017	329-478
Transcript of Jury Trial Day 2 filed 10/31/2017	479-649
Transcript of Jury Trial Day 3 filed 10/31/2017	650-818
Transcript of Jury Trial Day 4 filed 10/31/2017	819-990
Transcript of Jury Trial Day 5 filed 10/31/2017	991-1106
Transcript of Jury Trial Day 5 Errata filed 8/3/2017	1216-1270
Transcript of Jury Trial Day 6 filed 10/31/2017	1107-1194
Transcript of Jury Trial Day 7 filed 10/31/2017	1195-1215
Transcript of Sentencing filed 9/13/2017	310-328

1 f. An attempt to locate her through Welfare/EBT records showed that  
2 her EBT account was not currently working but historically was  
3 often used at the neighborhood store near the Lady Lucille address  
4 with the last usage being 2/20/17

5 6. It should be noted that the relatives she listed when going through child  
6 custody included Dawn Chambers the Defendant's wife who has been  
7 present in the Court room for the majority of the proceedings and whom  
8 Bridgette has on her facebook as her children's grandmother. The  
9 Defendant is listed as their grandfather.

10 I declare under penalty of perjury under the law of the State of Nevada that the  
11 foregoing is true and correct.

12  
13 Executed on 27 Feb 17  
14 (Date)

  
MEGAN THOMSON  
Chief Deputy District Attorney  
Nevada Bar #11002

15  
16 SWORN AND SUBSCRIBED BY DISTRICT COURT  
17 JUDGE.

  
RICHARD SCOTT

18  
19  
20  
21  
22  
23  
24  
25  
26  
27 a/L-4

## Megan Thomson

---

**From:** Megan Thomson  
**Sent:** Wednesday, February 22, 2017 5:37 PM  
**To:** 'bridgette graham'  
**Cc:** Richard Moon  
**Subject:** RE: SUBPOENA in (c292987) State v. CHAMBERS, GARY  
**Attachments:** DOC022217-02222017171625.pdf

Hey Bridgette,

Like I told you, wanted to let you know that the warrant was issued, but since you won't be back til Sunday, you should be fine. We will see you Monday morning in Ct Room 11D at 9am, and at that time the Court will quash the warrant.

Please let me know that you got this.

Thank you

Megan

**From:** bridgette graham [mailto:bridgettegraham35@gmail.com]  
**Sent:** Tuesday, February 21, 2017 6:51 PM  
**To:** Megan Thomson <Megan.Thomson@clarkcountyda.com>  
**Cc:** Richard Moon <Richard.Moon@clarkcountyda.com>  
**Subject:** RE: SUBPOENA in (c292987) State v. CHAMBERS, GARY

Ok arrive Sunday promise

On Feb 21, 2017 5:49 PM, "Megan Thomson" <Megan.Thomson@clarkcountyda.com> wrote:

If you come Monday we will ask that the warrant be quashed without you being arrested.

**From:** bridgette graham [mailto:bridgettegraham35@gmail.com]  
**Sent:** Tuesday, February 21, 2017 5:48 PM  
**To:** Megan Thomson <Megan.Thomson@clarkcountyda.com>  
**Cc:** Richard Moon <Richard.Moon@clarkcountyda.com>  
**Subject:** RE: SUBPOENA in (c292987) State v. CHAMBERS, GARY

Sorry I just buried my grandmother today I'm a little bit under stress but my family don't want to leave until my grandpa is taking care of and they won't be in till Friday

**EXHIBIT "1"**

On Feb 21, 2017 5:41 PM, "Megan Thomson" <Megan.Thomson@clarkcountyda.com> wrote:

Thank you for letting me know, I will ask for the warrant for your arrest tomorrow.

**From:** bridgette graham [mailto:[bridgettegraham35@gmail.com](mailto:bridgettegraham35@gmail.com)]

**Sent:** Tuesday, February 21, 2017 5:40 PM

**To:** Megan Thomson <[Megan.Thomson@clarkcountyda.com](mailto:Megan.Thomson@clarkcountyda.com)>

**Cc:** Richard Moon <[Richard.Moon@clarkcountyda.com](mailto:Richard.Moon@clarkcountyda.com)>

**Subject:** RE: SUBPOENA in (c292987) State v. CHAMBERS, GARY

I'm not coming period so please stop asking I don't know shit nor do I remember anything so leave me tf alone

On Feb 21, 2017 5:33 PM, "Megan Thomson" <[Megan.Thomson@clarkcountyda.com](mailto:Megan.Thomson@clarkcountyda.com)> wrote:

Hi Bridgette,

Do you plan to come back tonight or tomorrow? Just figuring out if we should plan for you to testify tomorrow afternoon or on Thursday.

Thank you,

Megan

**From:** bridgette graham [mailto:[bridgettegraham35@gmail.com](mailto:bridgettegraham35@gmail.com)]

**Sent:** Monday, February 20, 2017 12:30 PM

**To:** Megan Thomson <[Megan.Thomson@clarkcountyda.com](mailto:Megan.Thomson@clarkcountyda.com)>

**Cc:** Richard Moon <[Richard.Moon@clarkcountyda.com](mailto:Richard.Moon@clarkcountyda.com)>

**Subject:** Re: SUBPOENA in (c292987) State v. CHAMBERS, GARY

i jus told my family how important this is and im driving back in a hour so be there by the morning

On Feb 20, 2017 11:51 AM, "bridgette graham" <[bridgettegraham35@gmail.com](mailto:bridgettegraham35@gmail.com)> wrote:

well i dont know anything so y come i really don't and my gma funeral is tomorrow

On Feb 20, 2017 11:28 AM, "Megan Thomson" <[Megan.Thomson@clarkcountyda.com](mailto:Megan.Thomson@clarkcountyda.com)> wrote:

When do you get back?

We will need to fly you in for a day and back if you are not coming back this week

Sent from my iPhone

On Feb 19, 2017, at 3:15 PM, bridgette graham <[bridgettegraham35@gmail.com](mailto:bridgettegraham35@gmail.com)> wrote:

im not in vegas family emergency im in texas

On Feb 15, 2017 3:33 PM, "Richard Moon" <[Richard.Moon@clarkcountyda.com](mailto:Richard.Moon@clarkcountyda.com)> wrote:

PLEASE CALL ASAP

Ric Moon  
Criminal Investigator II  
Office of the District Attorney  
Office: (702) 671-2797  
Cell: \_\_\_\_\_  
Fax: (702) 455-6447  
Email: [Richard.Moon@ClarkCountyDA.com](mailto:Richard.Moon@ClarkCountyDA.com)

-----Original Message-----

From: Richard Moon  
Sent: Tuesday, January 24, 2017 9:11 AM  
To: 'bridgettegraham35@gmail.com' <[bridgettegraham35@gmail.com](mailto:bridgettegraham35@gmail.com)>  
Subject: SUBPOENA in (c292987) State v. CHAMBERS, GARY

This is SUBPOENA TO APPEAR IN COURT ON February 21,2017

PLEASE CALL/EMAIL ME UPON RECIEPT OF THIS EMAIL TO VERIFY YOU HAVE RECEIVED IT.

ANY QUESTIONS MY CONTACT IS BELOW.

THANK YOU,

Ric Moon  
Criminal Investigator II  
Office of the District Attorney  
Office: (702) 671-2797  
Cell:  
Fax: (702) 455-6447  
Email: Ricahard.Moon@ClarkCountyDA.com



ORIGINAL

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

1 INST

MAR - 1 2017

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

BY

*A. M. Brown*  
AJA M. BROWN, DEPUTY

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -vs-

8 GARY LAMAR CHAMBERS,

9 Defendant.

CASE NO: C-13-292987-1

DEPT NO: II

10 INSTRUCTIONS TO THE JURY

11 (INSTRUCTION NO. 1)

12 MEMBERS OF THE JURY:

13  
14 It is now my duty as judge to instruct you in the law that applies to this case. It is your  
15 duty as jurors to follow these instructions and to apply the rules of law to the facts as you find  
16 them from the evidence.

17 You must not be concerned with the wisdom of any rule of law stated in these  
18 instructions. Regardless of any opinion you may have as to what the law ought to be, it would  
19 be a violation of your oath to base a verdict upon any other view of the law than that given in  
20 the instructions of the Court.  
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C-13-292987-1  
INST  
Instructions to the Jury  
4628148



AA206

62

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Information that on or about the 9th day of July, 2013 the Defendant committed the offense of BURGLARY WHILE IN POSSESSION OF A FIREARM; MURDER WITH USE OF A DEADLY WEAPON; ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON; ATTEMPT MURDER WITH USE OF A DEADLY WEAPON; BATTERY WITH USE OF A DEADLY WEAPON.

COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

did then and there willfully, unlawfully, and feloniously enter, while in possession of a firearm, with intent to commit robbery, and/or larceny and/or assault and/or battery that certain building occupied by LISA PAPOUTSIS, located at 3610 North Las Vegas Boulevard, Space 45, Las Vegas, Clark County, Nevada, the Defendant did possess and/or gain possession of a deadly weapon consisting of a firearm during the commission of the crime and/or before leaving the structure.

COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

did then and there willfully, feloniously, without authority of law, and with malice aforethought, kill GARY BLY, a human being, by shooting the said GARY BLY in the head, with a deadly weapon, to-wit: a firearm, during the commission of the crime, said killing having been (1) willful, deliberate and premeditated; and/or (2) committed during the perpetration or attempted perpetration of robbery.

COUNT 3 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

did then and there willfully, unlawfully and feloniously attempt to take personal property, to-wit: U.S. currency, from the person of LISA PAPOUTSIS, or in her presence, by means of force or violence, or fear of injury to, and without the consent and against the will of the said LISA PAPOUTSIS, by pointing a gun at the said LISA PAPOUTSIS and demanding her money, Defendant using a deadly weapon, to-wit: a gun, during the commission of said crime.

1 COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 did then and there, without authority of law, and malice aforethought, willfully and  
3 feloniously attempt to kill LISA PAPOUTIS, a human being, by shooting at and into the said  
4 LISA PAPOUTIS, with a deadly weapon, to-wit: a firearm.

5 COUNT 5 - BATTERY WITH USE OF A DEADLY WEAPON

6 did then and there willfully, unlawfully and feloniously use force or violence upon the  
7 person of another, to-wit: LISA PAPOUTSIS, with use of a deadly weapon, to-wit: a  
8 firearm, by shooting at and into the hand of the said LISA PAPOUTSIS with said firearm.

9 It is the duty of the jury to apply the rules of law contained in these instructions to the  
10 facts of the case and determine whether or not the Defendant is guilty of one or more of the  
11 offenses charged.

12 Each charge and the evidence pertaining to it should be considered separately. The  
13 fact that you may find a defendant guilty or not guilty as to one of the offenses charged  
14 should not control your verdict as to any other defendant or offense charged.

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

A person who, a person who, by day or night, enters any building, with the intent to commit larceny, assault or battery on any person and/or any felony, is guilty of Burglary.

In the State of Nevada, the crime of robbery is a felony.

INSTRUCTION NO. 6

If you find that the State has not proven beyond a reasonable doubt that the Defendant by day or night, entered any building, with the specific intent to commit robbery and/or larceny and/or assault and/or battery and/or a felony on any person, he is entitled to a verdict of not guilty of Burglary While in Possession of a Firearm.

AA212

Larceny is defined as the stealing, taking and carrying away of the personal goods or property of another with the intent to permanently deprive the owner thereof.



INSTRUCTION NO. 8

Assault is defined as the unlawfully attempting to use physical force against another person; or intentionally placing another person in reasonable apprehension of immediate bodily harm.

AA214

Battery is defined as the willful and unlawful use of force or violence upon the person of another.

The force used by the defendant need not be violent or severe, and need not cause bodily pain or bodily harm. Any slight touching by the defendant upon the person of another suffices, as long as the touching was intentional and unwanted.

The word "willfully", when applied to the intent with which an act is done, implies simply a purpose or willingness to commit the act in question. It does not require in its meaning that the defendant held any intent to violate any law, or to injure another, or to acquire any advantage.

It is not necessary that the State prove the defendant actually committed a larceny and/or an assault and/or a battery and/or a felony inside the building after he entered in order for you to find him guilty of Burglary. The gist of the crime of Burglary is the unlawful entry with criminal intent. Therefore, a Burglary was committed if the defendant entered the building with the intent to commit a larceny and/or an assault and/or a battery and/or a felony regardless of whether or not that crime occurred.

INSTRUCTION NO. 11

The intention with which entry was made is a question of fact which may be inferred from the defendant's conduct and all other circumstances disclosed by the evidence.

AA217

Consent to enter is not a defense to the crime of burglary so long as it is shown that entry was made with the specific intent to commit a larceny and/or an assault and/or a battery and/or a felony therein.

“Breaking” is not an element of the offense.

Every person who commits the crime of Burglary, who has in his possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure, or upon leaving the structure, is guilty of Burglary While in Possession of a Firearm.

If you find beyond a reasonable doubt that a firearm was possessed or gained during the commission of the crime, at any time before leaving the structure, or upon leaving the structure, then you shall return the appropriate guilty verdict reflecting "While in Possession of a Deadly Weapon."

If, however, you do not find that a firearm was possessed or gained during the commission of the crime, at any time before leaving the structure, or upon leaving the structure, but you find that a Burglary was committed, then you shall return the appropriate guilty verdict reflecting that the Burglary was not committed while in possession of a deadly weapon.

Every person who, in the commission of a Burglary, commits any other crime, may be prosecuted for each crime separately.

INSTRUCTION NO. 15

In this case the defendant is accused in an Information alleging an open charge of murder. This charge includes and encompasses murder of the first degree, murder of the second degree, and voluntary manslaughter.

The jury must decide if the defendant is guilty of any offense and, if so, of which offense.

AA221



Murder is the unlawful killing of a human being, with malice aforethought, whether express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, not alone from anger, hatred, revenge or from particular ill will, spite or grudge toward the person killed, but may result from any unjustifiable or unlawful motive or purpose to injure another, which proceeds from a heart fatally bent on mischief or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes rather an unlawful purpose and design in contradistinction to accident and mischance.

Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

The prosecution is not required to present direct evidence of a defendant's state of mind as it existed during the commission of a crime, and the jury may infer the existence of a particular state of mind from the circumstances disclosed by the evidence.

1  
2 Murder of the first degree is murder which is perpetrated by means of any kind of  
3 willful, deliberate, and premeditated killing. All three (3) elements -- willfulness,  
4 deliberation, and premeditation -- must be proven beyond a reasonable doubt before an  
5 accused can be convicted of first-degree murder.

6 Willfulness is the intent to kill. There need be no appreciable space of time between  
7 formation of the intent to kill and the act of killing.

8 Deliberation is the process of determining upon a course of action to kill as a result of  
9 thought, including weighing the reasons for and against the action and considering the  
10 consequences of the actions.

11 A deliberate determination may be arrived at in a short period of time. But in all  
12 cases the determination must not be formed in passion, or if formed in passion, it must be  
13 carried out after there has been time for the passion to subside and deliberation to occur. A  
14 mere unconsidered and rash impulse is not deliberate, even though it includes the intent to  
15 kill.

16 Premeditation is a design, a determination to kill, distinctly formed in the mind by the  
17 time of the killing.

18 Premeditation need not be for a day, an hour, or even a minute. It may be as  
19 instantaneous as successive thoughts of the mind. For if the jury believes from the evidence  
20 that the act constituting the killing has been preceded by and has been the result of  
21 premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.  
22  
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The law does not undertake the measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as First Degree Murder

INSTRUCTION NO. 22

The intention to kill may be ascertained or deduced from the facts and circumstances of the killing, such as the use of a weapon calculated to produce death, the manner of its use, and the attendant circumstances characterizing the act.

AA228

There are certain kinds of murder which carry with them conclusive evidence of malice aforethought. One of these classes of murder is murder committed in the perpetration or attempted perpetration of a robbery. Therefore, a killing which is committed in the perpetration of or attempted perpetration of robbery, is deemed to be First Degree Murder, whether the killing was intentional or unintentional or accidental. This is called the Felony-Murder rule.

The intent to perpetrate or attempt to perpetrate a robbery must be proven beyond a reasonable doubt. In order for the Felony-Murder Rule to apply under a robbery, the intent to take the property must be formed prior to the act constituting the killing. You are instructed that the Defendant does not have to be charged with robbery in order for you to find the Defendant guilty of First Degree Murder pursuant to the Felony-Murder Rule.



Although your verdict must be unanimous as to the charge, you do not have to agree on the theory of liability. Therefore, even if you cannot agree on whether the facts establish that the defendant is guilty of premeditated and deliberate murder, or Felony Murder, or both, so long as all of you all agree that the evidence establishes the defendant's guilt beyond a reasonable doubt of First Degree Murder, your verdict shall be guilty of First Degree Murder.

If you find that the State did not prove beyond a reasonable doubt that the Defendant neither premeditated and deliberated before the killing, nor prove beyond a reasonable doubt that the killing was committed during the perpetration or attempted perpetration of robbery, you must find him not guilty of Murder in the First Degree.

Murder of the Second Degree is murder with malice aforethought, but without the admixture of premeditation and deliberation.

All murder which is not Murder of the First Degree is Murder of the Second Degree.

1  
2       You are instructed that if you find that the State has established that the defendant has  
3 committed First Degree Murder you shall select First Degree Murder as your verdict. The  
4 crime of First Degree Murder includes the crime of Second Degree Murder. You may find  
5 the defendant guilty of Second Degree Murder if:

6       1. You have not found, beyond a reasonable doubt, that the defendant is guilty of First  
7 Degree Murder, and

8       2. All twelve of you are convinced beyond a reasonable doubt that the defendant is  
9 guilty of the crime of Second Degree Murder.

10       If you are convinced beyond a reasonable doubt that the crime of Murder has been  
11 committed by the defendant, but you have a reasonable doubt whether such murder was of  
12 the first or of the second degree, you must give the defendant the benefit of that doubt and  
13 return a verdict of Second Degree Murder.

Manslaughter is the unlawful killing of a human being without malice express or implied and without any mixture of deliberation

Voluntary Manslaughter is a voluntary killing upon a sudden quarrel or heat of passion, caused by a provocation apparently sufficient to make the passion irresistible.

The provocation required for Voluntary Manslaughter must either consist of a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing. The serious and highly provoking injury which causes the sudden heat of passion can occur without direct physical contact

For the sudden, violent impulse of passion to be irresistible resulting in a killing, which is Voluntary Manslaughter, there must not have been an interval between the assault or provocation and the killing sufficient for the voice of reason and humanity to be heard; for, if there should appear to have been an interval between the assault or provocation given and the killing, sufficient for the voice of reason and humanity to be heard, then the killing shall be determined by you to be murder. The law assigns no fixed period of time for such an interval but leaves its determination to the jury under the facts and circumstances of the case.

The heat of passion which will reduce a homicide to Voluntary Manslaughter must be such an irresistible passion as naturally would be aroused in the mind of an ordinarily reasonable person in the same circumstances. A defendant is not permitted to set up his own standard of conduct and to justify or excuse himself because his passions were aroused unless the circumstances in which he was placed and the facts that confronted him were such as also would have aroused the irresistible passion of the ordinarily reasonable man if likewise situated. The basic inquiry is whether or not, at the time of the killing, the reason of the accused was obscured or disturbed by passion to such an extent as would cause the ordinarily reasonable person of average disposition to act rashly and without deliberation and reflection and from such passion rather than from judgment.

When it is impossible to commit a particular crime without committing, at the same time and by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense."

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may, however, be found guilty of any lesser included offense, if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

The offense of Murder which actually charges the defendant with First Degree Murder necessarily includes the lesser offense of Second Degree Murder.

If you are convinced beyond a reasonable doubt that the crime of murder has been committed by a defendant, but you have a reasonable doubt whether such murder was of the first or of the second degree, you must give the defendant the benefit of that doubt and return a verdict of murder of the second degree.

Voluntary Manslaughter is a lesser included offense of both First and Second Degree Murder. Thus, you may only return a verdict of Voluntary Manslaughter if you first rule out First and Second Degree Murder.

INSTRUCTION NO. 31

Attempted murder is the performance of an act or acts which tend, but fail, to kill a human being, when such acts are done with express malice, namely, with the deliberate intention unlawfully to kill.

AA237



If after consideration of all the evidence you are not convinced beyond a reasonable doubt that Gary Chambers specifically intended to kill Lisa Papoutsis, you must find the Defendant not guilty of Attempt Murder with Use of a Deadly Weapon.

The killing or attempted killing of another person in self-defense is justified and not unlawful when the person who does the killing or attempts to kill actually and reasonably believes:

1. That there is imminent danger that the assailant will either kill him or cause him great bodily injury; and

2. That it is absolutely necessary under the circumstances for him to use in self-defense force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to himself.

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in self-defense, the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

An honest but unreasonable belief in the necessity for self-defense does not negate malice and does not reduce the offense from murder to manslaughter.

INSTRUCTION NO. 34

The right of self-defense is not available to an original aggressor, that is a person who has sought a quarrel with the design to force a deadly issue and thus through his fraud, contrivance or fault, to create a real or apparent necessity for making a felonious assault.

However, where a person without voluntarily seeking, provoking, inviting, or willingly engaging in a difficulty of his own free will, is attacked by an assailant, he has the right to stand his ground and need not retreat when faced with the threat of deadly force.

Actual danger is not necessary to justify a killing in self-defense. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he is about to be killed or suffer great bodily injury; and

2. He acts solely upon these appearances and his fear and actual beliefs; and

3. A reasonable person in a similar situation would believe himself to be in like danger.

The killing is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

INSTRUCTION NO. 36

If evidence of self-defense is present, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty.

AA242

The elements of an attempt to commit a crime are:

- 1) the intent to commit the crime;
- 2) performance of some act towards its commission; and
- 3) failure to consummate its commission.

In determining whether or not such an act was done, it is necessary to distinguish between mere preparation, on the one hand, and the actual commencement of the doing of the criminal deed, on the other. Mere preparation, which may consist of planning the offense or of devising, obtaining or arranging the means for its commission, is not sufficient to constitute an attempt; but acts of a person who intends to commit a crime will constitute an attempt where they themselves clearly indicate a certain, unambiguous intent to commit that specific crime, and, in themselves, are an immediate step in the present execution of the criminal design, the progress of which would be completed unless interrupted by some circumstance not intended in the original design.

While it is true the overt act ought to be a direct unequivocal act done toward the commission of the offense, whenever the design of a person to commit a crime is clearly shown, slight acts done in furtherance thereof will constitute an attempt.

When a person has once done things which constitute an attempt to commit a crime, he cannot avoid responsibility by failing to proceed further to commit that crime, either by reason of voluntarily abandoning his purpose or because he was prevented or interfered with in completing the crime.



An act done with intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime. The act done must be an overt act. It must go beyond mere preparation to commit the crime and tend to accomplish it. The preparation consists in devising or arranging the means or measures necessary for the commission of the offense; the attempt is the direct movement toward the commission after the preparations are made.

If a person intends to commit a crime but, before he commits any act toward the ultimate commission of the crime, he freely and voluntarily abandons his original intent and makes no effort to accomplish it, the crime of attempt has not been committed.

Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or the person or property of a member of his family, or of anyone in his company at the time of the robbery. Such force or fear must be used to:

- (1) Obtain or retain possession of the property,
- (2) To prevent or overcome resistance to the taking of the property, or
- (3) To facilitate escape with the property.

In any case the degree of force is immaterial if used to compel acquiescence to the taking of or escaping with the property. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear.

The value of property or money taken is not an element of the crime of robbery, and it is only necessary that the State prove the taking of some property or money.

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2 It is unnecessary to prove both violence and intimidation. If the fact be attended with  
3 circumstances of threatening word or gesture as in common experience and is likely to create  
4 an apprehension of danger and induce a man to part with his property for the safety of his  
5 person, it is robbery. It is not necessary to prove actual fear, as the law will presume it in  
6 such a case.  
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2       You are instructed that if you find a defendant guilty of attempt robbery, battery,  
3 murder and/or attempt murder, you must also determine whether or not a deadly weapon was  
4 used in the commission of this crime.

5       If you find beyond a reasonable doubt that a deadly weapon was used in the  
6 commission of such an offense, then you shall return the appropriate guilty verdict reflecting  
7 "With Use of a Deadly Weapon".

8       If, however, you find that a deadly weapon was not used in the commission of such an  
9 offense, but you find that it was committed, then you shall return the appropriate guilty  
10 verdict reflecting that a deadly weapon was not used.

A deadly weapon is any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death; or any weapon or device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

You are instructed that a firearm is a deadly weapon.

The State is not required to have recovered the deadly weapon used in an alleged crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon was used in the commission of the crime.

1  
2 The flight of a person after the commission of a crime is not sufficient in itself to  
3 establish guilt; however, if flight is proved, it is circumstantial evidence in determining guilt  
4 or innocence.

5 The essence of flight embodies the idea of deliberately going away with  
6 consciousness of guilt and for the purpose of avoiding apprehension or prosecution. The  
7 weight to which such circumstance is entitled is a matter for the jury to determine.  
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When a trial witness fails, for whatever reason, to remember a previous statement made by that witness, the failure of recollection constitutes a denial of the prior statement and makes it a prior inconsistent statement. The previous statement is not hearsay and may be considered both substantively and for impeachment.

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2       You have received into evidence audio of part of an interview given by Cynthia  
3 Lacey. You are not to speculate about what was redacted.

4       You have received into evidence medical records that have been partially redacted.  
5 You are not to speculate about what was redacted.  
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3       It is a constitutional right of a defendant in a criminal trial that he may not be  
4 compelled to testify. Thus, the decision as to whether he should testify is left to the  
5 defendant on the advice and counsel of his attorney. You must not draw any inference of  
6 guilt from the fact that he does not testify, nor should this fact be discussed by you or enter  
7 into your deliberations in any way.  
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To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two (2) types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the Defendant guilty has been proved, you must be convinced that the State has proved each fact essential to that conclusion beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to find the Defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the Defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.



During the course of this trial, and your deliberations, you are not to:

(1) communicate with anyone in any way regarding this case or its merits-either by phone, text, Internet, or other means;

(2) read, watch, or listen to any news or media accounts or commentary about the case;

(3) do any research, such as consulting dictionaries, using the Internet, or using reference materials;

make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

In arriving at a verdict in this case as to whether the defendant is guilty or not guilty, the subject of penalty or punishment is not to be discussed or considered by you and should in no way influence your verdict.

If the Jury's verdict is Murder in the First Degree, you will, at a later hearing, consider the subject of penalty or punishment.

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesman here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

INSTRUCTION NO. 60

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: \_\_\_\_\_

  
DISTRICT JUDGE

AA266

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his/her counsel.

Readbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a readback, you must carefully describe the testimony to be read back so that the court reporter can arrange his/her notes. Remember, the court is not at liberty to supplement the evidence.

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

MAR - 1 2017 1:42 PM

BY, AJAM BROWN  
AJAM BROWN, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GARY LAMAR CHAMBERS,

Defendant.

CASE NO: C-13-292987-1

DEPT NO: II

VERDICT

We, the jury in the above entitled case, find the defendant GARY LAMAR CHAMBERS, as follows:

**COUNT 1** – BURGLARY WHILE IN POSSESSION OF A FIREARM

*(Please check the appropriate box, select only one)*

- ☐ Guilty of Burglary While in Possession of a Firearm  
☐ Guilty of Burglary Not in Possession of a Firearm  
☒ Not Guilty

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C-13-292987-1  
VER  
Verdict  
4828149



AA268

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2 **COUNT 2** – MURDER WITH USE OF A DEADLY WEAPON

3 *(Please check the appropriate box, select only one)*

- 4 ☐ Guilty of First Degree Murder With Use of a Deadly Weapon
- 5 ☐ Guilty of First Degree Murder Without Use of a Deadly Weapon
- 6 ☒ Guilty of Second Degree Murder With Use of a Deadly Weapon
- 7 ☐ Guilty of Second Degree Murder Without Use of a Deadly Weapon
- 8
- 9 ☐ Guilty of Voluntary Manslaughter With Use of a Deadly Weapon
- 10 ☐ Guilty of Voluntary Manslaughter Without Use of a Deadly Weapon
- 11 ☐ Not Guilty
- 12

13 **COUNT 3** – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

14 *(Please check the appropriate box, select only one)*

- 15 ☐ Guilty of Attempt Robbery With Use of a Deadly Weapon
- 16 ☐ Guilty of Attempt Robbery Without Use of a Deadly Weapon
- 17 ☒ Not Guilty
- 18

19 **COUNT 4** – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

20 *(Please check the appropriate box, select only one)*

- 21 ☒ Guilty of Attempt Murder With Use of a Deadly Weapon
- 22 ☐ Guilty of Attempt Murder Without Use of a Deadly Weapon
- 23 ☐ Not Guilty

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**COUNT 5 – BATTERY WITH USE OF A DEADLY WEAPON**

*(Please check the appropriate box, select only one)*

- ☒ Guilty of Battery With Use of a Deadly Weapon  
☐ Guilty of Battery Without Use of a Deadly Weapon  
☐ Not Guilty

DATED this 1 day of ~~February~~ <sup>MARCH</sup>, 2017

  
FOREPERSON

# ORIGINAL

## MEMO

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MEGAN THOMSON  
Chief Deputy District Attorney  
Nevada Bar #11002  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

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

MAR - 1 2017

BY, *A. M. Brown*

DISTRICT COURT  
CLARK COUNTY, NEVADA

AJAM. BROWN, DEPUTY

C-13-292987-1

GPA

Guilty Plea Agreement

4828150



THE STATE OF NEVADA,

Plaintiff,

-vs-

GARY LAMAR CHAMBERS,  
#877763

Defendant.

CASE NO: C-13-292987-1

DEPT NO: II

## GUILTY PLEA MEMORANDUM

I hereby plead guilty to: **OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, as more fully alleged in the charging document attached hereto as Exhibit "1".

I understand the State has the unqualified right to argue for any legal sentence and term of confinement allowable for the crime(s) to which I am pleading guilty, including the use of any prior convictions I may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without the possibility of parole, life with the possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the possibility of parole after ten (10) years.

## CONSEQUENCES OF THE PLEA

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

I understand that as a consequence of my plea of guilty the Court must sentence me to

1 imprisonment in the Nevada Department of Corrections for a minimum term of not less than  
2 ONE (1) year and a maximum term of not more than SIX (6) years. The minimum term of  
3 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I  
4 understand that I may also be fined up to \$5,000.00. I understand that the law requires me to  
5 pay an Administrative Assessment Fee.

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

10 I understand that I am eligible for probation for the offense to which I am pleading  
11 guilty. I understand that, except as otherwise provided by statute, the question of whether I  
12 receive probation is in the discretion of the sentencing judge.

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

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

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

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

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

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

28 I understand that if the offense(s) to which I am pleading guilty was committed while I

1 was incarcerated on another charge or while I was on probation or parole that I am not eligible  
2 for credit for time served toward the instant offense(s).

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

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

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

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

#### 21 WAIVER OF RIGHTS

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

- 24 1. The constitutional privilege against self-incrimination, including the right  
25 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.
- 26 2. The constitutional right to a speedy and public trial by an impartial jury,  
27 free of excessive pretrial publicity prejudicial to the defense, at which  
trial I would be entitled to the assistance of an attorney, either appointed  
28 or retained. At trial the State would bear the burden of proving beyond  
a reasonable doubt each element of the offense(s) charged.

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

I understand that my plea to Count 6, Ownership or Possession of Firearm by Prohibited Person, will in no way affect my appeal rights as to the charges upon which I was found guilty by the jury.

#### VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

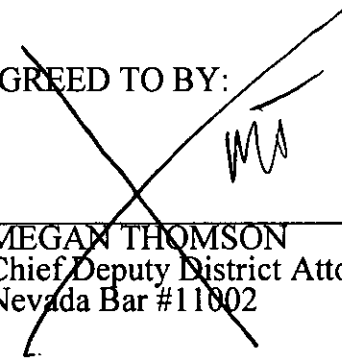
1 agreement or the proceedings surrounding my entry of this plea.

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

4 DATED this 15<sup>th</sup> day of March, 2017.

5  
6   
7 GARY LAMAR CHAMBERS  
8 Defendant

9 AGREED TO BY: 

10  
11   
12 MEGAN THOMSON  
13 Chief Deputy District Attorney  
14 Nevada Bar #11002  
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1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court  
3 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 restitution  
7 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.

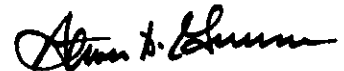
18 Moreover, I have explained that regardless of what Defendant may have been  
19 told by any attorney, no one can promise Defendant that this conviction will not  
20 result in negative immigration consequences and/or impact Defendant's ability  
21 to become a United States citizen and/or legal resident.

- 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.

29 Dated: This 15<sup>th</sup> day of March, 2017.

30   
31 ATTORNEY FOR DEFENDANT

32 ckb/L4



CLERK OF THE COURT

1 INFM  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 MEGAN THOMSON  
6 Chief Deputy District Attorney  
7 Nevada Bar #011002  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

12 I.A. 10/14/13  
13 9:30 A.M.  
14 YANEZ, A.

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 GARY LAMAR CHAMBERS,  
19 #877763

20 Defendant.

Case No: C-13-292987-1  
Dept No: XV

# INFORMATION

21 STATE OF NEVADA }  
22 COUNTY OF CLARK } ss.

23 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State  
24 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That GARY LAMAR CHAMBERS, the Defendant(s) above named, having  
26 committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM**  
27 **(Category B Felony - NRS 205.060); MURDER WITH USE OF A DEADLY WEAPON**  
28 **(Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT ROBBERY WITH**  
**USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.330, 193.165);**  
**ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony -**  
**NRS 193.330, 200.010, 200.030, 193.165); BATTERY WITH USE OF A DEADLY**  
**WEAPON (Category B Felony - NRS 200.481) and POSSESSION OF A FIREARM BY**  
**EX-FELON (Category B Felony - NRS 202.360), on or about the 9th day of July, 2013,**

EXHIBIT "1"

AA277



1 within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes  
2 in such cases made and provided, and against the peace and dignity of the State of Nevada,

3 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

4 did then and there wilfully, unlawfully, and feloniously enter, while in possession of a  
5 firearm, with intent to commit robbery, and/or larceny and/or assault and/or battery that  
6 certain building occupied by LISA PAPOUTSIS, located at 3610 North Las Vegas  
7 Boulevard, Space 45, Las Vegas, Clark County, Nevada, the Defendant did possess and/or  
8 gain possession of a deadly weapon consisting of a firearm during the commission of the  
9 crime and/or before leaving the structure.

10 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

11 did then and there wilfully, feloniously, without authority of law, and with malice  
12 aforethought, kill GARY BLY, a human being, by shooting the said GARY BLY in the  
13 head, with a deadly weapon, to-wit: a firearm, during the commission of the crime, said  
14 killing having been (1) willful, deliberate and premeditated; and/or (2) committed during the  
15 perpetration or attempted perpetration of robbery.

16 COUNT 3 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

17 did then and there wilfully, unlawfully and feloniously attempt to take personal  
18 property, to-wit: U.S. currency, from the person of LISA PAPOUTSIS, or in her presence,  
19 by means of force or violence, or fear of injury to, and without the consent and against the  
20 will of the said LISA PAPOUTSIS, by pointing a gun at the said LISA PAPOUTSIS and  
21 demanding her money, Defendant using a deadly weapon, to-wit: a gun, during the  
22 commission of said crime.

23 COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

24 did then and there, without authority of law, and malice aforethought, willfully and  
25 feloniously attempt to kill LISA PAPOUTIS, a human being, by shooting at and into the said  
26 LISA PAPOUTIS, with a deadly weapon, to-wit: a firearm.

27 //

28 //

1 COUNT 5 - BATTERY WITH USE OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully and feloniously use force or violence upon the  
3 person of another, to-wit: LISA PAPOUTSIS, with use of a deadly weapon, to-wit: a  
4 firearm, by shooting at and into the hand of the said LISA PAPOUTSIS with said firearm.

5 COUNT 6 - POSSESSION OF FIREARM BY EX-FELON

6 did then and there wilfully, unlawfully, and feloniously own or have in his possession,  
7 or under his control, a weapon, to-wit: a firearm, the said Defendant being an ex-felon,  
8 having in 2003, been convicted of Robbery With Use of a Deadly Weapon and First Degree  
9 Kidnapping, in Case No. C185775 and having in 1997, been convicted of Larceny from the  
10 Person, in Case No. C142992 and having in 1997, been convicted of Larceny from the  
11 Person, in Case No. C142991, in the 8th Judicial District Court, Clark County, a felony  
12 under the laws of the State of Nevada.

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

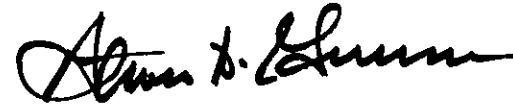
15  
16 BY /s//MEGAN THOMSON  
17 MEGAN THOMSON  
18 Chief Deputy District Attorney  
Nevada Bar #011002

19 Names of witnesses known to the District Attorney's Office at the time of filing this  
20 Information are as follows:

21	<u>NAME</u>	<u>ADDRESS</u>
22	BERG, LANCE – ADDRESS UNKNOWN	
23	BIDDLE, SHEROD – ADDRESS UNKNOWN	
24	BLY, ANGELA – ADDRESS UNKNOWN	
25	BRAHAM, CHARLIE – ADDRESS UNKNOWN	
26	BROSNAHAN, BRETT – LVMPD P#13927	
27	BUNTING, CHRIST – LVMPD P#6484	
28	COLLINS, ERIC – LVMPD P#3744	

1 CUSTODIAN OF RECORDS – CLARK COUNTY DETENTION CENTER  
2 CUSTODIAN OF RECORDS – CLARK COUNTY FIRE-RESCUE DEPT.  
3 CUSTODIAN OF RECORDS – LVMPD COMMUNICATIONS  
4 CUSTODIAN OF RECORDS – LVMPD RECORDS  
5 CUSTODIAN OF RECORDS – MEDIC WEST  
6 CUSTODIAN OF RECORDS – NLV FIRE-RESCUE DEPT.  
7 DARR, ANNETTE – LVMPD P#5485  
8 FENRICH, ERIC – LVMPD P#13145  
9 GILLIS, MATTHEW – LVMPD P#6432  
10 GRAHAM, BRIDGE – ADDRESS UNKNOWN  
11 GRIEVE, BRADLEY – ADDRESS UNKNOWN  
12 LACEY, CYNTHIA – ADDRESS UNKNOWN  
13 MCCARTHY, JASON – LVMPD P#4715  
14 PAPOUTSIS, LISA – ADDRESS UNKNOWN  
15 PLUMLEE, DANIEL – ADDRESS UNKNOWN  
16 POMEROY, DEBRA – 106 WEST COLONIAL ST., WOODBURY, TN 37190  
17 RAETZ, DEAN – LVMPD P#4234  
18 RODRIGUEZ, MICHAEL – LVMPD P#12717  
19 ROGERS, ROBERT – LVMPD P#2858  
20 SHEPERSKY, DANIEL – 3610 N. LAS VEGAS BLVD., #62, LVN 89115  
21 TELGENHOFF, DR. GARY – CLARK COUNTY CORONER  
22 TERRELL, MICHAEL – ADDRESS UNKNOWN  
23 WATTS, JOE – DISTRICT ATTORNEY INVESTIGATOR  
24  
25  
26

27 DA#13F11113X/mmw/GCU  
28 LVMPD EV#1307091392  
(TK5)



CLERK OF THE COURT

**MEMO**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MEGAN THOMSON  
Chief Deputy District Attorney  
Nevada Bar #11002  
200 Lewis Avenue  
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(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GARY LAMAR CHAMBERS,  
#877763

Defendant.

CASE NO: C-13-292987-1

DEPT NO: II

**SENTENCING MEMORANDUM**

DATE OF HEARING: April 18, 2017  
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MEGAN THOMSON, Chief Deputy District Attorney, and hereby submits this Memorandum for the Court's consideration.

**REQUESTED SENTENCE**

NRS 207.012 provides:

1. A person who:

(a) Has been convicted in this State of a felony listed in subsection 2; and

(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere,

1 is a habitual felon and **shall** be punished for a category A felony  
2 by imprisonment in the state prison:

3 (1) For life without the possibility of parole;

4 (2) For life with the possibility of parole, with eligibility  
5 for parole beginning when a minimum of 10 years has been  
6 served; or

7 (3) For a definite term of 25 years, with eligibility for  
8 parole beginning when a minimum of 10 years has been served.

9 2. The **district attorney shall** include a count under this  
10 section in any information or shall file a notice of habitual felon  
11 if an indictment is found, if each prior conviction and the alleged  
12 offense committed by the accused constitutes a violation of  
13 subparagraph (1) of paragraph (a) of subsection 1 of NRS  
14 ...200.310...or 200.380...

15 3. The trial judge **may not** dismiss a count under this  
16 section that is included in an indictment or information.

17 As this Court is well aware, NRS 200.310 defines the elements and degrees of Kidnapping  
18 and NRS 200.380 defines the elements and punishment for Robbery.

19 In 2013 the Legislature modified the time of filing the notice of habitual criminality as  
20 outlined in NRS 207.016. "[U]nless the Legislature clearly expresses its intent to apply a law  
21 retroactively, Nevada law requires the application of the law in effect at the time of the  
22 commission of a crime." State v. Second Judicial Dist. Court (Pullin), 124 Nev. 564, 567, 188  
23 P.3d 1079, 1081 (2008). Recently in an unpublished order, the Nevada Appellate Court  
24 addressed the time of filing of a notice of habitual criminal treatment and found that the statute  
25 in place at the time of the offense was the Statute which controlled the filing deadline. Butler  
26 v. State, 2016 Nev. App. Unpub. LEXIS 456, 1 (Nev. Ct. App. Nov. 18, 2016). The  
27 Amendment to the Statute requiring notice to be filed two (2) days in advance of trial took  
28 effect October 1, 2013 and the murder for which the Defendant was convicted took place July  
9, 2013 clearly placing the crime before the new statute and time line took effect.

1 The Legislature has been very clear that where someone has two prior convictions and  
2 a new finding of guilt and each of the cases are one of these two offenses, violent offenses,  
3 that individual is too dangerous to merit a sentence under the traditional sentencing ranges.  
4 Furthermore, the Legislature has stated that punishment under what is known as the Violent  
5 Habitual Criminal Statute is Mandatory. As such, the State requests the following sentences  
6 for the crimes the Defendant has been found to have committed:

7 Count 2 - 2nd Degree Murder with Use of a Deadly Weapon

8 For life without the possibility of parole pursuant to NRS 207.012

9 Count 4 - Attempt Murder with Use of a Deadly Weapon

10 For life without the possibility of parole pursuant to NRS 207.012 concurrent to

11 Count 2

12 Count 5 – Battery with Use of a Deadly Weapon

13 For life without the possibility of parole pursuant to NRS 207.010 concurrent to

14 Count 2

15 Count 6 – Possession of Firearm by Ex-Felon

16 For life without the possibility of parole pursuant to NRS 207.010 concurrent to

17 Count 2

### 18 ARGUMENT

19 The purpose behind habitual criminal status is to increase sanctions for the recidivist  
20 and to discourage repeat offender. Odoms v. State, 102 Nev. 27, 32, 714 P.2d 568, 571 (1986).

21 The Defendant is the archetype of the habitual criminal. On June 24, 1986 the Defendant  
22 became an adult, turning 18 years old. On July 24, 1987 the Defendant was arrested on his  
23 first felony, and began his long battle with drugs and ultimate career of robbery. The  
24 Defendant's first arrest for robbery occurred in November of 1988 however that charge was  
25 denied. Then on January 17, 1990 the Defendant was arrested and charged with Robbery and  
26 Battery with Intent to Commit a Crime (Robbery) and ultimately convicted of the Robbery on  
27 May 3, 1990 and was sentenced to four years in prison (4), expiring his sentence May 24,  
28 1992. In that case, C093296, officers observed a traffic accident at 6<sup>th</sup> and St. Louis when a

1 red pick-up truck ran the stop sign and was hit by another car that had the right of way. Officers  
2 then observed the passenger, later identified as the Defendant, Gary Chambers, get out of the  
3 vehicle and run to nearby bushes hiding something in them before returning to the truck.  
4 Nearly simultaneously dispatch broadcast a strong arm robbery had occurred at 6<sup>th</sup> and Sahara,  
5 the perpetrators fleeing in a red pick-up bearing the same plate as the one the officers witnessed  
6 run the stop sign. After Miranda, the Defendant told the officer "we have been busted. I  
7 snatched her purse," referring to the victim Arlene Chandler. The Defendant went on to  
8 describe that he and the driver had been driving around looking to get money and rock cocaine  
9 when he observed Arlene behind the Marie Calendar's at 6<sup>th</sup> and Sahara and told the driver to  
10 pick him up that he was going to go get money. The Defendant had run up behind Arlene and  
11 grabbed her purse, however she would not let go of it and he jerked her until she fell down  
12 and then dragged her along the pavement until the purse broke loose from her grasp and he  
13 took off running. The victim was transported to Sunrise Hospital where it was determined she  
14 had suffered a broken arm and shoulder as the result of the robbery. The item the Defendant  
15 had hid in the bush was found to be the victim's purse. This was the moment the Defendant  
16 had to make a choice, after serving his term of imprisonment whether he would address his  
17 drug addiction and become a productive member of society or he would continue his violent  
18 criminal behaviors. The next twenty (20) years demonstrated that he chose to live a criminal  
19 lifestyle on the backs of productive members of our society.

20 In 1996 the Defendant was adjudicated of a Gross Misdemeanor Attempt Possession of  
21 Stolen Vehicle and served seven (7) months in the Clark County Detention Center. Then in  
22 1997, presumably shortly after he was released from the Detention Center the Defendant was  
23 arrested for two new robberies which ultimately became his next two felony convictions.  
24 C142991 and C142992 having received a favorable negotiation were each for Larceny from  
25 the Person. On March 28, 1997 victim Monti Mosseau was asked for a ride by a female to a  
26 location behind Jerry's Nugget. He agreed and when they arrived the female asked him to start  
27 another vehicle. After a short time he went to the house where he had dropped the female off  
28 and when he stepped inside a black male, later identified as the Defendant, came up from

1 behind him, grabbed him by the face and pushed him against the wall and went through his  
2 pockets taking items from them including Mosseau's car keys which he then gave to the  
3 female. The female went to the victim's vehicle locating the victim's wallet and taking cash  
4 from it. The Defendant and the female left together telling the victim that he would be killed  
5 if he left the house before the two were gone. Through investigation officers identified the  
6 Defendant as an individual known as G-Money, later confirmed to be the Defendant.  
7 Thereafter, on April 22, 1997 the Defendant committed crimes which caused him to be  
8 charged with Robbery, Grand Larceny Auto and Kidnapping. On that date Robert Voltz was  
9 at a bar on North Las Vegas Boulevard when he met a female by the name of Summer who  
10 asked him for a ride. When the two stopped outside a hotel a black male, later identified as the  
11 Defendant, popped up from the back seat of the vehicle and held a sharp object to Voltz's neck  
12 and placed him in a choke hold. The female went through the victim's pockets taking all his  
13 personal property, the Defendant then hit Voltz in the side of the head and pushed him from  
14 his vehicle, before jumping into the driver's seat and leaving with the victim's car. Summer  
15 was later identified as the same female who had participated in the robbery of Mosseau about  
16 a month earlier with the Defendant. The Defendant received a sentence of twelve (12) to forty-  
17 eight (48) months in each of these cases running concurrently. He was arrested on parole  
18 violations twice in 1999 and ultimately returned to the prison where he expired his sentence.

19 In 2002 the Defendant sustained his final set of felony convictions before committing  
20 the instant murder. On May 29, 2002 Deshaun Jennings was riding his bike on 30<sup>th</sup> street when  
21 the Defendant stopped him. The Defendant took out a chrome pistol and put it to Jennings'  
22 stomach demanding that Jennings remove his clothing, then the Defendant took Jennings'  
23 watch and told Jennings to leave the area. About a month later, on June 27, 2002 Chambers  
24 and a female went to the Keg Room Bar on Bonanza. Inside the female went to the slot  
25 machines while the Defendant asked where the bathroom was. The Defendant retrieved a small  
26 black pistol and went behind the bar pointing the gun at the bartender and forcing her to the  
27 women's bathroom where he tied her hands with a shoelace and asked her where her money  
28 and car keys were. He threatened her that if she left the bathroom he would blow her head off.



1 The Defendant could be seen on video taking the victim's purse. The victim remained in the  
2 bathroom until she heard the door open and close at which time she left the bathroom and  
3 watched the two drive away in her car. On November 19, 2002 the Defendant was adjudicated  
4 of two counts of Robbery with Use of a Deadly Weapon and one count First Degree  
5 Kidnapping and received a sentence of twenty-six (26) to one hundred- twenty (120) months  
6 on each robbery with an equal and consecutive sentence on each for the deadly weapon  
7 enhancement. Furthermore, he received a sentence of life with the possibility of parole after  
8 five (5) years. After he was paroled he was arrested several times for violations, December  
9 2012, February 2013, May 2013 and finally July 10, 2013 in connection with his arrest on the  
10 instant case. According to witnesses he had been out of custody from the May arrest for a  
11 matter of weeks.

12 This Court sat through the presentation of evidence in the current matter and while the  
13 jury did not find that the State had proven that the Defendant had gone to Lisa Papoutsis's  
14 trailer with the intention of robbing her, the State submits that given his statements to his  
15 family and the fact that he went to her home with a gun in combination with his behavior  
16 afterwards he was clearly there with the intention of something nefarious. Despite being  
17 faced with a life sentence if he committed any significant parole violations, the Defendant did  
18 not alter his behaviors once released. Even taken in the light most favorable to the Defendant  
19 he went to his drug dealers home with a firearm the morning of his parole meeting to purchase  
20 trafficking levels of methamphetamine which he had in his possession when he was arrested  
21 that night. Though not presented to the jury, while the Defense argued that his shooting of  
22 Gary Bly was done in self-defense, the Defendant on the night of the crime told police that  
23 while he was at Lisa's trailer it was a different white guy who had the gun, started the  
24 altercation with Gary Bly and ultimately shot both Bly and Lisa as the Defendant left the  
25 trailer. The State submits that the Defendant's statements, clearly disproven by the evidence,  
26 demonstrate that he went with the firearm and did not act in any part to defend himself.

27 While it is likely that the Defendant was still high from having smoked  
28 methamphetamine with his daughter and girlfriend the night before the murder according to

1 voluntary statements, the Defendant cannot blame his drug addiction for his conduct. He  
2 admitted during his presentence interview from his 2002 conviction that he had a drug problem  
3 and that he had been high during all of his prior offenses including that one. Notably, when  
4 released from prison having claimed to want drug treatment he instead was attempting to cheat  
5 the drug tests his parole officer administered, having gotten a "detox drink" the very day of  
6 our offense in order to avoid having to quit smoking methamphetamine.

7 The Defendant's criminal convictions, all arising from robberies demonstrate a  
8 frightening escalation. Initially he steals a purse from a woman on what appears to be a whim,  
9 dragging her breaking her bones and leaving her in the street. Thereafter he escalates to crimes  
10 involving coaxing his victims into locations of relative seclusion before using force to take  
11 their property, even involving a knife with one of the victims from his 1997 convictions. After  
12 release from prison with less than stellar record on parole from those crimes he escalates to  
13 the use of a gun. Of note, despite the fact that he had already sustained three felony convictions  
14 in 2002 he possessed at least two different firearms after his release from prison as one victim  
15 described a chrome firearm and the other a black gun, which was later located in his home. In  
16 addition to threatening the lives of the victims in 2002, he also bound the bartender,  
17 demonstrating an escalation even beyond the use of a weapon. In the instant case, while on  
18 parole with just short of the most serious penalty hanging over his head the Defendant again  
19 procures another weapon and takes it with him to his drug dealer's trailer, the same drug dealer  
20 who he had bragged that he was going to rob to take her money and drugs. The Defendant in  
21 2013 then escalated yet again, his violence and decisions resulting in the loss of Gary Bly's  
22 life for no reason other than Mr. Bly was in the trailer when the Defendant came to with his  
23 loaded gun, demonstrating his willingness not to use the weapon only for intimidation but an  
24 acceptance of the possibility of shooting the weapon.

25 The Defendant's criminal conduct over the last nearly three decades shows that he has  
26 committed his life to one purpose, the victimization and harm of others around him where he  
27 believes he can receive some benefit. In the instant case, had he not illegally possessed a  
28 firearm, had he not taken that firearm to the victim's home there would have been no loss of

1 life that day. It is uncontested that Gary Bly was not making all of the best life decisions, but  
2 he had been in Las Vegas only a short time and his greatest fault was being addicted to  
3 methamphetamine, a crime not punishable by death, but the sentence he received for being at  
4 Lisa's house on July 9, 2013. Gary Bly, though a drug addict, had people who loved him, a  
5 family and parents who are forced to face the fact that their child died before they did. Worse  
6 perhaps the knowledge that he died in a violent way at the hands of a convicted felon on parole  
7 for life. Attached are letters from some of the people whose lives have been affected by the  
8 Defendant's actions that day. Gary Bly's grandparent's write to the Defendant stating that they  
9 forgive him for taking their grandson from them, but the State asks this Court to acknowledge  
10 that while the family may have forgiven they have not forgotten, nor should the Defendant be  
11 allowed to forget what he did, the life he took. Exhibit 1. When the Defendant was released  
12 from prison he was given another chance at life despite his prior crimes, and with that  
13 opportunity granted to him he chose to take the life of Gary Bly, and for that reason he should  
14 not be given another chance to walk as a free man, to obtain another firearm or to take another  
15 life.


### 16 CONCLUSION

17 The Defendant's history demonstrates two things to this Court with absolute clarity, he  
18 is a danger to this community and he will continue to escalate his violence against the  
19 community as long as he is out of custody. As such, his history and behavior deserve a term  
20 of imprisonment without the possibility of parole.

21 DATED this 10 day of April, 2017.

22 Respectfully submitted,

23 STEVEN B. WOLFSON  
24 Clark County District Attorney  
Nevada Bar #001565

25 BY    
26 MEGAN THOMSON  
27 Chief Deputy District Attorney  
Nevada Bar #11002

28 //

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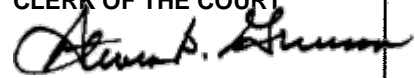
10th, 2017, by Electronic Filing to:

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LeBush

Secretary for the District Attorney's Office

13F11113X: MT/ckb/L4



**MEMO**

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THE STATE OF NEVADA,

Plaintiff,

v.

GARY LAMAR CHAMBERS  
#877763

Defendant.

CASE NO.: C-13-292987-1

DEPT. NO.: II

DATE: May 23, 2017  
TIME: 9:00 a.m.

**SENTENCING MEMORANDUM**

Defendant, GARY LAMAR CHAMBERS (hereinafter "Gary") appears before you today for sentencing. This Memorandum is being submitted to give a more complete picture of Gary and his case than the Pre-Sentence Investigation Report & Supplemental (PSI) reveal. The Court has several options in sentencing Gary based on the charges he was convicted of at trial and pursuant to the State's Notice to Seek Punishment as Habitual Criminal. It is respectfully submitted that a fair, objective, and balanced analysis of Gary's prior history and the facts of this case do not warrant an actual life without parole sentence or a sentence that would, in effect, be a life without parole sentence.

**I. Habitual Criminal/Felon Status is Inapplicable**

Because the State failed to comply with the procedural requirements of N.R.S. § 207.016, the Court cannot sentence Gary pursuant to N.R.S. §§ 207.010 nor 207.012, Nevada's habitual criminal and felon statutes. Trial in this matter started on February 21, 2017, based on an incident that occurred on July 9, 2013. On the same day trial started, the State filed its Notice of Intent to Seek Punishment as a Habitual Criminal. Notably, the Nevada Legislature amended N.R.S. §207.016

**AA290**

1 during the 2013 legislative session to require the Notice to be filed “not less than 2 days before the  
2 start of the trial.” Although the Governor signed the new law on June 1, 2013, the law did not go  
3 into effect until October 1, 2013.

4 The State relies on an unpublished Nevada Court of Appeals decision—which is not binding  
5 on this Court—to argue that it was not required to file the Notice two days before trial. The State  
6 argues that Nevada law requires a court to impose the penalty in effect at the time of the commission  
7 of the offense and not the penalty in effect at the time of sentencing. However, the facts of this case  
8 are different. The amendment to N.R.S. § 207.016 did not change the *penalty* for a finding of  
9 habitual criminal/felon status. Rather, the amendment changed the *procedure* of when notice is to be  
10 given.  
11

12 Gary was arraigned in District Court October 14, 2013, when the State had its first  
13 opportunity to give notice of its intent to seek habitual criminal/felon status. It was a full 13 days  
14 after the new amendment had gone into effect. Therefore, the State had well over three years to give  
15 proper notice, but it failed to do so. The State can provide no good reason why it waited until the day  
16 of trial to give the Notice when it could have easily done so by February 19, 2017, i.e., two days  
17 before trial. In short, it would be a violation of Due Process—both under the Nevada and U.S.  
18 Constitutions—to allow the State to seek habitual criminal/felon status after not complying with the  
19 filing requirements of N.R.S. § 207.016. Therefore, the Court cannot impose habitual criminal/felon  
20 status.  
21

## 22 **II. Evidence Presented at Trial**

23 The PSI gives an “offense synopsis,” which is literally a cut and paste job of the police  
24 report. However, this is not an objective and accurate picture of what happened in this case. Most  
25 importantly, it is not what the jury found based on the verdict it reached. The alleged victims in this  
26 case were both drug dealers and drug users. Both were living inside a trailer that flagrantly  
27  
28

1 acknowledged that drugs could be purchased there. *See* Ex. "A." Indeed, the State of Nevada  
2 conclusively found that alleged victim Lisa Papoutsis was not an actual "victim" and denied her  
3 financial assistance under the State's Victims of Crime Program. *See* Ex. "B."

4 The evidence presented at trial clearly showed that in July of 2013, Gary was abusing  
5 methamphetamines. He purchased drugs at Lisa's and Gary Bly's trailer on several prior occasions.  
6 On the day of the shooting, Gary drove over to the trailer and walked in the front door to purchase  
7 more meth. He took his wallet out to pay for the drugs, but a heated argument ensued between Gary  
8 and Lisa over the amount to be paid. Mr. Bly backed up Lisa and pulled out a gun to challenge Gary.  
9 A struggle occurred over the gun and both Lisa and Mr. Bly were shot. Unfortunately, Mr. Bly died  
10 from his injuries. Scared and shocked, Gary fled the scene, leaving his wallet behind inside the  
11 trailer. Afterwards, medical testing showed both Lisa and Mr. Bly had large amounts of meth and  
12 other illegal substances in their systems.  
13

14  
15 In short, although Gary should never have been buying and using drugs, this certainly does  
16 not make him a murderer. As even the State acknowledges, Gary has been battling a severe drug  
17 addiction for the past almost 30 years. Additionally, even assuming as true large portions of the  
18 State's theory of what happened in this case, both Lisa and Mr. Bly did not have unclean hands in  
19 this situation and were not true "victims."  
20

### 21 **III. Recommendations & Conclusions**

22 Although Gary has prior felony convictions, he is certainly not the "worst of the worst"  
23 warranting a sentence which would in effect be a life without parole sentence. The Court sat through  
24 and heard the evidence presented to the jury. Undoubtedly, the jury did not believe the State's theory  
25 of the case. Gary's history shows that Gary has had a chronic drug problem and, if not for that  
26 addiction, would not be in the position he is currently in. Accordingly, based on the totality of the  
27  
28

1 facts and circumstances, it is respectfully submitted that the Court follow and impose the following  
2 sentence:

3 **Count 2:**

4 Murder 2nd Degree: 10-Life

5 Deadly Weapon Enhancement (consecutive): 1-20 years.

6 **Count 4 (consecutive to Count 2):**

7 Attempt Murder: 2-20 years

8 Deadly Weapon Enhancement (consecutive): 1-20 years.

9 **Count 5 (concurrent to Count 4):**

10 Battery with Use Deadly Weapon: 2-10 years.

11 *Note: although not a lesser included offense under current Nevada law, the conduct of this charge is  
12 the exact same action that supports Count 4.*

13 **Count 6 (concurrent to Count 5):**

14 Ex-Felon Possession Firearm: 1-6 years

15 As noted above, Gary does not believe that any type of habitual status can legally be imposed  
16 in this case. However, if the Court disagrees with Gary's legal analysis and will consider and impose  
17 habitual status, a couple of important points must be taken into consideration by the Court in  
18 exercising its discretion on this issue. First, only Counts 2 and 4 are subject to the mandatory  
19 provisions of N.R.S. § 207.012. Under this section, the Court should impose a concurrent sentence  
20 of 10-Life.

21 Second, Counts 5 and 6 are subject to the discretionary provisions of N.R.S. §207.010. Under  
22 this section, the Court has the power to dismiss counts "when the prior offenses are stale or trivial, or  
23 in other circumstances where an adjudication of habitual criminality would not serve the purposes of  
24 the statute or the interests of justice." French v. State, 98 Nev. 235, 237, 645 P.2d 440, 441 (1982);  
25 *see also Sessions v. State*, 106 Nev. 186, 191, 789 P.2d 1242, 1245 (1990) (Holding trial court  
26 abused its discretion in finding defendant a habitual criminal based on convictions ranging from 23  
27 to nearly 30 years old). Here, Gary is alleged to have a robbery conviction that is 27-years-old and  
28 two larceny from the person convictions that are 20-years-old.



Additionally, the Nevada Supreme Court has held that “where two or more convictions grow out of the same act, transaction or occurrence, and are prosecuted in the same indictment or information, those several convictions may be utilized only as a single ‘prior conviction’ for purposes of applying the habitual criminal statute.” Rezin v. State, 95 Nev. 461, 462, 596 P.2d 226, 227 (1979). Here, Gary’s alleged 2003 convictions were prosecuted in the same information, and at least two of those convictions—robbery and kidnapping—were also from “the same act, transaction or occurrence.” Therefore, in exercising its discretion, the Court should not impose habitual criminal status as to Counts 5 and 6, as several of Gary’s prior convictions are stale, and, of those convictions that are not, he only has 2 prior convictions remaining.

Submitted by:

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 Attorney for Defendant

**Ex. “A”**

**AA295**

# Rules of House

1. No one after 8:00 pm \* "fucking no one"
2. No fucking trades.
3. All done with people entering house. wait on porch if not back quick and wait longer.

my fucking personal just business.

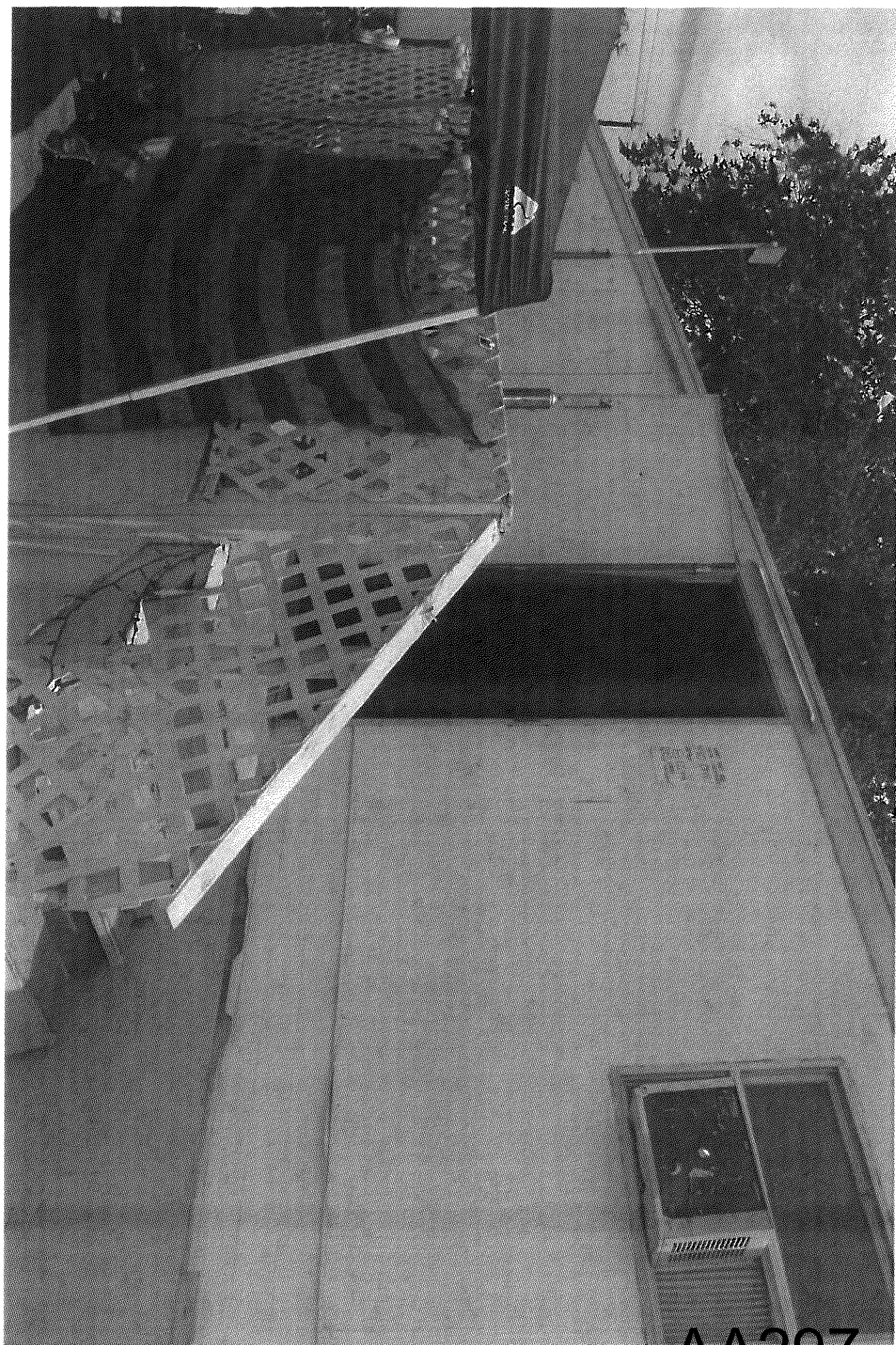
your rules are broken. I will stab you in the neck

"NO EXCEPTIONS" Ditches.

You will only be told

once. very angry dumb





AA297



WHAT DON'T YOU  
GUYS UNDERSTAND  
!NO ONE!

AFTER

8:00 P.M.

DON'T EVEN  
BOTHER KNOCKIN'!

**Ex. “B”**

AA299



State of Nevada  
Victims of Crime Program

Police Report Verification		
Submit this form if Police Report cannot be released for any reason.		
Victim Information		
Victim Name: PAPOUTSIS, LISA	Victim DOB: 06-03-1960	VOCP Claim # 14 10021636-LV
Event # 130709-1342	Crime Date: 07-09-2013	
Crime Location (exact address or cross streets): 3610 N. L.V. BLVD #415 LV, NV 89115		
Crime Information: (Completed by Law Enforcement Officials Only)		
Date of Crime: 07-09-2013	Date Crime Reported: 07-09-2013	
Type of Report or Crime Description: MURDER, ATTEMPT MURDER, ROBBERY		
Were Charges Filed or an Arrest Made: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, please explain:		
Did Victim Cooperate with Police? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, please explain:		
Was the Victim Innocent of wrongdoing? VICTIM IS REPORTED DRUG DEALER IN TRAILER PARK. SUSPECT HAS BOUGHT FROM HER IN PAST & WENT IN TO ROB HER OF DRUGS + MONEY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, please explain:		
Was the Victim physically Injured? <input checked="" type="checkbox"/> Yes If Yes, please describe injuries: SHOT IN HAND <input type="checkbox"/> No		
Is there any additional information about the Crime or Victim the VOCP should consider? <input type="checkbox"/> Yes If Yes, please explain: <input checked="" type="checkbox"/> No		
I am a Law Enforcement Official familiar with the facts of the crime referred to above.		
The information provided herein is true and accurate to the best of my information and belief.		
Authorized Signature: 	Print Signers Name: DEAN RAETZ	Rank or Title: DETECTIVE
Date: 08-05-2013	Tele: 702-828-3521	Email: d4234@PLUMMO.COM
Mail to: VOCP P O Box 94525 Las Vegas, NV 89193-1525	Fax to: (702) 458-5586	Scan and email to: applications@voc-net.com

AA300