

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 005

09/25/97 09:00 AM 00 SENTENCING

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
 JO ANN HANEMAN, Relief Clerk
 CATHY NELSON, Reporter/Recorder

PARTIES: STATE OF NEVADA
 000981 Noxon, Arthur G.
 0001 D1 Pickett, Gary
 005480 Savage, Jordan S.

Y

Y

Y

Y

Larry Scott of the Division of Parole & Probation present. Court noted he has reviewed the Pre-Sentence Report and the Guilty Plea Agreement, noting that if the Court determines anything other than negotiated, either party can determine that the deal is off. Statement by Mr. Noxon. By virtue of Deft's plea, DEFENDANT PICKETT ADJUDGED GUILTY OF COUNT I - GRAND LARCENY (F). Following statements in mitigation of sentencing, Court stated its findings, and ORDERED, in addition to the \$25.00 Administrative Assessment Fee, Defendant SENTENCED to a MINIMUM of THIRTY-SIX (36) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Prisons, SUSPENDED, placed on PROBATION for for an indeterminate period not to exceed FIVE (5) YEARS. CONDITIONS:

1. Search Clause for controlled substances and weapons.
2. Complete Drug Court Program, noting weapons were not involved.
3. Complete long-term counseling, vocational and educational programs as deemed necessary by P & P.
4. Complete eight (8) hours community service per month within the first three (3) years of probation.
5. Pursuant to NRS 176.185, defendant to be supervised in the Nevada Div. of Parole and Probation's House Arrest Program for the first four (4) months of probation.

Deft. to receive 89 days credit for time served. FURTHER, COURT ORDERED, Deft. to report to the Div. of Parole and Probation at 215 East Bonanza immediately upon being released; failure to do so will result in a bench warrant. Bond, if any, exonerated. Mr. Scott stated he will discuss House Arrest with Deft. Court referred matter to Drug Court, and ORDERED, set for FURTHER PROCEEDINGS.

NIC

10-06-97 9:00 AM FURTHER PROCEEDINGS (DEPT X)

CRIMINAL COURT MINUTES

97-C+143146-C STATE OF NEVADA vs Pickett, Gary

CONTINUED FROM PAGE: 006

10/06/97 09:00 AM 00 FURTHER PROCEEDINGS

HEARD BY: Jack Lehman, Judge; Dept. 10

OFFICERS: MELISSA DAVIS, Court Clerk
DEBRA WINN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004353	Pace, Barter G.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
001443	Gibson, David S.	Y

Defendant present in custody on other charges. COURT ORDERED, matter CONTINUED.

BOND (COC)

10/13/97 9AM STATUS CHECK: FURTHER PROCEEDINGS

10/13/97 09:00 AM 00 STATUS CHECK: FURTHER PROCEEDINGS

HEARD BY: Jack Lehman, Judge; Dept. 10

OFFICERS: NANCY NOBLE, Court Clerk
SHARLEEN NICHOLSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004353	Pace, Barter G.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
004620	Grauman, David A.	Y

Defendant stated he is being held on Municipal charge also and will go to court tomorrow. State advised defendant has two charges that he was referred to drug court on from Dept. XI (Ref. C145127). COURT ORDERED, matter CONTINUED. If released defendant to report to Public Defender's office for orientation.

BOND (COC)

CONTINUED TO: 10/20/97 09:00 AM 01

CRIMINAL COURT MINUTES

97-C-143146-C

STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 007

10/20/97 09:00 AM 01 STATUS CHECK: FURTHER PROCEEDINGS

HEARD BY: Jack Lehman, Judge; Dept. 10

OFFICERS: MELISSA DAVIS, Court Clerk
SHARLEEN NICHOLSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004353 Pace, Barter G.	Y
	0001 D1 Pickett, Gary	Y
	PUBDEF Public Defender	Y
	004620 Grauman, David A.	Y

Dean Prater with the Division of Parole and Probation also present. Officer Prater advised there is a hold on defendant and paperwork is being processed for revocation proceedings. COURT ORDERED, matter CONTINUED.

BOND

CONTINUED TO: 11/03/97 09:00 AM 02

10/27/97 09:00 AM 00 STATE'S REQUEST FURTHER PROCEEDINGS

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
RITA LOPEZ, Relief Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	000981 Noxon, Arthur G.	Y
	0001 D1 Pickett, Gary	Y
	PRO SE Pro Se	Y
	005480 Savage, Jordan S.	Y

Dean Prater of the Division of Parole & Probation present. Following conference at the bench, Court noted the new charges have not been formally filed at this point, but it does create a problem as to Drug Court, and ORDERED, Deft. RELEASED only to P & P to be placed on the HOUSE ARREST Program; matter CONTINUED for STATUS CHECK as to Drug Court.

(See C145127)

H.A.

11-03-97 9:00 AM STATUS CHECK: FURTHER PROCEEDINGS (DEPT X)

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 008

11-24-97 9:00 AM STATUS CHECK: DRUG COURT (DEPT XI)

11/03/97 09:00 AM 02 STATUS CHECK: FURTHER PROCEEDINGS

HEARD BY: Jack Lehman, Judge; Dept. 10

OFFICERS: MELISSA DAVIS, Court Clerk
SHARLEEN NICHOLSON, Reporter/RecorderPARTIES: STATE OF NEVADA
005065 Rushton, Kimberly M.
0001 D1 Pickett, Gary
004620 Grauman, David A.Y
Y
N
Y

Defendant not present. COURT ORDERED, BENCH WARRANT WILL ISSUE, NO BAIL.

B.W. (BOND)

11/24/97 09:00 AM 00 STATUS CHECK: DRUG COURT

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
ARLENE BLAZI, Reporter/RecorderPARTIES: STATE OF NEVADA
005122 Savage, Darin
0001 D1 Pickett, Gary
005480 Savage, Jordan S.Y
Y
N
Y

Deft. not present. Mr. Savage stated Deft. is not in jail on any other charges being filed as of yet. State noted Deft. has another case in screening and does not know if it has been filed. Mr. Savage noted the basis of the pending violation was for the new charges and this was calendared to see if the new charges were going to be taken out of screening. Court noted Deft. has an outstanding Bench Warrant as of November 3 from Judge Lehman as to the Drug Court Program. Upon Court's inquiry, Mr. Savage stated Deft. was released to P & P and he has had no contact with him. Court stated he is not aware of any other outstanding cases. Mr. Savage concurred and requested that the State put this matter back on calendar if the new charges are filed. Court directed Mr. Savage to write to Deft. at his last known address advising him to take care of the outstanding Bench Warrant in Drug Court, and ORDERED, this matter OFF CALENDAR.

(See Case C145127)

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 009

B.W. (O.R.)

03/16/98 09:00 AM 00 BENCH WARRANT RETURN

HEARD BY: Jack Lehman, Judge; Dept. 10

OFFICERS: NANCY NOBLE, Court Clerk
SHARLEEN NICHOLSON, Reporter/RecorderPARTIES: STATE OF NEVADA
004353 Pace, Barter G.
0001 D1 Pickett, Gary
004620 Grauman, David A.Y
Y
Y
Y

Upon Court's inquiry, defendant stated he will not be released for at least a month and is in on a probation violation. COURT ORDERED bench warrant QUASHED and if released, defendant to report to the Public Defenders office at 10:20 AM for drug court orientation. Matter CONTINUED for Status Check.

BOND

04/27/98 9:00 AM STATUS CHECK: FURTHER PROCEEDINGS

03/26/98 09:00 AM 00 SET TIME CERTAIN: REVOCATION OF
PROBATION

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
CATHY NELSON, Reporter/RecorderPARTIES: STATE OF NEVADA
005927 De La Garza, Melisa
0001 D1 Pickett, Gary
005480 Savage, Jordan S.Y
Y
Y
Y

At Court's inquiry, both Counsel advised one week would be sufficient. COURT ORDERED matter CONTINUED for revocation hearing.

CUSTODY

4-2-98 10:30 AM REVOCATION OF PROBATION

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 010

04/02/98 10:30 AM 00 REVOCATION OF PROBATION

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
CATHY NELSON, Reporter/RecorderPARTIES: STATE OF NEVADA
005122 Savage, Darin
0001 D1 Pickett, Gary
005480 Savage, Jordan S.Y
Y
Y
Y

Dean Prater of the Division of Parole & Probation present. Mr. Savage stated this matter is resolved: Deft. is prepared to stipulate to the violations and counsel will argue as to what to do. Upon Court's inquiry, Deft. stipulated to the violations, made a statement and requested to be reinstated on probation, noting he will enter the Drug Treatment Program.

Mr. Savage stated Deft. declined an offer that would make this sentence and the sentence imposed in Case C145127 to run concurrent instead of the pending consecutive sentence, noting the offer extended was very favorable and that is why this is distressing; Deft. absconded and was not out there committing new crimes; if the Court is inclined to grant Deft. an in-patient counseling program, he would request that Deft. be released to an in-patient treatment only, and then be brought back here for a Status Check and the parties can argue over what he did in the program, noting he is not requesting an immediate release.

State argued that Deft. needs to help himself, noting Deft. was to do House Arrest, Vocational Training, and Complete Drug Court; within four (4) days of Deft's release, he broke the bracelet and has been gone since November; he requested that Deft. be revoked, noting that in October, 1997, Deft. was picked up for Grand Larceny.

Mr. Prater gave a brief history of the case noting that Deft. was arrested for Grand Larceny and cut the bracelet off; he requested that Deft.'s probation be revoked and the original sentence be imposed.

Further statements by Deft., noting he was only arrested for the new crime.

Court found he is aware of what went on and a number of people, including the Court, attempted to help Deft. address his problems as the Court was aware that they are drug-related; the ultimate problem is that Deft. did not accept responsibility and had a conscious duty to get himself in line, and ORDERED, PROBATION REVOKED; original sentence of MINIMUM of THIRTY-SIX (36) MONTHS and MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS Nevada Department of Prisons, will be imposed with SIXTY-FOUR (64) DAYS Credit for Time Served.

CUSTODY

CONTINUED ON PAGE: 012

PRINT DATE: 02/19/10

PAGE: 011

MINUTES DATE: 04/02/98

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 011

04/14/99 09:00 AM 00 ALL PENDING MOTIONS (04-14-99)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
CATHY NELSON, Reporter/RecorderPARTIES: STATE OF NEVADA
006163 Weckerly, Pamela C.Y
Y

DEFT'S PRO PER MOTION FOR EXTENSION OF TIME, MOTION FOR TRANSCRIPTS, JUDGMENT OF CONVICTION, MOTION FOR PRE-SENTENCING REPORT, SENTENCING TRANSCRIPT, GUILTY PLEA MEMORANDUM, PRE-TRIAL AND ALL POST-TRIAL HEARING TRANSCRIPTS AND AMENDED INFORMATION TO RESPOND TO STATE'S OPPOSITION TO PETITIONERS WRIT OF HABEAS CORPUS...DEFT'S PRO PER PETITION FOR A WRIT OF HABEAS CORPUS (POST-CONVICTION)...DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

AS TO THE FIRST MOTION LISTED, COURT ORDERED motion DENIED. Court advised it would be appropriate to have the file sent to the Defendant by the previous Counsel, Mr. Savage, if he still had it.

AS TO DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, COURT ORDERED motion GRANTED.

AS TO THE DEFT'S PRO PER PETITION FOR A WRIT OF HABEAS CORPUS (POST-CONVICTION), Court advised it was untimely; good cause had not been shown in this matter; and ORDERED, pursuant to NRS 34.726 the Petition was DENIED. Additionally, Court noted for the record, against the Court's advice, Mr. Pickett represented himself. Court further advised the petition was without merit; the Defendant had signed off on the negotiations; and he was canvassed thoroughly; as to Counsel, it was by his own design; and Court had ordered stand-by Counsel for him. State to prepare the order.

NDP

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Allen L. Johnson
CLERK OF THE COURT

2.22.2010

1 FRANKIE SUE DEL PAPA
2 Attorney General
3 By: WILLIAM P. HENRY
4 Senior Deputy Attorney General
5 Nevada Bar No. 101
6 401 South Third Street, #500
7 Las Vegas, NV 89101
8 (702) 486-3420
9 Attorneys for Plaintiff

87
FILED

JUL 28 12 37 PM '94

Loretta Brown
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

11 STATE OF NEVADA,
12 Plaintiff,

13 vs.

14 CARY PICKETT a/k/a
~~GARY PICKETT,~~

Defendant.

CASE NO. C119000
DEPT. NO. VIII
DOCKET "M"

JUDGMENT OF CONVICTION

Date of Hearing: 7/08/94
Time of Hearing: 9 a.m.

20 On the 13th day of April, 1994, defendant CARY PICKETT a/k/a
21 GARY PICKETT pled guilty to the crime of Count I - Escape, a
22 felony, in violation of NRS 212.090.

23 On the 8th day of July, 1994, defendant CARY PICKETT a/k/a
24 GARY PICKETT, being present with his counsel Douglas P. DeJulio,
25 Deputy Public Defender, and William P. Henry, Senior Deputy
26 Attorney General, also being present, the above-entitled court,
27 in addition to requiring payment of a Twenty-five Dollar (\$25)
28 administrative assessment, adjudged the defendant guilty of

CE-01

AUG 01 1994

RA

CE31

20

ATTORNEY
GENERAL'S
OFFICE
NEVADA

STATE'S
EXHIBIT

4

17-10-10
17-2625136

1 Count I - Escape, a felony, and imposed a sentence of two and one-
2 half (2-1/2) years in the Nevada Department of Prisons to run
3 consecutively with the sentence imposed in Case No. C109725.

4 Pursuant to plea negotiation between counsel, Count II was
5 dismissed.

6 THEREFORE, the clerk of the above-entitled court is directed
7 to enter this Judgment of Conviction as part of the record of the
8 above-entitled matter.

9 DATED this 26 day of July, 1994.

10
11 
12 DISTRICT COURT JUDGE *ly*

13 SUBMITTED BY:

14 FRANKIE SUE DEL PAPA
15 Attorney General

16 By: 

17 William P. Henry
18 Senior Deputy Attorney General
19 Nevada Bar No. 101
401 South Third Street, #500
Las Vegas, NV 89101
Attorneys for Plaintiff

20
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ATTORNEY
GENERAL'S
OFFICE

NEVADA

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TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Alan L. Johnson
CLERK OF THE COURT

2-22-2010

FILED IN OPEN COURT
APR 13 1994 19

FRANKIE SUE DEL PAPA
Attorney General
By: WILLIAM P. HENRY
Senior Deputy Attorney General
Nevada Bar No. 101
401 South Third Street, #500
Las Vegas, NV 89101
(702) 486-3420
Attorneys for Plaintiff

LORETTA A. BOWMAN, CLERK
BY *Loretta A. Bowman*
Deputy

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

STATE OF NEVADA,

Plaintiff,

vs.
GARY
~~GARY~~ PICKETT,

Defendant.

CASE NO. C119000
DEPT. NO. VIII
DOCKET "M"

GUILTY PLEA MEMORANDUM

Date of Hearing: 4/13/94
Time of Hearing: 8:45 a.m.

I, *G* GARY PICKETT, unconditionally waive my preliminary hearing and desire to enter a plea of guilty to the offense of Count I, ESCAPE, a felony, as more fully alleged in the Criminal Information, a copy of which is attached hereto.

My decision to plead guilty is based upon the plea bargain in this case which I, my attorney, and the State represent is the following:

/ / / /

/ / / /

ATTORNEY
GENERAL'S
OFFICE
NEVADA
401-N-71



1 1. Defendant agrees to plead guilty to one (1) count of
2 Escape, a felony. At the time of sentencing, the State will not
3 recommend habitual criminal enhancement. In addition, while the
4 State is free to address the Court regarding Defendant's history
5 or claimed motives, it will not recommend any sentence. Finally,
6 all other counts in this Criminal Information will be dismissed.

7 2. By the Defendant entering his plea of guilty and by
8 accepting the terms, conditions and waivers set forth in this
9 Memorandum, the State agrees not to pursue the original charges
10 in this matter, which charges carry a harsher penalty upon
11 conviction than the penalty that he could receive under this
12 Memorandum.

13 CONSEQUENCES OF THE PLEA

14 I understand that by pleading guilty, I admit the facts
15 which support all the elements of the offense to which I now
16 plead.

17 I understand that the consequences of my plea of guilty are:
18 that I may be imprisoned in the Nevada Department of Prisons for
19 a period of up to ten (10) years; I understand that I may also be
20 fined up to \$10,000. I understand that I am required to pay an
21 administrative assessment fee.

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

26 I understand that if I am eligible for probation, whether
27 nor not I receive probation, is solely up to the sentencing
28 judge.

1 I understand that I have been guaranteed no particular
2 sentence by anyone and that sentencing is to be determined solely
3 by the Court.

4 I understand that, if my attorney and the State agree to
5 recommend an appropriate punishment to the Court, the Court is
6 not obligated to accept that recommendation.

7 I also understand that the Department of Parole and
8 Probation will prepare a report for the sentencing judge prior to
9 sentencing. This report will inform the judge of the nature,
10 scope and extent of my conduct regarding the charges against me
11 and related matters. This report will include all matters
12 relevant to the issue of sentencing, including my criminal
13 history. Further, I acknowledge that this report may contain
14 hearsay information regarding my background and criminal history.
15 My attorney and I will both have the opportunity of commenting on
16 information contained in this report at the time of sentencing.
17 If the State has reserved the right to make a sentencing
18 recommendation, then the State may also comment on this report.

19 WAIVER OF RIGHTS

20 In entering this plea of guilty, I know and understand that
21 I am waiving and give up the following constitutional rights and
22 privileges:

23 1. The right to a speedy and public trial by an impartial
24 jury. This right would be free from pretrial publicity. At the
25 time of trial, it would be the burden of the State to prove each
26 and every element of the offense(s) beyond a reasonable doubt.

27 / / / /

28 / / / /

1 2. The right to confront my accusers, that is, the right
2 to confront and cross-examine all witnesses who would testify at
3 trial.

4 3. The right to subpoena witnesses for the trial on my
5 behalf.

6 4. The right to testify in my own defense.

7 5. The right to refuse to testify. In this event, the
8 prosecution would not be allowed to comment to the jury upon my
9 refusal to testify.

10 6. The right to appeal any conviction to the Nevada
11 Supreme Court.

12 7. The right to the assistance of an attorney during all
13 stages of these proceedings.

14 VOLUNTARINESS OF PLEA

15 I have discussed the elements of the offense(s) with my
16 attorney, and I understand the nature of the charge(s) against
17 me.

18 I understand what the State would have to prove against me
19 at trial.

20 I have discussed possible defenses, defense strategies, and
21 circumstances in my favor with my attorney.

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

24 I believe that pleading guilty to the offense set forth in
25 the charging document and the plea bargain are in my best
26 interest, and that a trial would be contrary to my best interest.

27 My plea of guilty is voluntary and not the result of any
28 threats, coercion, or promises of leniency.

1 I am signing this Memorandum voluntarily, after consultation
2 with my attorney, and I am not acting under duress, coercion, or
3 by virtue of any promises of leniency, aside from those recited
4 in this plea agreement.

5 I am not now under the influence of any controlled substance
6 or alcoholic beverage which would impair my ability to comprehend
7 or understand the proceedings surrounding my entry of this plea.

8 DATED this 13 day of April, 1994.

9
10 Cary Pickett
11 CARY PICKETT

12 WITNESSED:

13 Frankie S. Del Papa
14


15 NEVADA BAR NO. 7046

16 FRANKIE SUE DEL PAPA
17 Attorney General

18 By: Karl W. Armstrong
19 for WILLIAM P. HENRY
20 Senior Deputy Attorney General
21 Nevada Bar No. 101
22 Criminal Justice Division
23 401 South Third Street, #500
24 Las Vegas, NV 89101
25 (702) 486-3420
26
27
28

ATTORNEY
GENERAL'S
OFFICE
NEVADA
702-487-1177

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CLERK OF THE COURT

2-22-2010

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA vs Pickett, Cary

04/13/94 08:45 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	0001 D1 Pickett, Cary	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

Carl Armstrong, DAG, present representing the State. Deft. advised his true name is CARY PICKETT. Court amended the Information and memorandum by interlineation to reflect deft.'s true name. Deft. arraigned and pled guilty as charged to Count I - Escape (F). Negotiations: Deft. to plead guilty to Count I; State will dismiss Count II at sentencing and will not seek habitual criminal. Further, State will make no recommendation at sentencing. State and deft. concurred. Following an examination of the deft. Court accepted the memorandum and deft.'s plea, referred the matter to P&P and ORDERED it continued for sentencing.

CUSTODY ... 5/20/94 @ 8:45 A.M. SENTENCING CT I/DISMISSAL CT II

05/20/94 08:45 AM 00 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL/SI, Court Clerk
ALONA CANDITO, Relief Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	000101 Henry, William P.	Y
	0001 D1 Pickett, Cary	Y
	PUBDEF Public Defender	Y
	004546 Brown, Curtis	Y

Tressie Bland of P&P present. Matter trailed and recalled to enable deft. to review the PSI. Deft. stated he doesn't know whether he is prepared to go forward because he just received the PSI and he hasn't had enough time to challenge it. COURT ORDERED, matter continued.

CUSTODY

CONTINUED TO: 06/01/94 08:45 AM 01

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA vs Pickett, Cary

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06/01/94 08:45 AM 01 SENTENCING CT I/DISMISSAL CT II

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: SANDRA ISRAEL, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

George Johnson of P&P present. COURT ORDERED, this matter continued to be heard before Judge Gates.

CUSTODY

CONTINUED TO: 06/17/94 08:45 AM 02

06/17/94 08:45 AM 02 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL, Court Clerk
JOY HINCK, Reporter/Recorder

PARTIES:	0001 D1	Pickett, Cary	N
	PUBDEF	Public Defender	Y
	004546	Brown, Curtis	Y

Joy Mundy-Neal of P&P present. Mr. Brown advised deft. is in custody in the Nevada Department of Prisons. Further, Mr. Henry, DAG, needs the matter continued. COURT ORDERED, matter continued.

CUSTODY (COC-NDP)

CONTINUED TO: 07/01/94 08:45 AM 03

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MINUTES DATE: 06/17/94

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA

vs Pickett, Cary

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07/01/94 08:45 AM 03 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	N
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Larry Scott of P&P present. Mr. Brown stated deft. is in custody in the Nevada Department of Prisons and this matter has been continued several times for his presence. State requested one additional week and it will ensure deft.'s presence. Court Services officer advised deft. is at Indian Springs. COURT ORDERED, matter continued.

CUSTODY (COC-NDP)

CONTINUED TO: 07/08/94 08:45 AM 04

07/08/94 08:45 AM 04 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: LINDA GROVES, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	Y
PUBDEF	Public Defender	Y
001231	DeJulio, Douglas P.	Y

Ms. Maxine Miller, Division of Parole and Probation, present. Mr. DeJulio stated this is Mr. Brown's case and that Mr. Brown wishes to be present at the defendant's sentencing and requested a continuance. Conference at the bench. Mr. DeJulio conferred with defendant. Defendant stated he is ready for sentencing with Mr. DeJulio. DEFENDANT PICKETT ADJUDGED GUILTY OF ESCAPE (F). Statements in mitigation of sentencing. Defendant stated he did not escape with a deadly weapon. Mr. DeJulio requested the Court strike the reference of use with a deadly weapon from the PSI. Mr. Henry stated he had no knowledge of the defendant using a deadly weapon while escaping and had no objection to it being stricken. COURT ORDERED, reference of the defendant using a deadly weapon is STRICKEN from the PSI. COURT ORDERED, in

CONTINUED ON PAGE: 004

PRINT DATE: 02/19/10

PAGE: 003

MINUTES DATE: 07/08/94

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA

vs Pickett, Cary

CONTINUED FROM PAGE: 003

addition to the \$25.00 Administrative Assessment Fee, Deft. SENTENCED to Nevada Department of Prisons for TWO AND ONE HALF (2 1/2) YEARS to run consecutive to C109725 with NO credit for time served. COURT FURTHER ORDERED, Count II is DISMISSED.

NDP

07/25/94 08:45 AM 00 AT REQUEST OF ATTORNEY GENERAL
ORAL MOTION TO AMEND CAPTION

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: LINDA GROVES, Court Clerk
ALONA CANDITO /AC, Relief Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	N
PUBDEF	Public Defender	Y
004735	Roundtree, Stacey	Y

Mr. Henry requested to be allowed to submit a Judgment of Conviction with the defendant's AKA. Ms. Roundtree submitted matter. COURT ORDERED, MOTION GRANTED. Mr. Henry to prepare J.O.C.

NDP

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA vs Pickett, Cary

04/13/94 08:45 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
0001 D1 Pickett, Cary Y
PUBDEF Public Defender Y
004546 Brown, Curtis Y

Carl Armstrong, DAG, present representing the State. Deft. advised his true name is CARY PICKETT. Court amended the Information and memorandum by interlineation to reflect deft.'s true name. Deft. arraigned and pled guilty as charged to Count I - Escape (F). Negotiations: Deft. to plead guilty to Count I; State will dismiss Count II at sentencing and will not seek habitual criminal. Further, State will make no recommendation at sentencing. State and deft. concurred. Following an examination of the deft. Court accepted the memorandum and deft.'s plea, referred the matter to P&P and ORDERED it continued for sentencing.

CUSTODY ... 5/20/94 @ 8:45 A.M. SENTENCING CT I/DISMISSAL CT II

05/20/94 08:45 AM 00 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL/SI, Court Clerk
ALONA CANDITO, Relief Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
000101 Henry, William P. Y
0001 D1 Pickett, Cary Y
PUBDEF Public Defender Y
004546 Brown, Curtis Y

Tressie Bland of P&P present. Matter trailed and recalled to enable deft. to review the PSI. Deft. stated he doesn't know whether he is prepared to go forward because he just received the PSI and he hasn't had enough time to challenge it. COURT ORDERED, matter continued.

CUSTODY

CONTINUED TO: 06/01/94 08:45 AM 01

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA

vs Pickett, Cary

CONTINUED FROM PAGE: 001

06/01/94 08:45 AM 01 SENTENCING CT I/DISMISSAL CT II

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: SANDRA ISRAEL, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

George Johnson of P&P present. COURT ORDERED, this matter continued to be heard before Judge Gates.

CUSTODY

CONTINUED TO: 06/17/94 08:45 AM 02

06/17/94 08:45 AM 02 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL, Court Clerk
JOY HINCK, Reporter/Recorder

PARTIES:	0001 D1	Pickett, Cary	N
	PUBDEF	Public Defender	Y
	004546	Brown, Curtis	Y

Joy Mundy-Neal of P&P present. Mr. Brown advised deft. is in custody in the Nevada Department of Prisons. Further, Mr. Henry, DAG, needs the matter continued. COURT ORDERED, matter continued.

CUSTODY (COC-NDP)

CONTINUED TO: 07/01/94 08:45 AM 03

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA

vs Pickett, Cary

CONTINUED FROM PAGE: 002

07/01/94 08:45 AM 03 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: SANDRA ISRAEL, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	N
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Larry Scott of P&P present. Mr. Brown stated deft. is in custody in the Nevada Department of Prisons and this matter has been continued several times for his presence. State requested one additional week and it will ensure deft.'s presence. Court Services officer advised deft. is at Indian Springs. COURT ORDERED, matter continued.

CUSTODY (COC-NDP)

CONTINUED TO: 07/08/94 08:45 AM 04

07/08/94 08:45 AM 04 SENTENCING CT I/DISMISSAL CT II

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: LINDA GROVES, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000101	Henry, William P.	Y
0001 D1	Pickett, Cary	Y
PUBDEF	Public Defender	Y
001231	DeJulio, Douglas P.	Y

Ms. Maxine Miller, Division of Parole and Probation, present. Mr. DeJulio stated this is Mr. Brown's case and that Mr. Brown wishes to be present at the defendant's sentencing and requested a continuance. Conference at the bench. Mr. DeJulio conferred with defendant. Defendant stated he is ready for sentencing with Mr. DeJulio. DEFENDANT PICKETT ADJUDGED GUILTY OF ESCAPE (F). Statements in mitigation of sentencing. Defendant stated he did not escape with a deadly weapon. Mr. DeJulio requested the Court strike the reference of use with a deadly weapon from the PSI. Mr. Henry stated he had no knowledge of the defendant using a deadly weapon while escaping and had no objection to it being stricken. COURT ORDERED, reference of the defendant using a deadly weapon is STRICKEN from the PSI. COURT ORDERED, in

CONTINUED ON PAGE: 004

PRINT DATE: 02/19/10

PAGE: 003

MINUTES DATE: 07/08/94

CRIMINAL COURT MINUTES

94-C-119000-C STATE OF NEVADA

vs Pickett, Cary

CONTINUED FROM PAGE: 003

addition to the \$25.00 Administrative Assessment Fee, Deft. SENTENCED to Nevada Department of Prisons for TWO AND ONE HALF (2 1/2) YEARS to run consecutive to C109725 with NO credit for time served. COURT FURTHER ORDERED, Count II is DISMISSED.

NDP

07/25/94 08:45 AM 00 AT REQUEST OF ATTORNEY GENERAL
ORAL MOTION TO AMEND CAPTION

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: LINDA GROVES, Court Clerk
ALONA CANDITO /AC, Relief Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	000101 Henry, William P.	Y
	0001 D1 Pickett, Cary	N
	PUBDEF Public Defender	Y
	004735 Roundtree, Stacey	Y

Mr. Henry requested to be allowed to submit a Judgment of Conviction with the defendant's AKA. Ms. Roundtree submitted matter. COURT ORDERED, MOTION GRANTED. Mr. Henry to prepare J.O.C.

NDP

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

John J. Sullivan
CLERK OF THE COURT

2-22-2010

1 FRANKIE SUE DEL PAPA
2 Attorney General
3 By: WILLIAM P. HENRY
4 Senior Deputy Attorney General
5 Nevada Bar No. 101
6 401 South Third Street, #500
7 Las Vegas, NV 89101
8 (702) 486-3420
9 Attorneys for Plaintiff

FILED

MAR 25 11 24 AM '94

Patricia Downman

CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

STATE OF NEVADA,

Plaintiff,

vs.

Cary
~~GARY~~ PICKETT,

Defendant.

Case No. C119000
Dept. No. VIII
Docket "M"

CRIMINAL INFORMATION

Date of Hearing: 4/13/94
Time of Hearing: 8:45 a.m.

FRANKIE SUE DEL PAPA, Attorney General, by William P. Henry,
Senior Deputy Attorney General, informs the court that *GARY*
PICKETT, the defendant above named, has committed the crimes of
Escape, a felony, in violation of NRS 212.090; and Unauthorized
Absence From Place of Classification Assignment, a felony, in
violation of NRS 212.090 and 212.095, in the following manner:

.....
.....
.....

CMC

ATTORNEY
GENERAL'S
OFFICE
NEVADA
10-3611

CE11

COUNT I

ESCAPE

On or about February 26, 1993, the defendant, GARY PICKETT, at and within the Goodsprings Township, County of Clark, State of Nevada, while in the lawful custody of the Nevada Department of Prisons (DOP), after having been convicted of a felony offense in Criminal Case No. C107733, in the Eighth Judicial District Court, Clark County, Nevada, and sentenced on or about December 10, 1992, and after having been convicted of a felony offense in Criminal Case No. C109725, in the Eighth Judicial District Court, Clark County, Nevada, and sentenced on or about January 21, 1993, to terms of imprisonment, did willfully, unlawfully, and feloniously escape from said custody, by means unknown, from the Jean Conservation Camp, Jean, Clark County, Nevada, all of which is a felony in violation of NRS 212.090.

COUNT II

UNAUTHORIZED ABSENCE FROM
PLACE OF CLASSIFICATION ASSIGNMENT

On or about February 26, 1993, the defendant, ^CGARY PICKETT, at and within the Goodsprings Township, County of Clark, State of Nevada, while in the lawful custody of the Nevada Department of Prisons (DOP), after having been convicted of a felony offense in Criminal Case No. C107733 in the Eighth Judicial District Court, Clark County, Nevada, and sentenced on or about December 10, 1992, and after having been convicted of a felony offense in Criminal Case No. C109725, in the Eighth Judicial District Court, Clark County, Nevada, and sentenced on or about January 21, 1993, to terms of imprisonment, did willfully, unlawfully and feloniously,

1 and without authority to do so and by means unknown, make himself
2 absent from his place of classification assignment, specifically
3 the Jean Conservation Camp, Jean, Clark County, Nevada, all of
4 which is a felony in violation of NRS 212.090 and .095.

5 All of the conduct alleged above is contrary to the force and
6 effect of statutes and against the peace and dignity of the State
7 of Nevada.

8 DATED this 24th day of March, 1994.

9 FRANKIE SUE DEL PAPA
10 Attorney General

11 By:

W P Henry
12 William P. Henry
13 Sr. Deputy Attorney General
14 Nevada Bar No. 101
15 401 South Third Street, #500
16 Las Vegas, NV 89101
17 Attorneys for Plaintiff
18
19
20
21
22
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27
28

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Alison L. Lawrence

CLERK OF THE COURT

2-22-2010

FILED

DEC 10 10 35 AM '93

Patricia J. Anderson
CLERK

1 REX BELL
2 DISTRICT ATTORNEY
3 Nevada Bar #001799
4 200 S. Third Street
5 Las Vegas, Nevada 89155
6 (702) 455-4711
7 Attorney for Plaintiff
8 THE STATE OF NEVADA

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11	THE STATE OF NEVADA,)	CASE NO.	C109725
12)		
13	Plaintiff,)	DEPT. NO.	V
14)		
15	-vs-)	DOCKET NO.	H
16)		
17	GARY PICKETT,)		
18	aka Cary Jerard Pickett)		
19	#0725059)		
20)		
21	Defendant.)		

STATE'S
EXHIBIT
5
C262523 5

22 AMENDED

23 JUDGMENT OF CONVICTION (PLEA)

24 WHEREAS, on the 15th day of December, 1992, the defendant GARY
25 PICKETT aka Cary Jerard Pickett, appeared before the Court herein
26 with his counsel and entered a plea of guilty to the crime of
27 ATTEMPT GRAND LARCENY (Felony) committed on the 11th day of
28 November, 1992, in violation of NRS 205.220, 193.330; and

29 WHEREAS, thereafter on the 21st day of January, 1993, the
30 defendant being present in Court with his counsel MARK CICHOSKI,
31 Deputy Public Defender, and JAY L. SIEGEL, Deputy District
32 Attorney, also being present; the above entitled Court did adjudge
33 the defendant guilty thereof by reason of his plea of guilty and
34 sentenced defendant to THREE (3) years in the Nevada State Prison

DEC 07 1993

CE06

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19

1 to run concurrent with C107733. Credit for time served 14 days.

2 \$25.00 Administrative Assessment Fee.

3 WHEREAS, on the 18th day of November, 1993, Defendant's Motion
4 for Amended Judgment of Conviction to Include Jail Time Credits is
5 granted and Defendant given an additional 30 days credit for time
6 served.


7 THEREFORE, the Clerk of the above entitled Court is hereby
8 directed to enter this Judgment of Conviction as part of the record
9 in the above entitled matter.

10 DATED this 19th day of November, 1993, in the City of Las
11 Vegas, County of Clark, State of Nevada.

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14 DISTRICT JUDGE
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26 92-109725X/kjh
27 LVMPD DR#9211111354
28 ATT G/L - F
TK4

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CLERK OF THE COURT

2-22-2010

FILED

MAR 5 10 03 AM '93

Loetta L. Lammie
CLERK

1 REX BELL
2 DISTRICT ATTORNEY
3 Nevada Bar #001799
4 200 S. Third Street
5 Las Vegas, Nevada 89155
6 (702) 455-4711
7 Attorney for Plaintiff
8 THE STATE OF NEVADA
9

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA)
11)
12 Plaintiff,)
13 vs.) CASE NO. C109725
14)
15 GARY PICKETT, aka) DEPT. NO. V
16 Cary Jerard Pickett ID#0725059)
17 Defendant.) DOCKET NO. H
18)
19)

JUDGMENT OF CONVICTION (PLEA)

17 WHEREAS, on the 15th day of December, 1992, the Defendant GARY
18 PICKETT, aka Cary Jerard Pickett, appeared before the Court herein
19 with his counsel and entered a plea of guilty to the crime of
20 ATTEMPT GRAND LARCENY (Felony), committed on the 11th day of
21 November, 1992, in violation of NRS 205.220, 193.330; and

22 WHEREAS, thereafter on the 21st day of January, 1993, the
23 Defendant being present in Court with his counsel MARK D. CICHOSKI,
24 Deputy Public Defender, and JAY L. SIEGEL, Deputy District
25 Attorney, also being present; the above entitled Court did adjudge
26 the Defendant guilty thereof by reason of his plea of guilty and,
27 in addition to a \$25.00 Administrative Assessment Fee, sentenced
28 Defendant to three (3) years in the Nevada Department of Prisons

CE14

FEB 24 1993

ENT 35-B

1 concurrent with C107733. Defendant granted fourteen (14) days
2 credit for time served.

3 THEREFORE, the Clerk of the above entitled Court is hereby
4 directed to enter this Judgment of Conviction as part of the record
5 in the above entitled matter.

6 DATED this 4th day of March, 1993, in the City of Las
7 Vegas, County of Clark, State of Nevada.

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11 DISTRICT JUDGE
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27 DA#92-109725X/da
28 LVMPD DR#92-11111354
ATT GL - F

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John D. Blum
CLERK OF THE COURT

2-22-2010

CRIMINAL COURT MINUTES

92-C-109725-C STATE OF NEVADA vs Pickett, Gary

12/15/92 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
MARY DAIGLE, Relief Clerk
SHIRLEE CHRISTOFFERSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
001398	Bloxham, Ronald C.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
004235	Cichoski, Mark D.	Y

NEGOTIATIONS: Defendant to plead guilty to AMENDED INFORMATION filed in open court CHARGING ATTEMPT GRAND LARCENY (F). State will make no recommendations at time of Sentencing. DEFENDANT ARRAIGNED, pled guilty to above charge. Court accepted plea, referred matter to P&P for PSI and set Sentencing date.

CUSTODY

1-19-93 - Sentencing

01/19/93 09:00 AM 00 SENTENCING

HEARD BY: Joseph S. Pavlikowski, Senior Judge; Dept. VJ30

OFFICERS: ALONA CANDITO, Court Clerk
JAMES HELLESO, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000981	Noxon, Arthur G.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
003845	Williams, Kevin V.	Y

P & P represented by Dennis Gilmore. Mr. Williams requested a continuance for Judge Sobel to hear as the recommendation is for time. COURT ORDERED, MATTER CONTINUED.

CUSTODY

CONTINUED TO: 01/21/93 09:00 AM 01

CRIMINAL COURT MINUTES

92-C-109725-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 001

01/21/93 09:00 AM 01 SENTENCING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
SHIRLEE CHRISTOFFERSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004770 Do Not Use, -	Y
	0001 D1 Pickett, Gary	Y
	PUBDEF Public Defender	Y
	004235 Cichoski, Mark D.	Y

P & P represented by Elizabeth Brownlee. Defendant advised Court that he has not seen a copy of the P.S.I. Court advised Defendant that the recommendation is for three (3) years concurrent to other sentence. DEFENDANT PICKETT ADJUDGED GUILTY OF - ATTEMPT GRAND LARCENY (F). Statement by Defendant. Mr. Cichoski submitted matter on report. COURT ORDERED, IN ADDITION TO THE \$25. ASSESSMENT FEE, DEFENDANT SENTENCED TO A TERM OF THREE (3) YEARS IN THE NEVADA STATE PRISON, TO RUN CONCURRENT WITH DEFENDANT'S OTHER SENTENCE. 14 DAYS CREDIT FOR TIME SERVED. Defendant advised Court that he did not receive credit on his other case. COURT ORDERED, MATTER CONTINUED FOR A STATUS CHECK, Mr. Cichoski to check into credit.

CUSTODY

2/4/93 -- STATUS CHECK: CREDIT FOR TIME SERVED

02/04/93 09:00 AM 00 STATUS CHECK CREDIT FOR TIME SERVED

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
SHIRLEE CHRISTOFFERSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	003801 Robinson, Lynn M.	Y
	0001 D1 Pickett, Gary	N
	PUBDEF Public Defender	Y
	003845 Williams, Kevin V.	Y

Mr. Williams advised Court that defendant was sentenced in another department and Debra Owen, DPD's file in the other case indicated no credit for time served. COURT ORDERED, MATTER CONTINUED FOR THE STATE TO VERIFY THE PROPER CREDIT FOR TIME SERVED.

CUSTODY

CONTINUED TO: 02/09/93 09:00 AM 01

PRINT DATE: 02/19/10

PAGE: 002

CONTINUED ON PAGE: 003
MINUTES DATE: 02/04/93

CRIMINAL COURT MINUTES

92-C-109725-C STATE OF NEVADA vs Pickett, Gary

CONTINUED FROM PAGE: 002

02/09/93 09:00 AM 01 STATUS CHECK CREDIT FOR TIME SERVED

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
JUDY NORMAN/jn, Relief Clerk
SHIRLEE CHRISTOFFERSON, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
000981 Noxon, Arthur G. Y

0001 D1 Pickett, Gary N
PUBDEF Public Defender Y
000806 Thompson, Robert H. Y

Mr. Thompson advised this is Mr. William's case. Colloquy between Court and Counsel regarding credit for time served. Mr. Thompson requested matter be continued in order to put in form of a letter and, COURT SO ORDERED.

CUSTODY

CONTINUED TO: 02/23/93 09:00 AM 02

02/23/93 09:00 AM 02 STATUS CHECK CREDIT FOR TIME SERVED

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
SHIRLEE CHRISTOFFERSON, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
004770 Do Not Use, - Y

0001 D1 Pickett, Gary Y
PUBDEF Public Defender Y
003845 Williams, Kevin V. Y

Statements by court and Mr. Williams regarding correct credit for time served. Mr. Williams advised court that the defendant is a Nevada parolee in case C99155. COURT ORDERED, CREDIT FOR TIME SERVED IS 14 DAYS AND MATTER OFF CALENDAR.

CUSTODY

CRIMINAL COURT MINUTES

92-C-109725-C

STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 003

11/18/93 09:00 AM 00 PROPER PERSON MOTION FOR AMENDED JUDGMNT
OF CONVICTION TO INCLUDE JAIL TIME CREDIT

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
SHIRLEE CHRISTOFFERSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
003495	Chairez, Don P.	Y
0001 D1	Pickett, Gary	N
PUBDEF	Public Defender	Y
003845	Williams, Kevin V.	Y

COURT ORDERED, DEFENDANT GRANTED THIRTY (30) DAYS CREDIT FOR TIME SERVED,
ANY ADDITIONAL TIME IS DENIED.

CUSTODY

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TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Alan D. Johnson
CLERK OF THE COURT

2-22-2010

Justice Court, Las Vegas Township

CASE NO. 92F8365X

STATE VS. PICKETT, GARY aka Cary Jerard Pickett

CHARGE GRAND LARCENY

BAIL IN CUSTODY.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES -- HEARING

CONTINUED TO:

11-19-92
J. BIXLER
D. BARKER, DA
M. CICHOSKI, PD APTD
D. GREEN, CR
M. SHANKLE, CLK

INITIAL ARRAIGNMENT
DEFT ~~PRESENT~~ IN Court In Custody
ADVISED/WAIVES
Motion by Defense for bail reduction or O/R, denied
Deft refused interview
Intake to re interview deft.
PH set

11-30-92 9:00 #4

ms

11-30-92
J. BIXLER
R. BLOXHAM, DA
K. WILLIAMS, PD
D. GREEN, CR
M. SHANKLE, CLK

DEFT REMANDED TO THE CUSTODY OF THE SHERIFF.
TIME SET FOR PRELIMINARY HEARING
DEFT PRESENT IN Court In Custody
PER NEGOTIATIONS, DEFT WAIVES HIS RIGHT TO A
PRELIMINARY HEARING UNCONDITIONAL
BOUND OVER TO DISTRICT COURT AS CHARGED
APPEARANCE DATE SET TRUE NAME CARY J. PICKETT
DEFT REMANDED TO THE CUSTODY OF THE SHERIFF.

12-15-92 9:00 45
DISTRICT COURT

MS

JG-1 (Continued)
Rev. 12/85

MINUTES - CRIMINAL

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2.22.2010



CLERK OF THE COURT

1 REX BELL
2 DISTRICT ATTORNEY
3 Nevada Bar #001799
4 200 S. Third Street
5 Las Vegas, Nevada 89155
6 (702) 455-4711
7 Attorney for Plaintiff
8 THE STATE OF NEVADA
9

— FILED IN OPEN COURT —

DEC 15 1992 19
LORETTA BOWMAN, CLERK

By

Monica Cardillo

Deputy

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,)
12)
13 Plaintiff,)
14)
15 vs.)
16)
17 GARY PICKETT, aka)
18 Cary Jerard Pickett,)
19 ID#0725059)
20 Defendant.)

CASE NO. C109725

DEPT. NO. V

DOCKET NO. H

AMENDED
INFORMATION

19 STATE OF NEVADA)
20) ss: ATTEMPT GRAND LARCENY (Felony -
21 COUNTY OF CLARK) NRS 193.330, 205.220)

21 REX BELL, District Attorney within and for the County of
22 Clark, State of Nevada, in the name and by the authority of the
23 State of Nevada, informs the Court:

24 That GARY PICKETT, aka Cary Jerard Pickett, the Defendant
25 above named, on or about the 11th day of November, 1992, at and
26 within the County of Clark, State of Nevada, contrary to the form,
27 force and effect of statutes in such cases made and provided, and
28 against the peace and dignity of the State of Nevada, did then and

CE

(R)

1 there wilfully, unlawfully, and feloniously, with intent to deprive
2 the owner permanently thereof, attempt to steal, take, and carry
3 away personal property of MERVYNS, 4700 Meadows Lane, Las Vegas,
4 Clark County, Nevada, having a value of \$250.00, or more, to-wit:
5 sweat jackets and sweat pants.

6 REX BELL
7 District Attorney
8 Nevada Bar #001799
9 Nevada Bar #001398

10 BY Ronald C. Bloxham
11 RONALD C. BLOXHAM
12 Chief Deputy District Attorney
13
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27 DA#92F8365X/da
28 LVMPD DR#92-11111354
ATT GL - F

**PLEADING
CONTINUES
IN NEXT
VOLUME**

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 24 2018 10:26 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

ALAN DEMETRIUS DANIELS,
Appellant(s),

vs.

STATE OF NEVADA,
Respondent(s),

Case No: 10C262523-1

Docket No: 75468

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
ALAN D. DANIELS # 63982,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89101

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
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2	241 - 480
3	481 - 521

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
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2	12/27/2013	ACCUSED REPLY TO STATE'S OPPOSITION TO DEFENDANT'S PRO PER ACCUSED MOTION FOR DECISION ON THE MERITS OF INVALID LAWS OF THE STATE OF NEVADA CAUSING THE DISTRICT COURT TO BE DIVESTED OF SUBJECT MATTER JURISDICTION AB INITIO/REQUEST TO REPLY TO ANY OPPOSITION OF THE ATTORNEY GENERAL'S OFFICE	283 - 309
2	02/13/2014	CASE APPEAL STATEMENT	319 - 320
2	03/27/2018	CASE APPEAL STATEMENT	344 - 345
3	05/24/2018	CERTIFICATION OF COPY AND TRANSMITTAL OF RECORD	
1	03/03/2010	CRIMINAL BINDOVER	1 - 177
2	02/12/2014	DESIGNATION OF RECORD ON APPEAL	318 - 318
2	03/22/2018	DESIGNATION OF RECORD ON APPEAL	341 - 343
3	05/24/2018	DISTRICT COURT MINUTES	515 - 521
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1 CASE NO. C262523

2 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

3 COUNTY OF CLARK, STATE OF NEVADA

4 -oOo-

5 STATE OF NEVADA,)

6 Plaintiff,)

7 vs.)

Case No. 10F02742A

8 ALAN DANIELS,)

ATTEST RE:

9 Defendant.)

NRS 239B.030

10

11 STATE OF NEVADA)

) ss

12 COUNTY OF CLARK)

13 I, Shawn Ott, a Certified Shorthand
14 Reporter within and for the County of Clark and the
15 State of Nevada, do hereby certify:

16 That REPORTER'S TRANSCRIPT OF
17 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING was

18 reported in open court pursuant to NRS 3.360 on
19 Thursday, February 25, 2010 at 10:20 a.m. in
20 Las Vegas Justice Court, Dept. 7, 200 Lewis Avenue,
21 Las Vegas, Nevada.

22 That said TRANSCRIPT:

23 X Does not contain the Social Security
24 number of any person.

25 _____ Contains the Social Security number of a

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person.

I further certify that I am not interested
in the events of this action.

DATED this 9 day of July 2010.



SHAWN E. OTT, CCR No. 577

DA
PP

Alan Daniels

Alan L. Blum

SDCC

63982

CLERK OF THE COURT

PO Box 208
Indian Springs NV 89070-0208

The Accused Pro Se

IN THE 8 JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

THE STATE OF NEVADA,
Plaintiff,

Case No. C262523-1
10FO2742X

-VS-

Dept. No. 7

ALAN DANIELS

DATE OF HEARING: 12-16-13

ACCUSED.

TIME OF HEARING: 8:15 AM

ACCUSED MOTION FOR DECISION ON THE MERITS OF
INVALID LAWS OF THE STATE OF NEVADA CAUSING
THE DISTRICT COURT TO BE DIVESTED OF SUBJECT
MATTER JURISDICTION AB INITIO

COMES NOW, ACCUSED, *Alan Daniels* (The
Accused), by and through his proper person, and hereby sub-
mits the foregoing Accused Motion For Decision On The Merits
Of Invalid Laws Of The State Of Nevada Causing The District Court
To Be Divested Of Subject Matter Jurisdiction Ab initio.
(Motion).

This Motion is made and based upon the provisions of the
District Court Rules (DCR), Rule 13 et seq., as well as the
attached Points And Authorities, made in support of the fore-
going Motion; and any attached exhibits, and the specific
request for oral argument before this Court be GRANTED.

RECEIVED

NOV 21 2013

CLERK OF THE COURT

POINTS AND AUTHORITIES

ARGUMENTS

I. The Accused does specifically request that this Court will Order, the District Attorney's Office to serve and timely file his/her written Opposition thereto, as to "each claim" etc., thereof supported by points and authorities in support of each claim thereof. (See DCR, Rule 13(2) and (3)).

Additionally, The Accused does specifically request that The Accused be provided the time to specifically submit, serve and file reply points and authorities within 5 days, commencing from the "date" that the Opposition thereto is signed for, as being received. (See DCR, Rule 13(4)).

The Accused may need additional time to submit the reply due to circumstance's beyond The Accused control i.e. the Southern Desert Correctional Center (SDCC), Law Library access is set-up on a call-out system; meaning without The Accused name being on the call-out list for law library access, The Accused "is not permitted access to the law library," period, no exceptions. This can be verified via Rashonda Smith, SDCC Law Library Supervisor.

Additionally, The Accused is permitted one (1), day a week a morning and afternoon session. I.e. miss the 1 day of access, and your done until "hopefully" the next week. Wherefore, The Accused does respectfully request that this Court will take into consideration, the foregoing circumstances as concerns The Accused, submitting for filing a reply to any Opposition etc., submitted by the Plaintiff to The Accused Motion.

In the foregoing Motion The Accused shall be as succinct as possible as to the "issues" presented. This Motion will not, "does not", present any argument as concerns Article (Art.) 4, § 23, of the Constitution of the State of Nevada (Const. of Nev.), the enacting clause.

II. WHERE THE NEVADA REVISED STATUTES CREATED, DERIVED FROM AN "UNCONSTITUTIONAL COMMISSION" CONTRARY TO THE FORM AND FORCE OF THE CONSTITUTION OF THE STATE OF NEVADA, CAUSING THE ACCUSED TO SUFFER UNJUST PROSECUTION, AND TO SUFFER DEPRIVATIONS OF THE FEDERAL AND STATE CONSTITUTIONS?

That, where the Const. of Nev. provides a "greater protection" of the constitutional guarantee's, protections of the Amendment's of the United States Constitution (U.S. Const.), The Accused seeks that greater protection. See Wilson v. State, 123 Nev. 587, 595 (Nev. 2007); citing Miranda v. State, 114 Nev. 385, 387 (1998).

The Accused contends that the Nevada Revised Statutes (NRS), "adopted and enacted", by the 48th Session of the Legislature of Nevada (Legis. of Nev.), and approved January 25, 1957, by then Governor Charles H. Russell (Russell), are in fact "invalid laws"; for the following reasons:

1. The Legis. of Nev. 1955, violated Art. 3, § 1, of the Const. of Nev., in creating the statute revision commission (commission), being comprised of then current Justice's of the Nevada Supreme Court (Nev. Sup. Ct.), those Justice's being; Justice Milton B. Badt (Badt); Justice, Edgar Eather (Eather); and Charles M. Merrill (Merrill). (Legis. of Nev. 47th Session 1955).

The Const. of Nev. Art. 3, § 1, is unambiguous, and very plain in its meaning and wording: **Three separate departments; separation of powers.** The powers of the Government of

the State of Nevada shall be divided into three separate departments, - the Legislative, - the Executive and the Judicial; and no persons "charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others", ... Ex parte Blanchard, 9 Nev. 101 (1874); Sawyer v. Dooley, 21 Nev. 390, 32 Pac. 437 (1893), cited Ormsby County v. Kearney, 37 Nev. 314, 341, 142 Pac. 803 (1914). (Legislature is not permitted to abdicate or to transfer to others essential legislative functions with which it is vested. AGO 188 (8-28-1935).

The attached Exhibit (Exhibit "1" FOREWARD), as so marked by alphabet letters, sets forth ("A" 1955, legislature of Nevada created the statute revision commission, comprised of the justices of the supreme court, ... and "charged" the commission to commence the preparation of a complete revision and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes.)

Section ("B" indicates the three Justices of the supreme court on the statute revision commission).

Section ("C" sets forth that Badt, Father, Merrill, and the attorney Russell W. McDonald (McDonald), did in fact exercise duties and functions appertaining to the legislature of the State of Nevada. Badt, Father, and Merrill, being Nev. Sup. Ct. Justice's charged under the Const. of Nev. Art. 6, § 4).

The above and foregoing as articulated constitute's a violation of the Const. of Nev. Art. 3, § 1.

That, the foregoing violation divests this Court of Subject Matter Jurisdiction, and the Order, Judgment

of Conviction (JOC), recorded against The Accused is "VOID AB INITIO." See, *Gschwind v. Cessna Air Craft Co.*, 232 F.3d 1342, 1347 (10th Cir. 2000); *Schnier v. District Court In and for City and County of Denver*, 696 P.2d 264, 266 (Colo. 1985); and *Valley v. Norther Fire & Marine Ins. Co.*, 254 U.S. 348, 353-54 (1920).

The violation of Art. 3, § 1, of the Const. of Nev., violated The Accused Fourteenth (14th) Amendment right to the United States Constitution (U.S. Const.), *Zinerman v. Burch*, 494 U.S. 113, 125 (1990) (the Due Process Clause contains a substantive component that bars certain arbitrary, wrongful government actions "regardless of the fairness of the procedures used to implement them." citing *Daniels v. Williams*, 474 U.S. 327, 331 (1986); *Cleburne v. Cleburne Living Center Inc.*, 473 U.S. 432, 439 (1985); *Carey v. Piphus*, 435 U.S. 247, 259 (1978); and *Rochin v. California*, 342 U.S. 165, 169 (1952)).

III. SENATE BILL NUMBER TWO OF THE 48TH SESSION 1957, ("THE REVISION BILL") IS UNCONSTITUTIONAL IN THAT SAID BILL FAILS TO MEET CONSTITUTIONAL MANDATES AS IS REQUIRED BY THE CONSTITUTION OF NEVADA ARTICLE 4, § 18, AND THE UNCONSTITUTIONAL SENATE BILL NUMBER TWO ("THE REVISION BILL") OF THE 48TH SESSION OF THE LEGISLATURE OF NEVADA 1957, HAS CAUSED THE ACCUSED TO SUFFER AN UNJUST ILLEGAL PROSECUTION, AND TO SUFFER DEPRIVATIONS OF THE FEDERAL AND STATE CONSTITUTIONS.

The Accused does hereby adopt all of the argument, facts, and law, as set forth, argued in number II, at pages 3-4, of the foregoing Motion as though fully stated and reiterated herein number III.

The Accused in presenting the arguments herein number II and III, and *infra*, seeks to have each count "answered by the State", and ruled upon the merits.

The Accused via due diligence has sought to obtain a "certified" copy of, "Senate Bill (S.B.) No. 2 ("the revision bill"), from the ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE ADOPTING AND ENACTING NEVADA REVISED STATUTES, of Chapter 2, statutes of Nevada 1957, page 2."

The Accused has serious reservations that the document attached hereto as Exhibit "2", is the actual S.B. No. 2 "the revision bill."

However, Exhibit "2", is the only document that The Accused has been able to obtain. Exhibit "2" was obtain through an attorney of a friend of a friend.

Despite S.B. No. 2 ("the revision bill"), being derived from an unconstitutional commission, the attached Exhibit "2" has the "appearance" of being S.B. No. 2 ("the revision bill"). Exhibit "2" has the appearance of being S.B. No. 2 ("the revision bill"), for the following reasons:

1. It is designated as "ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE ADOPTING AND ENACTING NEVADA REVISED STATUTES; (Section "C" Exhibit 1);

2. It is designated as "Chapter 2, statutes of Nevada 1957, page 2; and (Section "C" Exhibit 1);

3. It is designated as being Approved January 25, 1957, with the enacting clause. (Section "C" Exhibit 1).

However, and most importantly it fails to comply with Art. 4, § 18, of the Const. of Nev. for the following reasons:

1. It does not designate that, it originated in the House of the Senate;

2. It does not designate that, it was read by sections on

on three several days, in each House;

3. It **does not** designate that, it was taken by yeas and nays on the final passage and entered on the journals of each House;

4. It **does not** designate that, a majority of all the members elected to each house, was had to pass as a bill;

5. It **does not** designate that, it was signed by the presiding officers of the respective Houses and by the Secretary of the Senate and clerk of the Assembly.

The object of signature requirement is for authentication i.e. furnishing evidence that paper thus attested has been, by proper processes of each house, clothed with force of law which should be taken as authentication and proves itself upon inspection. *State ex rel. Cardwell v. Glenn*, 18 Nev. 34, 1 Pac. 186 (1883), cited, *In re Ah Poh*, 34 Nev. 238, 291, 119 Pac. 770 (1911).

Requiring signing of bills ... by presiding officers of respective houses and by Secretary of Senate and clerk of assembly, are mandatory. There is no other evidence of passage of bill ... by legislature which can be considered by courts. *Cardwell*, *supra*, cited, *State ex rel. Sutherland v. Nye*, 23 Nev. 99, 101, 42 Pac. 866 (1895), *State ex rel. Osburn v. Beck*, 25 Nev. 68, 80, 56 Pac. 1008 (1899), *State ex rel. Coffin v. Howell*, 26 Nev. 93, 100, 64 Pac. 466 (1901).

Majority of members elected, not merely members present, is necessary for passage of bill. ... AGO (2-16-1911); and AGO 19 (2-10-1919).

That, with the attached Exhibit "2" the alleged S.B. No. 2 ("the revision bill"), failing to meet the constitutional re-

quirements of Art. 4, § 18, of the Const. of Nev., the Act of The 48th Session of The Nevada Legislature Adopting And Enacting Nevada Revised Statutes Chapter 2 Statutes of Nevada 1957, page 2 is "unconstitutional."

That, the "unconstitutionality" of S.B. No. 2 Exhibit "2", divests this Court of Subject Matter Jurisdiction, and the Order, JOC, recorded against The Accused is "VOID AB INITIO." *Gschwind*, 232 F.3d at 1347; *Schnier*, 696 P.2d at 266; and *Valley*, 254 U.S. at 353-54.

The violation of Art. 4, § 18, of the Const. of Nev., violated The Accused 14th Amendment right to the United States Const., Due Process and Equal Protection of the law. *Zimmerman*, 494 U.S. at 125; *Daniels*, 474 U.S. at 331; *Cleburne*, 473 U.S. at 439; *Carey*, 435 U.S. at 259; and *Rochin*, 342 U.S. at 169.

IV. THE LEGISLATURE OF NEVADA 47TH SESSION 1955, VIOLATED ARTICLE 4, § 1, OF THE CONSTITUTION OF NEVADA, IN CREATING THE STATUTE REVISION COMMISSION BY AUTHORIZING AND CHARGING THE STATUTE REVISION COMMISSION TO PERFORM ESSENTIAL DUTIES AND FUNCTIONS OF THE LEGISLATURE OF NEVADA. THE UNCONSTITUTIONAL ACT OF THE 40TH SESSION 1955, LEGISLATURE OF NEVADA HAS CAUSED THE ACCUSED TO SUFFER AN UNCONSTITUTIONAL, ILLEGAL PROSECUTION, AND TO SUFFER DEPRIVATIONS OF THE FEDERAL AND STATE CONSTITUTIONS.

Article 4, § 1, of the Const. of Nev. vests legislative power in senate and assembly. The legislative authority of this state shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of Nevada"....

Legislative power of people of State of Nevada is vested in state legislature, and such power is unlimited except by federal Constitution and such restrictions as are expressly placed on it by state constitution. *Gibson v. Mason*, 5 Nev. 283 (1869),

cited County of Pershing v. Sixth Judicial Dist. Court, 43 Nev. 78, 93, 181 Pac. 960 (1919), Moore v. Humboldt County, 48 Nev. 397, 405, 232 Pac. 1078 (1925), Matthews v. State ex rel. Nevada Tax Comm'n, 83 Nev. 266, 268, 428 P.2d 371 (1967).

The Const. of Nev. Art. 3, §1, expressly places a restriction upon the legislature of the State of Nevada, that restriction being "...no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others." (See AGO 188(8-28-1935).

The Legis. of Nev. created the commission see Exhibit 1 section A. The Legis. of Nev. 47th session 1955 also allowed the commission to be comprised of three justices of the supreme court. (Not former justices), Exhibit 1 section A. The Legis. of Nev. 47th session 1955, changed the commission to commence the preparation of a complete revision and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes. Exhibit 1 section A.

The Legis. of Nev. abdicated its essential duties and functions to the commission (justices of the supreme court), when the Legis. of Nev. charged the commission to revise and compile the laws of Nevada, to become the Nevada Revised States, violating Art. 4, §1. AGO 188(8-28-1935) Ex parte Blanchard, 9 Nev. 107 (1874); Sawyer v. Dooley, 21 Nev. 390, 32 Pac. 437 (1893), cited Ormsby County v. Kearney, 37 Nev. 314, 341, 142 Pac. 803 (1914).

That, Exhibit 1 section C, sets forth that the commission performed "essential" duties and functions of the legis. of Nev. I.e. amend laws; annotate; classify; codify, redraft;

revise etc.

Yet, again, Art. 3, §1, of the Const. of Nev. prohibits the exercise of power belonging to one department, by another department.

Sawyer, supra; Drmsby, 37 Nev. at 341, A60 188 (8-28-1935).

Legislative power as used in Art. 3, §1, legislative power conferred by Art. 4, §1, is power of lawmaking representative bodies to frame and enact laws, and to amend or repeal laws, unless there are specific constitutional limitations to the contrary, laws are to be construed in favor of legislative power. Galloway v. Truesdell, 83 Nev. 13, 422 P.2d 237 (1967).

It is urged upon this Court to visit and review King v. Board of Regents, 65 Nev. 533, 556, 200 P.2d 221, 232 (1948), the Nev. Sup. Ct. delineated:

"A Constitution being the paramount law of a state, designed to separate the powers of government and to define their extent and limit their exercise by the several departments, as well as to secure and protect private rights, no other instrument is of equal significance. It has been very properly defined to be a 'legislative act of the people themselves in their sovereign capacity', and, when the people have declared by it that certain powers shall be possessed and duties performed by a particular officer or department, their exercise and discharge by any other officer or department are forbidden by a necessary and unavoidable implication. Every positive delegation of power to one officer or department implies a negation of its exercise by any other officer, department, or person. If it did not, the whole constitutional fabric might be undermined and destroyed. This result could be as effectually accomplished by the creation of new officers and departments exercising the same power and jurisdiction as the direct and formal abrogation of those exist;..."

(Emphasis added Id. at 556-57).

The commission should not have been created by the legis. of Nev., especially to perform the essential duties and functions that the legis. of Nev. performs themselves. King, 65 Nev. at 556-57, 200 P.2d at 232.

The violation of the plain and unambiguous language of Art. 4, §1, by the Legis. of Nev. 47th session 1955, in authorizing, charging the commission to perform the exact same duties and functions of the Legis. of Nev., also violated the sovereign act of the people in their sovereign capacity. King, supra. Wherefore, the Act of the 48th Session of The Nevada Legislature Adopting And Enacting Nevada Revised Statutes Chapter 2 Statutes of Nevada 1957, page 2, is "Unconstitutional."

The unconstitutional Act of the 48th session 1957, divested, divests this Court of Subject Matter Jurisdiction, and the Order, JOC recorded against The Accused is "VOID AB INITIO." Gschwind, 232 F.3d at 1347; Schnier, 696 P.2d at 266; and Valley, 254 US at 353-54.

The violation of Art. 4, §1, of the Const. of Nev. Violated The Accused 14th Amendment right to the United States Const., Due Process and Equal Protection of the law. Zimmerman, 494 US at 125; Daniels, 474 US at 331; Cleburne, 473 US at 439; Carey, 435 US at 259; and Robin, 342 US at 169.

V. THE SECRETARY OF STATE FOR THE STATE OF NEVADA HAS VIOLATED THE CONSTITUTION OF THE STATE OF NEVADA ARTICLE FIVE SECTION TWENTY BY FAILING TO KEEP A TRUE RECORD OF THE OFFICIAL ACTS OF THE LEGISLATIVE DEPARTMENT, I.E. MAINTAIN LEGAL CUSTODY AND CONTROL OF THE OFFICIAL ACTS, HAS AIDED IN CONCEALING THE STEALTH FRAUD FROM APPROXIMATELY 1951 TO PRESENT. THE CONCEALING OF THE STEALTH FRAUD BY THE SECRETARY OF STATE HAS CAUSED THE ACCUSED TO SUFFER CONSTITUTIONAL DEPRIVATIONS OF THE FEDERAL AND STATE CONSTITUTIONS BY SUFFERING ILLEGAL AND UNCONSTITUTIONAL PROSECUTION(S)

The Const. of Nev. Art. 5, §20 mandates that the "Secretary of State 'shall' keep a true record of the Official Acts of the Legislative and . . . Departments of the Government, and 'shall'

when required, lay the same and all matters relative thereto, be either Branch of the Legislature."

The purpose of the Secretary of State keeping a true record of the Official Acts of the Legislative Department, is so that when necessary to authenticate bills passed into law.

Courts cannot look beyond enrolled bill to ascertain terms of law. Fact that it is signed by proper officers of each house, approved by governor, and filed in office of secretary of state, is conclusive as to passage of act as enrolled, and is only evidence thereof. *State ex rel. Cardwell*, supra; cited *State ex rel. Sutherland*, 23 Nev. at 101, *State ex rel. Osburn*, 25 Nev. at 80; *State ex rel. Barlett v. Brodigan*, 37 Nev. 245, 248, 141 Pac. 988 (1914).

The Accused has been diligently seeking to find, and to authenticate S.B. No. 2 ("the revision bill"), to determine that the Nevada Revised Statutes (NRS), were properly enacted as law of the State of Nevada. That, S.B. No. 2 ("the revision bill"), does meet requisite constitutional mandates to pass and be approved as a bill, law of the State of Nevada. *Barlett*, 37 Nev. at 248; *State ex rel. Osburn*, 25 Nev. at 80.

In support of The Accused allegation as concerns violation of Art. 5, § 20, of the Const. of Nev. that, The Accused directs the Court's attention to (Exhibit "3" letter from STATE OF NEVADA OFFICE OF THE SECRETARY OF STATE February 20, 2013, by Catherine Lu (Lu) Public Information Officer).

Lu states that, Assembly history from the 1957 and 1969 Legislative sessions pertains to documents for which this office **no longer has custody or control.**

Lu states that the records are now in the custody and

control of the Nevada State Archives.

So, the information provided, The Accused wrote to the Nevada State Archives. (Exhibit "4" letter to Nevada State Archives May 28, 2013, RE: Assembly History and Nevada Constitution).

On June 26, 2013, a MEMO was sent from AW Jo Gentry (Gentry), whom wrote in part that, the request made to Nevada State Archives, was forward to NDOC-Kimberly Peterson (Peterson); Nevada State Archives informed Ms. Peterson that they no longer perform research for inmates due to Budget Cuts. (See Exhibit "5" S DCC MEMO Date June 26, 2013).

However, the bottom line is that the requested documents were to be available directly from the Secretary of State Office. They are not!! Wherefore, to The Accused S.B. No. 2 ("the revision bill"), cannot be authenticated as a lawful, constitutional bill/law. State ex rel. Osburn, 25 Nev. at 80; State ex rel. Coffin, 26 Nev. at 100; AGO (2-16-1911), and AGO 19 (2-10-1919).

The unconstitutional act of the Secretary of State violating Art. 5, § 20, of the Const. of Nev., establishes that the NRS are not lawful of the State of Nevada, AS the NRS CANNOT BE AUTHENTICATED.

The failure of the Secretary of State to disclose, make known that S.B. No. 2 ("the revision bill"), which adopted and enacted the NRS, is not available is a violation of office. Art. 15, § 2 of the Const. of Nev. Also constituting Malfeasance, Misfeasance, and NONFEASANCE IN PUBLIC OFFICE.

The unavailability of S.B. No. 2 ("the revision bill"), to be authenticated, divest this Court of Subject Matter

Jurisdiction, and the Order JOC recorded against The Accused is "VOID AB INITIO." Gschwind, 232 F.3d at 1347; Schnier, 696 P.2d at 266; and Valley, 254 US at 353-54.

The unconstitutional act of the Secretary of State failing to keep true record of the Official Acts of the Legislative and... Departments of the Government, and concealing the fact that the Official Acts of the Legislative Department, are no longer contained in the Office of the Secretary of State; caused The Accused to suffer illegal and unconstitutional deprivations, and prosecution, violating The Accused 14th Amendment right to the United States Const. Due Process and Equal Protection of the law.

Zimmerman, 494 US at 125; Daniels, 474 US at 331; Cleburne, 473 US at 439; Carey, 435 US at 259; and Rochin, 342 US at 169.

The Accused has presented this Court with documentation that is irrefutable, and most importantly "has not been refuted by the State."

Which is a condition for leaving completely out of this pleading, any argument concerning Art. 4, § 23. Any one of the arguments presented above is sufficient for this Court to, GRANT THE ACCUSED RELIEF, as they stand wholly irrefuted.

There should be no question that this Court understands the challenges as to, the constitutionality of the NRS as put forth herein by The Accused; that, a fundamental requisite of due process of law is the opportunity to be heard.

Goldberg v. Kelly, 397 U.S. 254, 267 (1970), citing Grannis v. Ordean, 234 US 385, 394 (1914). Being "heard", does not simply mean the filing of a motion, pleading, etc.

Additionally, the hearing must be at a meaningful

time and in a meaningful manner. Armstrong v. Manzo, 380 US 545, 552 (1965).

Wherefore, the failure of this Court to allow The Accused to be "heard", and to be heard at a meaningful time, and in a meaningful manner violates the Due Process Clause of the 14th Amendment of the United States Constitution. Goldberg, 397 U.S. at 267; Grannis, 234 U.S. at 394; and Armstrong, 380 U.S. at 552.

This Court must not be swayed by public clamor or fear of criticism, nor allow social, or political interest to influence to cloud, hinder, etc. this Court's judgment. This Court must uphold and apply the law.

"Decency, security, and liberty alike demand that government officials shall be subject to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the 'law scrupulously.' Our government is the potent, omnipresent teacher. For good or for ill, it teaches the whole people by example. Crime is contagious. If the government becomes a law breaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy." U.S. Supreme Court Justice Brandeis in Olmstead v. United States, 277 US 433, 485 (1928) (Emphasis added).

The only relief that can be granted is for this Court to uphold the law, conduct a hearing with The Accused present, to determine whether the State can "legally" refute the constitutional challenges, deprivation as

Set forth herein the foregoing Motion as concerns the unconstitutionality of the NRS. That, as to and based upon the above and foregoing there could not have been a lawful arrest, or conviction of The Accused for any alleged crime. Gschwind, 232 F.3d at 1347; Schnier, 696 P.2d at 266; and Valley, 254 US at 353-54.

This Court "must" provide The Accused the guarantee's of the Due Process Clause, of the 14th Amendment of the United States Constitution, Zimmerman, 494 US at 125; Daniels, 474 US at 331; Cleburne, 473 US at 439; Carey, 435 US at 259; Rochin, 342 US at 169; Goldberg, 397 US at 267; citing Gronnis, 234 US at 394; and Armstrong, 380 US at 552.

This Court must also protect The Accused Due Process Clause rights, and not treat The Accused differently than others similarly situated. Daniels, 474 US at 331; Cleburne, 473 US at 439; and Rochin, 342 US at 169.

CONCLUSION

Wherefore, based upon the above and foregoing, and pursuant to the Due Process Clause of 14th Amendment of the United States Constitution, and Art. 1, § 8, of the Const. of Nev., it is respectfully requested that this Court will:

1. Conduct a hearing with The Accused present for the purpose of determining whether the State can, legally, lawfully refute:

- (A) That, the NRS created by the Legis. of Nev. are derived from an "unconstitutional commission";

- (B) That, S.B. No. 2 ("the revision bill"), does not exist;

- (C) That, S.B. No. 2 ("the revision bill"), does not com-

ply with the constitutional mandates of Art. 4, § 18, of the Const. of Nev.;

(D). The Legis. of Nev. 47th session 1955, violated Art. 4 § 1, of the Const. of Nev. in charging the commission, authorized the commission to perform the exact same essential duties and function to which the Legis. of Nev. performs;

(E). The Legis. of Nev. 47th session 1955, violated the Const. of Nev. Art. 3, § 1, in creating the commission comprised of three justices of the Nev. Sup. Ct.; (separation of powers);

(F) That, the failure of the Secretary of State to keep true record of the Acts Legislative Department, violate's Art. 5, § 20, of the Const. of Nev.;

(F1) The failure of the Secretary of State to keep true records of the Acts of the legislative Department, substantiates that S.B. No. 2 ("the revision bill"), "cannot be authenticated"; as valid laws of the State of Nevada;

The failure of the State to "refute" these foregoing contentions, must "constitute" the GRANTING of the Motion, and release of The Accused from incarceration forthwith.

That, should this Court deny The Accused Motion, The Accused does respectfully request that an in depth written conclusion, as to each issue raised and reason for denial be written therein.

Additionally, the request is made for an Order that The Accused be present for the Hearing.

The Accused does specifically request that this Court TAKE NOTICE of the following, and as law demands to take all necessary action and steps, for complete compliance therewith. "Denency, security, and liberty alike

demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law, scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy." U.S. Supreme Court Justice Brandeis in *Olmstead v. United States*, 277 US 433, 485 (1928)

The Accused is "certain" that constitutional mandates of the Const. of Nev., have been violated as articulated and argued above, such that the NRS "cannot" be cited, utilized as prima facie evidence of the law; or to be lawful created, enacted law of the State of Nevada.

Due Process is not a rigid concept. Due Process is flexible and calls for such procedural protections as particular situation demands. *Watson v. Housing Authority*, 97 Nev. 240, 242, 627 P.2d 405, 407 (1981); cited *Molnar v. State Bd. of Medical Examiners*, 105 Nev. 213, 216, 733 P.2d 726, 727 (1989).

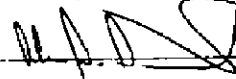
This particular situation requires this Court to enforce, and to protect The Accused 14th Amendment U.S. Const. right, also Art. 138, of the Const. of Nev. *State v. Fouquette*, 67 Nev. 505, 514, 221 P.2d 404 (1950), and for this Court to further explore into the constitutional deprivations; that The Accused has set forth have been violated and supporting the same via points and authorities, and attached ex-

hibit's.

That, this Court can render a full, fair, and adequate decision as to any and all factual allegation's etc., as raised by The Accused herein the foregoing Motion, as reasons to GRANT The Accused relief.

Respectfully submitted:

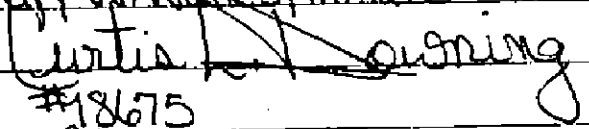
Dated this 15 day of NOVEMBER 15th 2013.

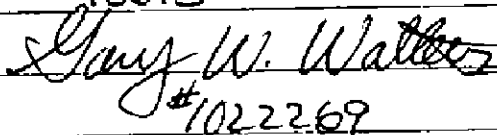


Allen Daniels #63982

THE ACCUSED PRO SE

This Motion has been prepared by Curtis L. Downing,
Inmate Advocate, Legal Assistant/Paralegal, I.d. #18675, and
Gary W. Waller, Inmate Advocate, I.d. #1022269.


#18675


#1022269

CERTIFICATE OF SERVICE BY MAILING

I, Alan Daniels, hereby certify, pursuant to NRCP 5(b), that on this 15th
day of November, 2013, I mailed a true and correct copy of the foregoing, "Accused
Motion For Decision On The Merits of Invalid Laws of The State of Nevada."
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

District Attorney
Clark County, Nevada
200 Lewis Ave.
PO Box 552212
Las Vegas NV 89155-2212

Pursuant To NRS 30.130

Attorney General
State of Nevada
555 E. Washington Ave.
STE. 3900
Las Vegas NV 89101-1068

CC:FILE

DATED: this 15th day of November, 2013.

Alan Daniels #63082
THE ACCUSED /In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

-20-

AFFIRMATION
Pursuant to NRS 2398.030

The undersigned does hereby affirm that the preceding Accused Motion

For Decision On The Merits of Invalid Laws of the State of Nevada...
(Title of Document)

filed in District Court Case number 10FO2742X

☒ Does not contain the social security number of any person.

-OR-


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

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

(State specific law)

-OR-

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


Signature

11-15-13
Date

Alan Daniels * 63982
Print Name

THE ACCUSED PRO SE
Title

FOREWORD

"A" "A" "A"
By the provisions of chapter 304, Statutes of Nevada 1951, amended by chapter 280, Statutes of Nevada 1953, and chapter 248, Statutes of Nevada 1955, the legislature of the State of Nevada created the statute revision commission comprised of the three justices of the supreme court, authorized such commission to appoint a reviser of statutes to be known as the director of the statute revision commission, and charged the commission to commence the preparation of a complete revision and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes. Reference is made to chapter 220 of Nevada Revised Statutes for the further duties and authority of the statute revision commission relating to the preparation of Nevada Revised Statutes, the numbering of sections, binding, printing, classification, revision and sale thereof.

The commission employed as director Russell W. McDonald, a member of the State Bar of Nevada, who, with his staff, undertook and performed this monumental task with such methods, care, precision, completeness, accuracy and safeguards against error as to evoke the highest praise of the commission and the commendation of the bench and bar of the state.

"C" "C" "C"
As the work progressed, Mr. McDonald submitted drafts of chapter after chapter as recompiled and revised, and the members of the commission individually and in conference meticulously checked all revisions. In the vast majority of cases these revisions were promptly approved. Many required further conferences with the director. Some were modified and redrafted. As the several chapters were returned with approval to the director, they were in turn delivered to the superintendent of state printing for printing, to the end that upon the convening of the 1957 legislature Nevada Revised Statutes was ready to present for approval. By the provisions of chapter 2, Statutes of Nevada 1957, Nevada Revised Statutes, consisting of NRS 1010 to 710.590, inclusive, was "adopted and enacted as law of the State of Nevada."

"B" STATUTE REVISION COMMISSION "B"

"B" "B" "B"
MILTON B. BADT
EDGAR FATHER
CHARLES M. MERRILL
"B"

22-00000
copy

ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE
ADOPTING AND ENACTING NEVADA REVISED STATUTES

Chapter 2, Statutes of Nevada 1957, page 2

- Section 1. Enactment of Nevada Revised Statutes.
Sec. 2. Designation and citation.
Sec. 3. Repeal of prior laws.
Sec. 4. Construction of act.
Sec. 5. Effect of enactment of NRS and repealing clause.
Sec. 6. Severability of provisions.
Sec. 7. Effective date.
Sec. 8. Omission from session laws.
Sec. 9. Content of Nevada Revised Statutes.

AN ACT to revise the laws and statutes of the State of Nevada of a general or public nature; to adopt and enact such revised laws and statutes, to be known as the Nevada Revised Statutes, as the law of the State of Nevada; to repeal all prior laws and statutes of a general, public and permanent nature; providing penalties; and other matters relating thereto.

[Approved January 25, 1957] *The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

Section 1. Enactment of Nevada Revised Statutes.

The Nevada Revised Statutes, being the statute laws set forth after section 9 of this act, are hereby adopted and enacted as law of the State of Nevada.

NV CODE

1

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EXHIBT "2"

Sec. 2. Designation and citation.

The Nevada Revised Statutes adopted and enacted into law by this act, and as hereafter amended and supplemented and printed and published pursuant to law, shall be known as Nevada Revised Statutes and may be cited as "NRS" followed by the number of the Title, chapter or section, as appropriate.

Sec. 3. Repeal of prior laws.

Except as provided in section 5 of this act and unless expressly continued by specific provisions of Nevada Revised Statutes, all laws and statutes of the State of Nevada of a general, public and permanent nature enacted prior to January 21, 1957, hereby are repealed.

Sec. 4. Construction of act.

1. The Nevada Revised Statutes, as enacted by this act, are intended to speak for themselves; and all sections of the Nevada Revised Statutes as so enacted shall be considered to speak as of the same date, except that in cases of conflict between two or more sections or of any ambiguity in a section, reference may be had to the acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity.

2. The provisions of Nevada Revised Statutes as enacted by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act.

3. The incorporation of initiated and referred measures is not to be deemed a legislative reenactment or amendment thereof, but only a mechanical inclusion thereof into the Nevada Revised Statutes.

4. The various analyses set out in Nevada Revised Statutes, constituting enumerations or lists of the Titles, chapters and sections of Nevada Revised Statutes, and the descriptive headings or catchlines immediately preceding or within the texts of individual sections, except the section numbers included in the headings or catchlines immediately preceding the texts of such sections, do not constitute part of the law. All derivation and other notes set out in Nevada Revised Statutes are given for the purpose of convenient reference, and do not constitute part of the law.

5. Whenever any reference is made to any portion of Nevada Revised Statutes or of any other

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"2"

law of this state or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.

Sec. 5. Effect of enactment of NRS and repealing clause.

1. The adoption and enactment of Nevada Revised Statutes shall not be construed to repeal or in any way affect or modify:

- (a) Any special, local or temporary laws.
- (b) Any law making an appropriation.
- (c) Any law affecting any bond issue or by which any bond issue may have been authorized.
- (d) The running of the statutes of limitations in force at the time this act becomes effective.
- (e) The continued existence and operation of any department, agency or office heretofore legally established or held.
- (f) Any bond of any public officer.
- (g) Any taxes, fees, assessments or other charges incurred or imposed.
- (h) Any statutes authorizing, ratifying, confirming, approving or accepting any compact or contract with any other state or with the United States or any agency or instrumentality thereof.

2. All laws, rights and obligations set forth in subsection 1 of this section shall continue and exist in all respects as if Nevada Revised Statutes had not been adopted and enacted.

3. The repeal of prior laws and statutes provided in section 3 of this act shall not affect any act done, or any cause of action accrued or established, nor any plea, defense, bar or matter subsisting before the time when such repeal shall take effect; but the proceedings in every case shall conform with the provisions of Nevada Revised Statutes.

4. All the provisions of laws and statutes repealed by section 3 of this act shall be deemed to have remained in force from the time when they began to take effect, so far as they may apply to any department, agency, office, or trust, or any transaction, or event, or any limitation, or any right, or obligation, or the construction of any contract already affected by such laws, notwithstanding the repeal of such provisions.

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3. No fine, forfeiture or penalty incurred under laws or statutes existing prior to the time Nevada Revised Statutes take effect shall be affected by repeal of such existing laws or statutes, but the recovery of such fines and forfeitures and the enforcement of such penalties shall be effected as if the law or statute repealed had still remained in effect.

6. When an offense is committed prior to the time Nevada Revised Statutes take effect, the offender shall be punished under the law or statute in effect when the offense was committed.

7. No law or statute which heretofore has been repealed shall be revived by the repeal provided in section 3 of this act.

8. The repeal by section 3 of this act of a law or statute validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal.

9. If any provision of the Nevada Revised Statutes as enacted by this act, derived from an act that amended or repealed a preexisting statute, is held unconstitutional, the provisions of section 3 of this act shall not prevent the preexisting statute from being law if that appears to have been the intent of the legislature or the people.

Sec. 6. Severability of provisions.

If any provision of the Nevada Revised Statutes or amendments thereto, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of the Nevada Revised Statutes or such amendments that can be given effect without the invalid provision or application, and to this end the provisions of Nevada Revised Statutes and such amendments are declared to be severable.

Sec. 7. Effective date.

This act, and each and all of the laws and statutes herein contained and hereby enacted as the Nevada Revised Statutes, shall take effect upon passage and approval.

Sec. 8. Omission from session laws.

The provisions of NRS 1.010 to 710.590, inclusive, appearing following section 9 of this act shall not be printed or included in the Statutes of Nevada as provided by NRS 218.500 and NRS 218.510; but there shall be inserted immediately following section 9 of this act the words: "(Here followed NRS 1.010 to 710.590, inclusive.)"

NVCODE

4

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11211

Sec. 2. Content of Nevada Revised Statutes.

The following laws and statutes attached hereto, consisting of NRS sections 1.010 to 710.590, inclusive, constitute the Nevada Revised Statutes:

(Here followed NRS 1.010 to 710.590, inclusive.)

NV CODE

5

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"2"

ROSS MILLER
Secretary of State

STATE OF NEVADA



NICOLE J. LAMBOLEY
Chief Deputy Secretary of State

SCOTT W. ANDERSON
*Deputy Secretary
for Commercial Recording*

SCOTT F. GILLES
Deputy Secretary for Elections

ROBERT E. WALSH
*Deputy Secretary
for Southern Nevada*

RYAN M. HIGH
*Deputy Secretary
for Operations*

**OFFICE OF THE
SECRETARY OF STATE**

February 20, 2013

Dear Mr. [REDACTED]:

In response to your public records request pursuant to NRS 239, the information you requested regarding Assembly history from the 1957 and 1969 Legislative sessions pertains to documents for which this office no longer has legal custody or control. These records are now in the custody and control of the Nevada State Archives. You may contact them for release of the documents related to the subject matter you request.

The contact information for the Nevada State Archives is:
100 N. Stewart Street, Carson City, NV 89701
Phone: 775.684.3360
Fax : 775.684.3330

Thank you.

Sincerely,

ROSS MILLER
Secretary of State

By: Catherine Lu
Catherine Lu
Public Information Officer

EXHIBIT "3"

NEVADA STATE CAPITOL
101 N. Carson Street, STE. 3
Carson City, Nevada 89701-4706
Telephone: (775) 684-5708
Fax: (775) 684-5728

COMMERCIAL RECORDINGS
VIDEOTEX ANNEX OFFICE
101 N. Carson Street
Carson City, Nevada 89701-4706
Telephone: (775) 684-5708
Fax: (775) 684-5728

LAS VEGAS OFFICE
350 E. Washington Avenue, Ste. 300
Las Vegas, Nevada 89101-1000
SECRETARIES
Telephone: (702) 486-2100
Fax: (702) 486-2101
CORPORATIONS
Telephone: (702) 486-2100
Fax: (702) 486-2100

SONO OFFICE
1013 University Ranch Parkway, Suite 101-A
Hendee, Nevada 89131
Telephone: (775) 861-0000
Fax: (775) 861-0000

SDCC
PO Box 208 #
Indian Springs NV 89070-0208

REC'D JUN 06 2013

Nevada State Archives
100 N. Stewart St.
Carson City NV 89701

RE: Assembly History & Nevada Constitution

May 28, 2013

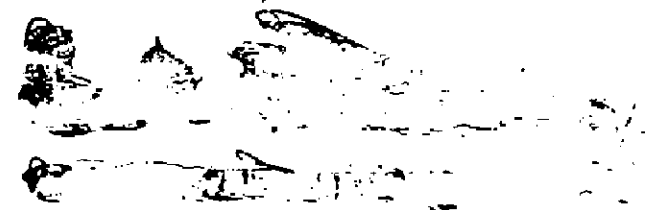
Attn: Archives Clerk;

Per information from Catherine Lu, Public Information Officer, I've been informed that I should be able to obtain from your Office the following documents:

Assembly history from the 1951, 1953, 1955, 1957, 1963, and 1969. Additionally, I am requesting to know the availability of the Nevada Constitution for the following year's: 1951, 1955, 1957, 1963, 1969, 1991, and 1993. Thank you.

I sincerely appreciate your prompt reply to this missive.

Cordially yours



cc: file

EXHIBIT "4"

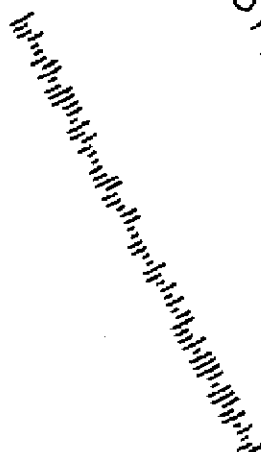
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SACC
PO Box 208 #
Indian Springs NV 89101-0208

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Nevada State Archives
100 N. Stewart St.
Carson City NV 89101

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INTER

OFFICE



S.D.C.C. MEMO

Date: June 26, 2013
To: Inmate . 104-5011581
From: AW Jo Gentry *JO*
Subject: Nevada State Archives

Nevada State Archives received your written request dated May 28, 2013. Your request was forward to NDOC – Kimberly Peterson. Nevada State Archives informed Ms. Peterson that they no longer perform research for inmates due to Budget Cuts. Ms. Peterson has forward your original request to Nevada State Archives back to you via my office.

cc: I-File
Rec. Spec.

EXHIBIT "5"

US POSTAGE
Met from 89101
06:07:2013
\$00.000
06-126521360

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FIRST CLASS

KIMBERLY PETERSON
NEVADA DEPARTMENT OF
CORRECTIONS OFFICE
PO BOX 7811
CARSON CITY, NV 89702

NSL#

"5"

P.O. Box 208
Indian Springs, NV. 89070

Hastler
1/19/2013
US POSTAGE
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LEGAL MAIL

STEVEN D. GRIERSON,
Clerk of the Court
200 Lewis Ave. 3rd Floor
Las Vegas, Nevada 89158-1160

Legal Mail
Case No: 10FO2742X

48

DA
PP

Alvin L. Lamm

CLERK OF THE COURT

Alan Daniels # 63982
Accused/ In Propria Personam
Post Office Box 208 S.D.C.C.
Indian Springs, Nevada 89018

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-VS-

Alan Daniels,
Accused.

Case No. C262523-1
10F02742X

Dept No. 7

Docket _____

NOTICE OF MOTION

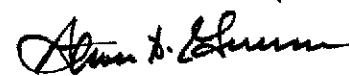
YOU WILL PLEASE TAKE NOTICE, that Accused Motion For Decision On The
Merits of Invalid Laws of The State of Nevada Causing The District...
will come on for hearing before the above-entitled Court on the 16 day of December, 2013
at the hour of 8:15 o'clock A. M. In Department 18, of said Court.

CC:FILE

DATED: this 15th day of November, 2013.

BY: *Alan Daniels* #63982
ACCUSED / In Propria Personam

RECEIVED
NOV 21 2013
CLERK OF THE COURT



CLERK OF THE COURT

OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
NELL E. CHRISTENSEN
Chief Deputy District Attorney
Nevada Bar #008822
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DANIELS, aka,
Alan Demetrius Daniels, #747918

Defendant.

CASE NO: 10C262523-1

DEPT NO: XVIII

STATE'S OPPOSITION TO DEFENDANT'S PRO PER ACCUSED MOTION FOR
DECISION ON THE MERITS OF INVALID LAWS OF THE STATE OF NEVADA
CAUSING THE DISTRICT COURT TO BE DIVESTED OF SUBJECT MATTER
JURISDICTION AB INITIO

DATE OF HEARING: DECEMBER 16, 2013

TIME OF HEARING: 8:15 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through NELL E. CHRISTENSEN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Pro Per Accused Motion For Decision On The Merits Of Invalid Laws Of The State Of Nevada Causing The District Court To Be Divested Of Subject Matter Jurisdiction Ab Initio.

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

//

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 23, 2010, ALAN DANIELS, aka, Alan Demetrius Daniels (hereinafter
4 "Defendant") and his co-defendant, Cary Pickett, were charged by way of an Amended
5 Criminal Complaint with seven (7) counts of Burglary While in Possession of a Firearm
6 (Felony – NRS 205.060); eight (8) counts of Robbery with Use of a Deadly Weapon (Felony
7 – NRS 200.380, 193.165), five (5) counts of Conspiracy to Commit Robbery (Felony – NRS
8 199.480, 200.380), and six (6) counts of Possession of Firearm by Ex-Felon (Felony – NRS
9 202.360).

10 On March 8, 2010, the State filed an Information charging Defendant with COUNT 1
11 – Burglary While in Possession of a Firearm; COUNT 2 – Conspiracy to Commit Robbery;
12 COUNT 3 – Robbery with Use of a Deadly Weapon, and COUNT 4 – Possession of Firearm
13 by Ex-Felon. The Information included a Notice to Adjudicate Defendant a Habitual
14 Criminal.

15 On March 11, 2010, Defendant entered a plea of guilty to all charges in the
16 Information pursuant to a Guilty Plea Agreement, which was also filed in open court that
17 day.

18 On May 10, 2010, Defendant was sentenced to the Nevada Department of Corrections
19 (NDC) as follows: COUNT 1 – FIVE (5) to FIFTEEN (15) YEARS; COUNT 2 – TWO (2)
20 to FIVE (5) YEARS; COUNT 3 – TEN (10) YEARS to LIFE, COUNT 3 to run consecutive
21 to COUNT 1; and COUNT 4 – TWO (2) to FIVE (5) YEARS, COUNT 4 to run concurrent
22 with COUNT 2. This sentence was to run consecutive to the sentence in Case Number
23 C156246. Defendant was given ZERO (0) DAYS credit for time served. The Judgment of
24 Conviction was filed on May 14, 2010, and no direct appeal was taken.

25 On November 22, 2013, Defendant filed the instant motion. The State's opposition
26 follows.

27 //

28 //

ARGUMENT

I. THIS COURT HAD SUBJECT MATTER JURISDICTION IN DEFENDANT'S CASE, AND THE LAWS UNDER WHICH DEFENDANT WAS CONVICTED WERE CONSTITUTIONAL

Defendant alleges, in Claims 2 and 4 of his Motion,¹ essentially that the Nevada Revised Statutes were enacted in violation of the separation of powers clause of the Nevada Constitution, Art. 3, § 1:

The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution.

These allegations stem from the presence of three (3) Nevada Supreme Court justices on the Statute Revision Commission responsible for compiling and revising the Statutes of Nevada prior to the enactment of the Nevada Revised Statutes in 1957. Mot. at Ex. 1.² Because of this alleged separation of powers violation, Defendant claims this Court did not have subject matter jurisdiction when he was convicted under those laws, voiding *ab initio* his conviction. Mot. 4-5. However, Defendant's claims are without merit.

It is well-established that "Statutes are presumed to be valid, and the challenger bears the burden of showing that a statute is unconstitutional." Halverson v. Secretary of State, 124 Nev. 484, 487, 186 P.3d 893, 896 (2008); Nevadans for Nevada v. Beers, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006); Sheriff. v. Burdug, 118 Nev. 853, 857, 59 P.3d 484, 486 (2002). Of course, "[o]ne of the settled maxims in constitutional law is that the power conferred upon the Legislature to make laws cannot be delegated to any other body or authority. See Nev. Const. Art. 3, § 1." Banegas v. State Industrial Insurance System, 117 Nev. 222, 227, 19 P.3d 245, 248 (2001). However, it is likewise settled that there no such delegation occurs where the legislature does not delegate its power to actually make laws. See Villanueva v.

¹ Defendant's Claim 1 requests the Court direct the State how to oppose Defendant's Motion, and makes the Court aware of conditions of incarceration purportedly limiting Defendant's ability to timely reply to any response by the State. Accordingly, this Claim does not require a response by the State.

² See Legislative Counsel Bureau, <https://www.leg.state.nv.us/Division/lcb/morelcb.cfm>; Legislative Counsel's Preface, <http://www.leg.state.nv.us/Division/Research/Library/Documents/HistDocs/Preface.pdf> at 1-2

1 State, 117 Nev. 664, 668, 27 P.3d 443, 446 (2001); State v. Shaughnessy, 47 Nev. 129, 217
2 P. 581, 583 (1923); Field v. Clark, 143 U.S. 649 (1892).

3 The Statute Revision Commission was created by:

4 [E]nactment, by the 45th Session of the Legislature of the State
5 of Nevada, of chapter 304, Statutes of Nevada 1951
6 (subsequently amended by chapter 280, Statutes of Nevada 1953,
7 and chapter 248, Statutes of Nevada 1955), which created the
8 Statute Revision Commission and authorized the Commission to
undertake, for the first time in the state's history, a
comprehensive revision of the laws of the State of Nevada of
general application.

9 Legislative Counsel's Preface; see also Mot. at Ex. 1. As Exhibit 1, attached to Defendant's
10 Motion, explains, this committee was charged with compiling and revising the existing
11 Statutes of Nevada:

12 [T]o the end that upon the convening of the 1957 legislature
13 Nevada Revised Statutes was ready to present for approval. By
14 the provisions of chapter 2, Statutes of Nevada 1957, Nevada
Revised Statutes, consisting of NRS 1.010 to 710.590, inclusive,
was "*adopted and enacted as law of the State of Nevada.*"

15 Mot. at Ex. 1 (emphasis added). See also Legislative Counsel's Preface, 1 ("This bill, Senate
16 Bill No. 2 . . . was passed without amendment or dissenting vote, and on January 25, 1957,
17 was approved by Governor Charles H. Russell.)."

18 Defendant's claims consist of nothing more than mere allegations that the presence of
19 three Nevada Supreme Court justices on the Statute Revision Commission violated Art. 3, §
20 1 and Art. 4 § 1, without any actual showing that this was an improper delegation of
21 legislative power to the judicial branch. A bill may originate in either house, Nevada
22 Constitution Art. 4, § 16, at which point it must pass through the procedures enumerated in
23 Art. 4, § 18, and be signed by the governor, Art. 4, § 35, before it may become a law.
24 Defendant—who has the burden of demonstrating unconstitutionality—presents no authority
25 holding that a statute may not be drafted, revised, or compiled by an extra-legislative body
26 before it originates in a house of the legislature. Moreover, as the Commission took no part
27 in any of the steps enumerated in Art. 4, it did not actually make any law. Consequently, no
28 improper delegation of legislative authority occurred where Senate Bill No. 2 originated in

1 the senate, was presented to the legislature, and was duly adopted, signed, and enacted. As
2 such, this Court had and continues to have subject-matter jurisdiction accorded it by the
3 Nevada Constitution, Art. 6, § 6.

4 **II. DEFENDANT'S ASSERTION THAT SENATE BILL NO. 2 IS ILLEGAL IS**
5 **NOTHING MORE THAN A BARE, NAKED CLAIM BELIED BY THE**
6 **EXISTENCE OF THE NEVADA REVISED STATUTES**

7 Defendant alleges in Claim 3 of his Motion that, because the copy of Senate Bill No.
8 2 he received does not contain certain information that he believes necessary to demonstrate
9 its constitutionality, Senate Bill No. 2 and the Nevada Revised Statutes are unconstitutional.
10 Mot. 5-8. Defendant seeks to have the State prove that Senate Bill No. 2, and the statutes
11 arising therefrom, are constitutional. Yet Defendant misunderstands the respective burdens
12 of the movant and the State. "Statutes are presumed to be valid, and the *challenger* bears the
13 burden of showing that a statute is unconstitutional." Halverson, 124 Nev. at 487, 186 P.3d
14 at 896 (emphasis added); Nevadans for Nevada, 122 Nev. at 939, 142 P.3d at 345; Burdg.,
15 118 Nev. at 857, 59 P.3d at 486. Moreover, the existence of Senate Bill No. 2 and the
16 Nevada Revised Statutes are *prima facie* evidence of their own constitutionality—as
17 illustrated *supra*, nothing can become a law that has not first passed through the steps
18 outlined in the Nevada Constitution, and bills may originate in either the senate or assembly.
19 Defendant offers no evidence that Senate Bill No. 2 and the Nevada Revised Statutes are
20 unconstitutional, and their very existence belies his claim that they are not. See generally
21 Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984). Accordingly, Defendant's
22 claim is without merit.

23 **III. INSOMUCH AS DEFENDANT IS REQUESTING RECORDS, SUCH A**
24 **REQUEST IS A MATTER FOR THE SECRETARY OF STATE'S OFFICE**

25 Defendant, in Claim 5 of his Motion, alleges that the Secretary of State has failed to
26 keep records of Senate Bill No. 2 in violation of its duty pursuant to Nevada Constitution
27 Art. 5, § 20. To the extent that Defendant is requesting such records, the office of the
28 District Attorney does not represent the Secretary of State's Office. Accordingly, the
Attorney General's Office will respond to this claim.

1 CONCLUSION

2 Based on the foregoing arguments as set forth above, the State respectfully requests
3 this Honorable Court DENY Defendant's Motion.

4 DATED this 3rd day of December, 2013.

5 Respectfully submitted,

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

9 BY Nell Christensen
10 NELL E. CHRISTENSEN
11 Chief Deputy District Attorney
12 Nevada Bar #008822

13 CERTIFICATE OF MAILING

14 I hereby certify that service of the above and foregoing was made this 3rd day of
15 December, 2013, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

16 ALAN DANIELS, aka, Alan Demetrius Daniels #63982
17 SOUTHERN DESERT CORRECTIONAL CENTER
18 20825 COLD CREEK RD.
19 P. O. BOX 208
20 INDIAN SPRINGS, NV 89070

21 BY R. Johnson
22 R. JOHNSON
23 Secretary for the District Attorney's Office
24
25
26
27

28 MW/NEC/rj/M-1

PP
DA

Alan Daniels

SDCC

63982

PO Box 208

Indian Springs NV 89070-0208

Accused Pro Se

Alvin L. Blum

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

Case No. 10C262523-1

-VS-

Dept. No. XVIII

ALAN DANIELS

DATE OF HEARING:

Accused.

TIME OF HEARING:

ACCUSED REPLY TO STATE'S OPPOSITION TO DEFENDANT'S PRO
PER ACCUSED MOTION FOR DECISION ON THE MERITS OF INVALID
LAWS OF THE STATE OF NEVADA CAUSING THE DISTRICT COURT
TO BE DIVESTED OF SUBJECT MATTER JURISDICTION AB INITIO/
REQUEST TO REPLY TO ANY OPPOSITION OF THE ATTORNEY GENERAL'S
OFFICE

COMES NOW, ACCUSED, Alan Daniels (The
Accused), by and through his proper person and hereby submits
the foregoing "Accused Reply To State's Opposition To Defendant's
Pro Per Accused Motion For Decision On The Merits Of Invalid Laws
Of The State Of Nevada Causing The District Court To Be Divested
Of Subject Matter Jurisdiction Ab Initio (Reply) / Request To Reply
To Any Opposition Of The Attorney General's Office."

This Reply is made and based upon any and all documents,
exhibit's, papers, and pleadings on file herein and relative to the
issue of the "lack of, divestment of, subject matter jurisdiction

27

RECEIVED

DEC 27 2013

26

CLERK OF THE COURT

obinitio.

This Reply is also based on the attached Points and Authorities, made in support hereof, and The Accused continued request for oral argument as concerns the issues, pleadings before this Court concerning lack of Jurisdiction.

POINTS AND AUTHORITIES

ARGUMENT

STATEMENT OF THE CASE:

The Accused does hereby adopt the State's Statement of the Case, in the State's Opposition To Defendant's Pro Per Accused Motion For Decision On The Merits of Invalid Laws of The State of Nevada Causing The District Court To Be Divested of Subject Matter Jurisdiction Ab Initio (Opposition), as though cited and incorporated herein the foregoing Reply.

That, this court should not be dissuaded by the Statement of the Case, and should look more directly into The Accused prima facie evidence that, The Accused has presented that Senate Bill (S.B.), No. 2 ("the revision bill"), either:

1. "DOES NOT EXIST", or

2. The "ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE ADOPTING AND ENACTING NEVADA REVISED STATUTES, (The Accused 'EXHIBIT '2'' attached to the Motion, 'is' S.B. No. 2 'the revision bill'; and said bill is constitutionally invalid for all of the reasons in The Accused Motion and MORE!!

I. THE NEVADA REVISED STATUTES ARE DERIVED FROM AN "UNCONSTITUTIONAL COMMISSION" CONTRARY TO THE FORM AND FORCE OF THE CONSTITUTION OF THE STATE OF NEVADA, CAUSING THE ACCUSED TO SUFFER UNJUST PROSECUTION, AND TO SUFFER DEPRIVATIONS OF THE FEDERAL AND STATE CONSTITUTIONS.

The Accused has made more than a clear showing that the Nevada Revised Statutes (NRS), adopted and enacted January 25, 1957, are unconstitutional. In *Sheriff, Washoe County v. Burdy*, 118 Nev. 853, 857, 59 P3d 484, 486 (Nev. 2002); the Nevada Supreme Court (Nev. Sup. Ct.), held: "This court has stated, '[S]tatutes are presumed to be valid, and the burden is on the challengers to make a clear showing of their unconstitutionality.'" *Childs v. State*, 107 Nev. 584, 587, 816 P2d 1079, 1081 (1991).

The Accused has made a **clear** showing that the NRS adopted and enacted January 25, 1957, are Unconstitutional.

The first clear showing of the NRS being unconstitutional is demonstrated that, the NRS are derived from an illegal, unconstitutional commission created in 1955, by the Legislature of Nevada (Legis. of Nev.), commission to perform essential duties and functions of the Legis. of Nev.; contrary to the Constitution of the State of Nevada (Const. of Nev.), Article (Art.), 3, §1.

It is without question that the Legis. of Nev. **may not** delegate its power. *Villanueva v. State*, 117 Nev. 684, 668, 27 P.3d 443, 445 (Nev. 2000).

The legislature is not permitted to abdicate or to transfer to others essential legislative functions with which it is vested. AGO 188 (8-28-1935).

Also, all legislative power is vested in legislature by constitution, and legislature cannot delegate this power to any officer or board. AGO 257 (5-26-1938).

As used in Const. of Nev. Art. 3, §1, legislative power conferred by Const. of Nev. Art. 4, §1, is power of lawmaking representative bodies to frame and enact laws, and to **amend** or repeal laws

and, unless there are specific constitutional limitations to the contrary, laws are to be construed in favor of legislative power. *Galloway v. Truesdell*, 83 Nev. 13, 422 P.2d 237 (1967).

Galloway, sets forth that the legislative power conferred by Const. of Nev. Art. 4, § 1, is power of lawmaking representative bodies to frame and enact laws, and to **amend** or repeal laws....

The statute revision commission created in 1955, was charged to commence the preparation of a "complete 'revision' and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes. (Exhibit "1" section "A").

Webster's New World Thesaurus Copyright © 1971 by Charlton G. Laird, page 518, the word **revise** is syn. to **amend**.

This is vital due to the fact that **only the Legis. of Nev. can amend laws**. *Galloway*, supra. Thus, for the statute "revision" (amending), Commission (commission), to be revising laws (amending); said commission did perform an essential duty, function of the Legis of Nev. AGO 188 (8-28-1935).

(See also the Oxford Pocket Dictionary And Thesaurus Second American Edition Copyright © 2002 by Oxford University Press, Inc. the word **amend** on page 24 1... revise;

To say that the ~~to~~ of the settled maxims in constitutional law is that the power conferred upon the Legislature to make laws cannot be delegated to any body or authority. citing Nev. Const. Art. 3, § 1, Opposition at page 5, does not accurately state the full content of settled maxims in constitutional law. And cited as such, wholly misleads this Court.

It misleads this Court, in that it tends to lead this

Court to believe that the statute revision commission (Commission), must be "making laws", to constitute a violation of the Const. of Nev. Art. 3, §1. This is not true, or accurate.

Art. 3, §1, of the Const. of Nev. is also violated when one department exercises "any powers, duties, or functions essential to that department", to which the department is not vested with the powers, duties, or functions has operated, and is prohibited from doing ("powers", in the plural, not the singular). See, *O'Bryan v. Eighth Judicial Dis. Court*, 95 Nev. 386, 388, 594 P.2d 739 (1979); *City of N. Las Vegas ex rel. Arndt v. Daines*, 92 Nev. 292, 294, 550 P.2d 399 (1976); *Galloway v. Truesdell*, 83 Nev. 13, 422 P.2d 237 (1967), cited *Dunphy v. Sheehan*, 92 Nev. 259, 265, 549 P.2d 332 (1976).

Here the commission prior to its abolishment in 1963, (See, Exhibit "2" LEGISLATIVE COUNSEL'S PREFACE), had been conferred with the "powers", duties, and functions of the Legis. of Nev. And that power, duty and function conferred was the power to revise/amend the laws of the State of Nevada.

To further demonstrate that the commission was illegal, and was vested under the "powers, duties, and functions" of the Legis. of Nev., we turn to (Exhibit "3" LEGISLATIVE COUNSEL'S PREFACE History and Objectives of the Revision)

The writer from the Douglas County Banner stated: . . . The most serviceable members of the Legislature will be those gentlemen who will do something toward reducing to order our amendment-ridden, imperfectly framed and jumbled up statutes at large. Those members were none

other than Officer's of the court, Justice's of the Nevada Supreme Court (Nev. Sup. Ct.), Justice, Milton B. Badt (Badt), Edgar Eather (Eather), and Charles M. Merrill (Merrill).

The serviceable members of the Legislature (Exhibit "3"), had to be members of the Legis. of Nev., due to the fact that power of the Legis. of Nev., would need to be conferred upon the members, in order to perform essential duties, and functions, of revising/amending the statutes at large.

Due to the fact that the "members" of the Legislature "Badt, Eather, and Merrill", had legislative power conferred upon them, they could perform essential duties, and functions of the Legis. of Nev. "without consulting the Legislature." "The general types of revisions to be made by the reviser, as well as the broad policies governing the work of revision were determined by the statute revision commission at frequent meetings." (Exhibit "2").

This fully demonstrates that Art. 3, § 1, of the Const. of Nev., separation of powers of the Government, was violated by Badt, Eather, and Merrill, performing essential duties, and functions of the Legis. of Nev.

This also demonstrates that the Nevada Revised Statutes (NRS), as adopted and enacted by the 48th Session of the Legis. of Nev. is unconstitutional, having been derived from an unconstitutional commission; and the commission being contrary to the Const. of Nev. Art. 3, § 1; AGO 188 (8-28-1935), *Sawyer v. Dooley*, 21 Nev. 390, 32 Pac. 437 (1893), cited *Ormsby County v. Kearney*, 37 Nev. 314, 341, 142 Pac.

803 (1914).

Due to the above constitutional deprivations the Judgment of Conviction (JOC), recorded against The Accused is "VOID AB INITIO." See, *Gschwind v. Cessna Air Craft Co.*, 232 F.3d 1342, 1347 (10th Cir. 2000); *Schnier v. District Court In and for City and County of Denver*, 696 P.2d 264, 266 (Colo. 1985); and *Valley v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 353-54 (1920).

A. THE STATE OF NEVADA PLAINTIFF "NOW" TAKES THE POSITION THAT THE LEGISLATURE OF NEVADA "DID ENACT THE NEVADA REVISED STATUTES"

At page 4 of the State's Opposition, the State readily acknowledges that the "NRS", were adopted and enacted as law of the State of Nevada.

This change in position concerning the enactment of the NRS, is of vital importance.

The State in a prior opposition argued that: "The Nevada Supreme Court has interpreted this Constitutional provision to mean an enacting clause must be included in **every law created** by the Legislature and the law must express on its face 'the authority by which they were enacted.' citing *State v. Rogers*, 10 Nev. 250, 1875 WL 4032, 7 (1875). The Court further found that nothing can be law that is not introduced by the very words of the enacting clause. *Id.* at 256." (Emphasis added).

Said opposition further opined: "However, while it is well established that the laws of Nevada must include an enacting clause, the 'laws of Nevada must include an enacting clause, the Nevada Revised Statutes do not have the same requirement,' as they are 'not laws enacted by the legisla-

ture. (See, Exhibit "4" States Opposition To Defendant's Pro Per Motion To Dismiss For Lack of Subject Matter Jurisdiction, Errata To Accused Motion To Dismiss For Lack of Subject Matter Jurisdiction at page 4-5 lines 25-28, and 1-7 respectively.)^①

Since the State's Opposition "NOW" acknowledges that the convening of the 1957 legislature, the Nevada Revised Statutes, consisting of NRS 1.010 to 710.590, inclusive, was "adopted and enacted as law of the State of Nevada."

The State now concedes that the NRS must express on its face "the authority by which they were enacted." State v. Rogers, 10 Nev. 250, 261 (1875).

The State also now concedes that the NRS was created and enacted by the Legis. of Nev., wherefore, the NRS must include an enacting clause, as the NRS have the same requirements as they are laws enacted by the legislature.

This Court must now review the fact that the State has submitted, a knowing and false pleading to this Court in an effort to pervert the administration of law, and to interfere with the operation of government. United States v. Minkoff, 137 F.2d 402 (2d Cir. N.Y. 1943); United States v. Mullins, 22 F.3d 1365, 40 Fed. R. Evid. Serv. (LCP) 934, FED App. 133 P (6th Cir. Mich. 1994).

The filing of the knowing and false pleading effectively denied Due Process, under the Due Process Clause of the Fourteenth (14th), Amendment to the United States Constit -

^① The attached Exhibit "3" is utilized in this Reply, as all the State's opposition to the pleadings, was cookie, being exactly the same in argument.

ution (U.S. Const), *Daniels v. Williams*, 474 U.S. 327, 337 (1986), *Carey v. Phipps*, 435 U.S. 247, 259 (1978); *Robin v. California*, 342 U.S. 165, 169 (1952); which has effectively treated The Accused differently than others similar situated *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 439 (1985); which means that The Accused was denied the Due Process right to be heard *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970); citing *Grannis v. Ordean*, 234 U.S. 385, 394 (1914). The Accused was "not" heard in a meaningful manner. *Armstrong v. Manzo*, 380 US 545, 552 (1965).

II. THE ACCUSED HAS MORE THAN MET THE CHALLENGE OF ESTABLISHING THAT A CONSTITUTIONAL SENATE BILL NO. 2 DOES NOT EXIST AS MANDATED BY THE CONSTITUTION OF STATE OF NEVADA, THUS THE NEVADA REVISED STATUTES ARE UNCONSTITUTIONAL AND VOID

A citizen of the State of Nevada is suppose to be able to look to the Statute, to ascertain by what authority a statute is enacted, and what are their terms. *Nevada v. Swift*, 10 Nev. 176, 183 (1875), and the opinion of the Court bears repeating here at length: It results, therefore, that the question of law directly presented for our decision, relates solely to a rule of evidence. How is a court to be satisfied as to the existence and terms of a statute? Is it bound by the statute-roll, or can it look beyond that record? And if so, how far can the investigation be extended? The importance of these questions in their general bearing cannot easily be over-estimated. The determination of this particular case may affect very slightly the public revenues or the public morality, but it is a matter of very great moment to every citizen of the State, that on the first presentation of the question here, this court should lay down a **correct and safe**

rule by which he may determine what that law is which is to bind him in all his transactions, giving its construction to his agreements, limiting the measure of his rights, and his mode of redress where his rights are invaded. For whoever engages in any transaction the validity or construction of which depends upon statutory provisions, whoever holds or acquires any sort of property, or right, the title or enjoyment of which may be affected by the operation of any law, is bound to take notice, at his peril, what the law is. And it is not enough for him to know what the law is after a court of last resort has made an investigation and determined what part of the statute-roll is to stand and what part to fall, but he must know in advance of litigation, and govern his conduct accordingly. If there is any record or document outside of the statute-roll to which a court will resort for the purpose of testing the validity of an enrolled law, he must not overlook it. If a court will hear our testimony to impeach the record, he must be able to conjecture in advance what the testimony will be, and what weight will be allowed to it. Considering the exigency of this rule it is easy to perceive of what extreme importance it is that there should be some high, authentic and unquestionable record to which not only courts and public officers, but private citizens, may resort, and by a simple inspection determine for themselves with infallible certainty what are the statutes of the State, and what are their terms. (Emphasis added to original).

The Swift Court also held: [The case is stronger in Nevada, for here the constitution itself prescribes the

mode of authenticating the statutes, and provides not only that they shall be signed by the presiding officers of the two houses of the legislature, but also by the secretary of the senate and clerk of the assembly (Art. IV, Sec. 18).] (Emphasis added to original) See, also *Cardwell v. Glenn*, 18 Nev. 34, 1 Pac. 186 (1883), cited *State ex rel. Sutherland v. Nye*, 23 Nev. 99, 101, 42 Pac. 866 (1895); *State ex rel. Asburn v. Beck*, 25 Nev. 68, 56 Pac. 1008 (1899), cited *State ex rel. Coffin v. Howell*, 26 Nev. 93, 100, 64 Pac. 466 (1901).

Here this Court has not provided any measure of informing itself of the enrolled act, certified by those officers who are charged by the Constitution with the duty of certifying, and therefore, of course, with the duty of deciding what laws have been enacted. *State ex rel. Sutherland v. Nye*, 23 Nev. at 101; *State ex rel. Coffin v. Howell*, 26 Nev. at 100.

It appears that the Court has turned a blind eye to The Accused exhibit's, and arguments which effectively bring before the Court whether, the NRS are constitutionally valid, lawfully enacted.

Rather than perform full, fair, and adequate review, the Court has simply stated the argument lacks, etc.

Yet, the voice of the people, in their sovereign capacity, of legal force have expressed, by the constitution the manner in which court's are to determine the authenticity of the statutes. Const. of Nev. Art. 4, § 18. (*Nevada v. Swift*, 10 Nev. at 190). And this Court is bound by the Const. of Nev.

This Court must not abdicate its judicial function by not providing The Accused, full, fair, and adequate, affording The

Accused Due Process of law Goldberg, 397 U.S. at 267; citing Grannis, 234 U.S. at 394; Armstrong, 380 U.S. at 552; see also Zinermon v. Burch, 494 U.S. 113, 125 (1990); Daniels, 474 U.S. at 331; Carey, 435 U.S. at 259; and Rochin, 342 U.S. at 169; simply because the nature of the issue's by The Accused are at the heart of the laws of this State.

This Court is again respectfully reminded Judges are not to consider the political or economic impact that might ensue from upholding the Constitution as written. They are to uphold it no matter what may result, as that ancient maxim of law states: "Though the heavens may fall, let justice be done."

III. THE ACCUSED REQUEST TO REPLY TO ANY OPPOSITION/RESPONSE BY THE ATTORNEY GENERALS AS TO THE ACCUSED CLAIM V OF THE MOTION.

The State in their Opposition states that the "office of the District Attorney does not represent the Secretary of State's Office. Accordingly, the Attorney General's Office will need to respond to respond to this claim."

Since the Attorney General's Off will need to respond to this claim, The Accused does respectfully request that this Court not rule upon the Motion, until such time that all claims of the Motion have been addressed. And to allow The Accused the Due Process right to address any opposition/response from the Attorney General's Office, in accordance with the provisions of the District Court Rules (DCR), Rule 13(4), and to afford The Accused the full demands of the Due Process Clause of the Fourteenth (14th), Amendment of the U.S. Const. Goldberg, 397 U.S. at 267; citing Grannis, 234 U.S. at 394;

Armstrong, 380 U.S. at 552; Zimerman, 494 U.S. at 125; Daniels, 474 U.S. at 331; Carey, 435 U.S. at 259; and Rochin, 342 U.S. at 169. That, The Accused not be treated differently than others similarly situated. *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 439 (1985).

IV. SUMMARY OF THE REPLY

1. The Accused by the Const. of Nev. Art. 3, § 1, has established that the separation of powers has been violated, by former Justice's of the Nev. Sup. Ct. performing powers, essential duties, and functions of the Legis. of Nev. *Galloway*, 83 Nev. 13, 422 P.2d 237 (1967), cited *Dunphy*, 92 Nev. at 265, 549 P.2d 332 (1976); *O'Bryan*, 95 Nev. at 388, 594 P.2d 739 (1979).

That, the power of the Legis. of Nev. is not limited to "law making", yet, also to amend/revise or repeal laws. *Galloway*, 83 Nev. 13, 422 P.2d 237 (1967); see also AGO 188 (8-28-1935); (Legislature is not permitted to abdicate or to transfer to others essential legislative "functions" with which it is vested).

Another often cited authority is BLACK'S LAW DICTIONARY. In BLACK'S LAW DICTIONARY ABRIDGED NINTH EDITION BRYAN A. GARNER, EDITOR IN CHIEF, page 774 legislative power is defined as follows: Constitutional law. The power to make laws and to alter them; a legislative body's exclusive authority to make, amend, and repeal laws. . . . A legislative body may delegate a portion of its lawmaking authority to agencies within the executive branch for purposes of rulemaking and regulation. But a legislative body may not delegate its authority to the judicial branch, and the judicial branch may not encroach on legislative duties.

Again, Art. 3, §1, of the Const. of Nev. was violated when former Justice's of the Nev. Sup. Ct., performed essential duties, and functions of the Legis. of Nev. i.e. "amending" laws of the State of Nevada; doing so after being clothed with the "power" of the Legis. of Nev. (See Exhibit "2" pertaining to the abolishment of the statute revision commission July 1, 1963).

There isn't any provision for an "extra-legislative body", again essential duties, and functions where unconstitutional performed. AGO 188 (8-28-1935); Galloway, 83 Nev. 13, 422 P.2d 237 (1967).

This is more than a mere allegation of the presence of three Nev. Sup. Ct. Justice's on the statute revision commission. This a claim that the three Justice's Bacht, Eather, and Merrill, were unconstitutionally, on the statute revision commission, contrary to Art. 3, §1 of the Const. of Nev. and were unconstitutionally clothed with legislative power, to perform those duties and functions. (See Exhibit "2" abolishment of statute revision commission).

2. The Accused pleadings have set forth that S.B. No. 2 does not meet the Const. of Nev. prescribed mode of authenticating the statutes, which provides not only that they shall be signed by the presiding officers of the two houses of the legislature, yet also by the Secretary of the senate and clerk of the assembly. (Art. IV Sec. 18, Const. of Nev.), See also, Cardwell, 18 Nev. 34, 1 Pac. 186 (1883), cited Sutherland, 23 Nev. at 101, 42 Pac. 866 (1895); Osburn, 25 Nev. at 80, 56 Pac. 1008 (1899).

3. The Accused also supported a claim of the Const. of Nev. Art. 4, §1, separately and in concert with Art. 3, §1, of the Const. of Nev. being violated by the statute revision commission, when said commission was created in 1955.

4. The Accused has also established a critical violation to the Const. of Nev. Art. 5, § 20. The same has not been refuted at this time, due a response needing to come from the Attorney General's Office.

In any event The Accused has submitted documentation relevant to the Constitutional violation of Art. 5, § 20, of the Const. of Nev. The submission of the documentation is substantial proof, as to meeting the burden of showing that the NRS are unconstitutional; meeting Art. 4, § 18, requirements of the Const. of Nev.

This proof is evidence that warrants a full and comprehensive investigation by this Court, as to Art. 4, § 18, violations of the Const. of Nev. *Hargrove v. State*, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984), Art. 4, § 18, of the Const. of Nev. being the standard to challenge the constitutionality of statutes.

The Accused "ACTS OF THE 48TH SESSION OF THE NEVADA LEGISLATURE ADOPTING AND ENACTING NEVADA REVISED STATUTES", can be obtained from creditable source i.e. U.S. Gov. Works Matthew Bender & Company, Inc., a member of the Lexis Nexis Group.

That, these documents are circulated by this company across state lines, and therefore is also subject to be obtained via the Freedom of Information Act (FOIA) (Federal).

Which was invoked by The Accused, to no avail as certain State of Nevada agencies have ignored request for documents, alleging that searches cannot be done "for inmates" due to Budget Cuts. (This claim was alleged by the Nevada Archives).

To that extent The Accused has met the burden, and it is now the duty of this Court, to call upon the Secretary of State to produce the enrolled bill, to determine whether

S.B. No. 2 meets the constitutional requirements of Art. 4, § 18, of the Const. of Nev. (Exhibit "2" of the Motion does not!).

This Court must not belabor that the "statutes are presumed to be constitutional", when an adequate challenge has been present, nor claim that the argument lacks merit without having the enrolled bill produced.

Everyone is presumed to know the law and this presumption is not rebuttable. *Smith v. State*, 151 P. 512, 513 (Nev. 1915).

CONCLUSION

This Court is presumed to know the law and to apply it in making its decisions. *Walton v. Arizona*, 497 U.S. 639 (1990).

The Accused has presented the law, the argument(s), and the evidence that warrants for this Court, as to its decision to call upon the Secretary of State, to produce the enrolled bill of S.B. No. 2 ("the revision bill"), of January 25, 1997.

Producing the enrolled bill with the required signatures puts The Accused's claims forever to bed. And The Accused, a citizen, has the Constitutional right to call for this enrolled bill, as argued above under *Nevada v. Swift*, 10 Nev. at 183.

Wherefore, The Accused prays that in accordance to law, and the Const. of Nev. that this Court will call for the enrolled bill, S.B. No. 2 ("the revision bill"), January 25, 1997, at hearing with The Accused present.

Respectfully submitted:

Dated this 24 day of Dec. 2013.



THE ACCUSED PRO SE

-16-

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Accused Reply
To State's Opposition To Defendant's Pro Per Accused...
(Title of Document)

filed in District Court Case number 10C262523-1

☒ Does not contain the social security number of any person.

-OR-

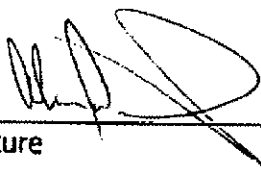
☐ Contains the social security number of a person as required by:

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

(State specific law)

-or-

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

* 
Signature

12-24-13
Date

ALAN DANIELS
Print Name

THE ACCUSED PROSE
Title

CERTIFICATE OF SERVICE BY MAILING


I, Alan Daniels, hereby certify, pursuant to NRCP 5(b), that on this 24
day of December, 2013, I mailed a true and correct copy of the foregoing, "Accused Re-
ply To State's Opposition To Defendant's Pro Per Accused Motion For..."
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

District Attorney
Clark County, Nevada
200 Lewis Ave.
PO Box 552212
Las Vegas NV 89155-2212

Attorney General
State of Nevada
555 E. Washington Ave.
STE 3900
Las Vegas NV 89101-1068

CC:FILE

DATED: this 24 day of December, 2013.


Alan Daniels # 63982
THE ACCUSED /In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

FOREWORD

"A" "A" "A"
By the provisions of chapter 304, Statutes of Nevada 1951, amended by chapter 280, Statutes of Nevada 1953, and chapter 248, Statutes of Nevada 1955, the legislature of the State of Nevada created the statute revision commission comprised of the three justices of the supreme court, authorized such commission to appoint a reviser of statutes to be known as the director of the statute revision commission, and charged the commission to commence the preparation of a complete revision and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes. Reference is made to chapter 220 of Nevada Revised Statutes for the further duties and authority of the statute revision commission relating to the preparation of Nevada Revised Statutes, the numbering of sections, binding, printing, classification, revision and sale thereof.

The commission employed as director Russell W. McDonald, a member of the State Bar of Nevada, who, with his staff, undertook and performed this monumental task with such methods, care, precision, completeness, accuracy and safeguards against error as to evoke the highest praise of the commission and the commendation of the bench and bar of the state.

"C" "C" "C"
As the work progressed, Mr. McDonald submitted drafts of chapter after chapter as recompiled and revised, and the members of the commission individually and in conference meticulously checked all revisions. In the vast majority of cases these revisions were promptly approved. Many required further conferences with the director. Some were modified and redrafted. As the several chapters were returned with approval to the director, they were in turn delivered to the superintendent of state printing for printing, to the end that upon the convening of the 1957 legislature Nevada Revised Statutes was ready to present for approval. By the provisions of chapter 2, Statutes of Nevada 1957, Nevada Revised Statutes, consisting of NRS 1.010 to 710.390, inclusive, was "adopted and enacted as law of the State of Nevada."

"B" STATUTE REVISION COMMISSION "B"

"B" "B" "B"
MILTON B. BADT
EDGAR EATHER
CHARLES M. MERRILL
"B"

LEGISLATIVE COUNSEL'S PREFACE

1. Long sections were divided into shorter sections. The division of long sections facilitates indexing and reduces the complications and expense incident to future amendment of the statutes.

2. Whole sections or parts of sections relating to the same subject were sometimes combined.

3. Sentences within a section, and words within a sentence, were rearranged, and tabulations were employed where indicated.

4. Such words and phrases as "on and after the effective date of this act," "heretofore," "hereinafter," "now," and "this act" were replaced by more explicit words when possible.

5. The correct names of officers, agencies or funds were substituted for incorrect designations.

The general types of revisions to be made by the reviser, as well as the broad policies governing the work of revision, were determined by the statute revision commission at frequent meetings. Precautions were taken to ensure the accomplishment of the objectives of the program without changing the meaning or substance of the statutes.

Upon completion of the revision of the text of the statutes in December 1956, the commission turned to the solution of a vital problem: Would it recommend the enactment of the revised statutes or would it request the legislature merely to adopt the revised statutes as evidence of the law? The commission concluded that the enactment of the revised statutes as law, rather than the mere adoption thereof as evidence of the law, would be the more desirable course of action. Accordingly, Nevada Revised Statutes in typewritten form was submitted to the 48th session of the legislature in the form of a bill providing for its enactment as law of the State of Nevada. This bill, Senate Bill No. 2 (hereafter referred to in this preface as "the revision bill"), was passed without amendment or dissenting vote, and on January 25, 1957, was approved by Governor Charles H. Russell.

On July 1, 1963, pursuant to the provisions of chapter 403, Statutes of Nevada 1963, the statute revision commission was abolished, and its powers, duties and functions were transferred to the legislative counsel of the State of Nevada.

SCOPE AND EFFECT OF NEVADA REVISED STATUTES

Nevada Revised Statutes, including the supplementary and replacement pages, constitutes all of the statute laws of Nevada of a general nature enacted by the legislature. All statutes of a general nature enacted before the regular legislative session of 1957 have been repealed. See section 3 of chapter 2, Statutes of Nevada 1957, immediately following this preface.

The revised statutes were the result of 7 years of labor by the statute revision commission and its editorial staff addressed to the problem of eliminating from the accumulation of 95 years of legislation those provisions no longer in force and restating and compiling the remainder in an understandable form. This involved elimination of duplicating, conflicting, obsolete and unconstitutional provisions, and those provisions that had been repealed by implication. It involved a complete reclassification, bringing together those laws and parts of laws which, because of similarity of subject matter, properly belonged together, and an arrangement of the laws within each class in a logical order. It involved the elimination of thousands of needless words and redundant expressions. It was a labor involving almost infinite detail, as well as the problems of classification and the general plan of arrangement.

XIV

EXHIBIT - "24"

(2001)

LEGISLATIVE COUNSEL'S PREFACE

History and Objectives of the Revision

Nevada Revised Statutes is the result of the enactment, by the 45th session of the legislature of the State of Nevada, of chapter 304, Statutes of Nevada 1951 (subsequently amended by chapter 280, Statutes of Nevada 1953, and chapter 248, Statutes of Nevada 1955), which created the statute revision commission and authorized the commission to undertake, for the first time in the state's history, a comprehensive revision of the laws of the State of Nevada of general application. Although revision was not commenced until 1951, the need for statutory revision had been recognized as early as 1865 when an editorial published in the *Douglas County Banner* stated:

One subject which ought to engage the early, and serious consideration of the Legislature, about to convene, and one which should be acted upon without delay, is the revision and codification of the laws of Nevada. Amendment has been added to amendment, in such manner as to leave, in many instances, the meaning of the Legislature, that last resort of the jurist, in determining the application of the law, more than doubtful * * *. The most serviceable members of the Legislature will be those gentlemen who will do something toward reducing to order our amendment-ridden, imperfectly framed and jumbled up statutes at large.

From 1861 to 1951 the legislature made no provisions for statutory revision, although during that period 8,423 acts were passed by the legislature and approved by the governor. During the period from 1873 to 1949 eight compilations of Nevada statutes were published. "Compiling" must be distinguished from "revising." Ordinarily, the "compiling" of statutes involves the following steps: Removing from the last compilation the sections that have been specifically repealed since its publication; substituting the amended text for the original text in the case of amended sections; inserting newly enacted sections; rearranging, to a limited extent, the order of sections; and bringing the index up to date.

"Revising" the statutes, on the other hand, involves these additional and distinguishing operations: (1) The collection into chapters of all the sections and parts of sections that relate to the same subject and the orderly arrangement into sections of the material assembled in each chapter. (2) The elimination of inoperative or obsolete, duplicated, impliedly repealed and unconstitutional (as declared by the Supreme Court of the State of Nevada) sections and parts of sections. (3) The elimination of unnecessary words and the improvement of the grammatical structure and physical form of sections.

The revision, instead of the recompilation, of the statutes was undertaken, therefore, first, to eliminate sections or parts of sections which, though not specifically repealed, were nevertheless ineffective and, second, to clarify, simplify, classify and generally make more accessible, understandable and usable the remaining effective sections or parts of sections.

With respect to the accomplishment of the second purpose of revision specified above, the following revisions, in addition to those mentioned elsewhere in this preface, were made:

XIII

(2001)

EXHIBIT 3/1

1 **RSPN**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 
13 #0682068

14 Defendant.

CASE NO: 93C114390

DEPT NO: VI

15
16 **STATE'S RESPONSE TO DEFENDANT'S "CAVEAT," MOTION TO DISMISS**
17 **FOR LACK OF SUBJECT MATTER JURISDICTION, ERRATA TO ACCUSED**
18 **MOTION TO DISMISS FOR LACK OF SUBJECT MATTER**
19 **JURISDICTION/MOTION FOR SHOW OF PROOF, &**
20 **PETITION FOR WRIT OF MANDAMUS**

21 DATE OF HEARING: JULY 15, 2013
22 TIME OF HEARING: 8:30 AM

23 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
24 District Attorney, through ENTER DEPUTY DA NAME, Chief Deputy District Attorney,
25 and hereby submits the attached Points and Authorities in Response to Defendant's "Caveat,"
26 Motion to Dismiss for Lack of Subject Matter Jurisdiction, Errata to Accused Motion to
27 Dismiss for Lack of Subject Matter Jurisdiction/Motion for Show of Proof, & Petition for
28 Writ of Mandamus.

29 This Response is made and based upon all the papers and pleadings on file herein, the
30 attached points and authorities in support hereof, and oral argument at the time of hearing, if
31 deemed necessary by this Honorable Court.

EXHIBIT "4"

1 On June 8, 2012 Defendant filed a Motion to Correct Illegal Sentence, and/or Motion
2 for Modification of Sentence to Reflect the Correct Term of Imprisonment. The State filed
3 its Opposition on June 18, 2012. On June 20, 2012, the district court denied Defendant's
4 Motion.

5 On July 27, 2012, Defendant filed a seventh Petition for Writ of Habeas Corpus (Post-
6 Conviction). The State filed its Response on November 16, 2012. The District Court denied
7 Defendant's petition on January 18, 2013. The Nevada Supreme Court affirmed the denial of
8 Defendant's petition, with Remittitur issuing on May 7, 2013.

9 An Amended Judgment of Conviction was filed on May 17, 2013 to reflect that
10 Defendant was entitled to the possibility of parole after 5 years on Counts 2, 3, and 4.

11 On June 21, 2013 Defendant filed the instant "Caveat," Motion to Dismiss for Lack of
12 Subject Matter Jurisdiction, Errata to Accused Motion to Dismiss for Lack of Subject Matter
13 Jurisdiction/Motion for Show of Proof, & Petition for Writ of Mandamus. The State
14 responds to all four of Defendant's motions as follows:

15 **ARGUMENT**

16 **I. DEFENDANT IS NOT ENTITLED TO DISMISSAL AND THIS COURT HAS**
17 **SUBJECT MATTER JURISDICTION.**

18 The first three Motions Defendant brings before this Court - "Caveat," Motion to
19 Dismiss for Lack of Subject Matter Jurisdiction, Errata to Accused Motion to Dismiss for
20 Lack of Subject Matter Jurisdiction/Motion for Show of Proof - are all related and present
21 the same argument. In these Motions Defendant contends that this Court is without subject
22 matter jurisdiction because the Nevada Revised Statutes version of the statutes under which
23 he pleaded guilty do not contain the enacting clause. Defendant's argument is incorrect and
24 these Motions should be denied.

25 "The enacting clause of every law shall be as follows: 'The People of the State of
26 Nevada, represented in Senate and Assembly, do enact as follows,' and no law shall be
27 enacted except by bill." NEV. CONST. art. 4, § 23. The Nevada Supreme Court has
28 interpreted this Constitutional provision to mean an enacting clause must be included in

1 every law created by the Legislature and the law must express on its face "the authority by
2 which they were enacted." State v. Rogers, 10 Nev. 250, 1875 WL 4032, 7 (1875). The
3 Court further found that nothing can be law that is not introduced by the very words of the
4 enacting clause. Id. at 256.

5 However, while it is well established that the laws of Nevada must include an
6 enacting clause, the Nevada Revised Statutes do not have the same requirement, as they are
7 not laws enacted by the legislature. Instead, the Nevada Revised Statutes consist of
8 *previously enacted laws* which have been classified, codified, and annotated by the
9 Legislative Counsel. See NRS 220.120. Thus, the reason the Nevada Revised Statutes are
10 referenced in criminal proceedings is because they "constitute the official codified version of
11 the Statutes of Nevada and may be cited as *prima facie* evidence of the law." NRS
12 220.170(3) (emphasis added). Further, the content requirements for the Nevada Revised
13 Statutes, as laid out in NRS 220.110, do not require the enacting clause to be republished in
14 them. See NRS 221.110. Therefore, the lack of an enacting clause in the Nevada Revised
15 Statutes does not render them unconstitutional.

16 Here, Defendant does not attack the specific statutes under which he was convicted
17 but instead attacks all of the Nevada Revised Statutes. In accordance with the law as stated
18 above, the Nevada Revised Statutes were properly cited to and used in referencing the law
19 Defendant was accused and later convicted of violating. Therefore, Defendant's argument is
20 without merit and should be denied.

21 Inasmuch as Defendant contends this Court is without subject matter jurisdiction
22 because the charging documents did not reference a version of the law he was charged with
23 violating that contained the enacting clause, such is without merit. Neither a Criminal
24 Complaint nor an Information is required to reference a version of the allegedly violated
25 statute that contains an enacting clause. See NRS 171.102; NRS 173.035. Instead, only the
26 facts of the charge must be included, and reference to the NRS version of the laws was
27 sufficient to put Defendant on notice of the offenses charged. See Sanders v. Sheriff, 85
28 Nev. 179, 181-82, 451 P.2d 718, 720 (1969). Additionally, Rogers does not support

1 Defendant's argument is insufficient at this time to warrant this Court employing the
2 extraordinary remedy of a Writ of Mandamus to compel action on the part of prison
3 authorities concerning office supplies.

4 **CONCLUSION**

5 WHEREFORE, based upon the foregoing, the State respectfully requests that this
6 Honorable Court deny Defendant's Motions challenging this Court's subject matter
7 jurisdiction and his Petition for Writ of Mandamus.

8 DATED this 10th day of July, 2013.

9 Respectfully submitted,

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

13 BY /s/ JAMES R. SWEETIN
14 JAMES R. SWEETIN
15 Chief Deputy District Attorney
16 Nevada Bar #005144

17
18
19 **CERTIFICATE OF MAILING**

20 I hereby certify that service of the above and foregoing, was made this 10th day of
21 July, 2013, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

22 
23 S.D.C.C.
24 P.O. BOX 208
25 INDIAN SPRINGS, NV 89070

26 /s/ HOWARD CONRAD
27 Secretary for the District Attorney's Office
28 Special Victims Unit

hjc/SVU

W 4"

P.O. Box 708
INDIAN SPRINGS, N.V. 89070

Local Mail
Case No: 10C262583-1

10/15/81 11:11 AM

CONFIDENTIAL

Clerk of the Court
EIGHTH JUDICIAL DISTRICT COURT
REGIONAL JUSTICE CENTER
200 LEWIS AVE.
LAS VEGAS NEVADA 89155-1160

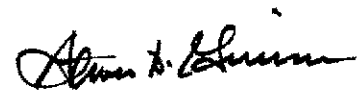
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Z/F 8910
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SOUTHERN DISTRICT
CORRECTIONAL CENTER

DEC 26 2013

OUTSOME
MAIL



CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BRETT O. KEELER
Chief Deputy District Attorney
Nevada Bar #009600
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DANIELS,
aka, Alan Demetrius Daniels, #0747918

Defendant.

CASE NO: 10C262523-1

DEPT NO: XVIII

ORDER DENYING DEFENDANT'S PRO PER ACCUSED MOTION FOR DECISION
ON THE MERITS OF INVALID LAWS OF THE STATE OF NEVADA CAUSING THE
DISTRICT COURT TO BE DIVESTED OF SUBJECT MATTER
JURISDICTION AB INITIO

DATE OF HEARING: DECEMBER 16, 2013

TIME OF HEARING: 8:15 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the
16th day of December, 2013, the Defendant not being present, IN PROPER PERSON, the
Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through BRETT
O. KEELER, Chief Deputy District Attorney, without argument, based on the pleadings
and good cause appearing therefor.

///

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///

1 IT IS HEREBY ORDERED that the Defendant's Pro Per Accused Motion For
2 Decision On The Merits Of Invalid Laws Of The State Of Nevada Causing The District
3 Court To Be Divested Of Subject Matter Jurisdiction Ab Initio, shall be, and it is DENIED,
4

5 DATED this JAN 03 2014 day of ~~December~~, 2013.
6

7
8 DISTRICT JUDGE  

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

11
12 BY 
13 BRETT O. KELLER
14 Chief Deputy District Attorney
Nevada Bar #009600
15
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1 CERTIFICATE OF SERVICE

2 I certify that on the 9th day of January, 2013, I mailed a copy of the foregoing Order
3 to:

4 ALAN DANIELS,
5 aka, Alan Demetrius Daniels #63982
6 SOUTHERN DESERT CORRECTIONAL CENTER
7 20825 COLD CREEK RD.
8 P. O. BOX 208
9 INDIAN SPRINGS, NV 89070

10 BY



11 R. JOHNSON
12 Secretary for the District Attorney's Office
13
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27


28 rj/M-1

1 Alan Daniels
2 THE ACCUSIN Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

FILED
FEB 12 2014
Alan L. Williams
CLERK OF COURT

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6
7 IN AND FOR THE COUNTY OF CLARK

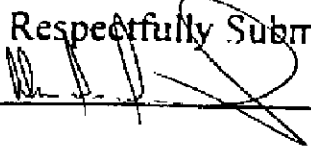
8
9 THE STATE OF NEVADA,
10 Plaintiff,
11 vs.
12 ALAN DANIELS,
13 Oka, Alan Demetrius Daniels,
14 Accused.

10C262523-1
NOASC
Notice of Appeal (criminal)
3467060

Case No. 10C262523-1
Dept. No. XVII
Docket _____

15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Accused
18 Alan Daniels, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the Order Denying Defendant's Proper Accused Motion For
21 Decision On The Merits of Invalid Laws of The State of Nevada Causing
22 The District Court To Be Divested of Subject Matter Jurisdiction Abs Initio
23 ruled on the 1st day of January, 2014.

24
25 Dated this 31st day of JANUARY, 2014.

26 Respectfully Submitted,
X 

RECEIVED
FEB 12 2014
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, Alan Daniels, hereby certify, pursuant to NRCP 5(b), that on this _____ day of _____, 2014, I mailed a true and correct copy of the foregoing, "

NOTICE OF APPEAL

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

District Attorney
Clark County, Nevada
200 Lewis Ave.
P.O. Box 552212
Las Vegas NV 89155-2212

STEVEN D. GRIERSON

CLERK OF THE COURT
200 LEWIS AVE. 3RD FLOOR
LAS VEGAS NV
89155-1160

CC:FILE

DATED: this 31ST day of JANUARY, 2014.

X Alan Daniels #63982
THE ACCUSED /In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOTICE OF APPEAL
(Title of Document)

filed in District Court Case number 10C262523-1

☒ Does not contain the social security number of any person.

-OR-

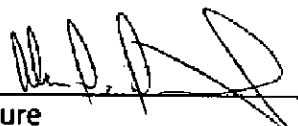
☐ Contains the social security number of a person as required by:

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

(State specific law)

-or-

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

* 
Signature

1/31/14
Date

ALAN DANIELS
Print Name

APPELLANT PRO SE
Title

ALAN DANIELS #63982
SBC
PO. BOX 208
INDIAN SPRINGS, NV.
89070

8763

Hasler
02/02/2014
US POSTAGE
1.36
713 89104
017712602491

STEVEN D. GRIERSON
CLERK OF THE COURT
200 LEWIS AVENUE 3RD FLOOR
LAS VEGAS, NV.
89155-1160

LEGAL MAIL

CONFIDENTIAL

FEB 04 2014
LAW LIBRARY

SOUTHERN DESERT
CORRECTIONAL CENTER
JAN 05 2014
ORANGE
CALIF.

Alan Daniels, #163982
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

FILED

FEB 12 2014

Alan Daniels
CLERK OF COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

10C282623-1
DROA
Designation of Record on Appeal
3487054



ALAN DANIELS
Appellant,

vs.

THE STATE OF NEVADA
Appellee.

CASE No. IDC262523-1

DEPT. No. XVII

DESIGNATION OF RECORD ON APPEAL

TO: Clerk of the Court
Eighth Jud. Dist. Court
2008 Lewis Ave.
3RD Floor
Las Vegas NV 89155-2212

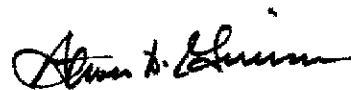
The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 31st day of JANUARY, 2014.

RESPECTFULLY SUBMITTED BY:

ALAN DANIELS #163982
Appellant/In Propria Persona

RECEIVED
FEB 12 2014
CLERK OF THE COURT



CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

ALAN D. DANIELS aka ALAN DANIELS,

Defendant(s),

Case No: 10C262523-1
Dept No: XVIII

CASE APPEAL STATEMENT

1. Appellant(s): Alan Daniels
2. Judge: David Barker
3. Appellant(s): Alan Daniels

Counsel:

Alan Daniels #63982
P.O. Box 208
Indian Springs, NV 89070

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101
(702) 671-2700

5. Respondent's Attorney Licensed in Nevada: Yes
6. Appellant Represented by Appointed Counsel In District Court: No

1 7. Appellant Represented by Appointed Counsel On Appeal: N/A

2 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

3 9. Date Commenced in District Court: March 3, 2010

4 10. Brief Description of the Nature of the Action: Criminal

5 Type of Judgment or Order Being Appealed: Misc. Order

6 11. Previous Appeal: No

7 Supreme Court Docket Number(s): N/A

8 12. Child Custody or Visitation: N/A

9
10 Dated This 13 day of February 2014.

11 Steven D. Grierson, Clerk of the Court

12
13 

14 Heather Ungermann, Deputy Clerk
15 200 Lewis Ave
16 PO Box 551601
17 Las Vegas, Nevada 89155-1601
18 (702) 671-0512
19
20
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IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN DEMETRIUS DANIELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 65037
District Court Case No. C262523

FILED

APR 10 2014

Tracie Lindeman
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER this appeal DISMISSED."

Judgment, as quoted above, entered this 13th day of March, 2014.

10C262523 - 1
CCJD
NV Supreme Court Clerks Certificate/Judgm
3674387



IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
April 07, 2014.

Tracie Lindeman, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN DEMETRIUS DANIELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65037

FILED

MAR 13 2014

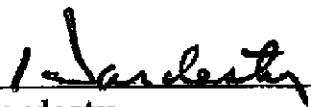
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

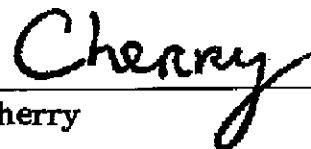
This is a proper person appeal from an order denying a "motion for decision on the merits of invalid laws of the State of Nevada causing the district court to be divested of subject matter jurisdiction ab initio." Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Because no statute or court rule permits an appeal from an order denying the abovementioned motion, we lack jurisdiction. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, we

ORDER this appeal DISMISSED.

 J.
Hardesty

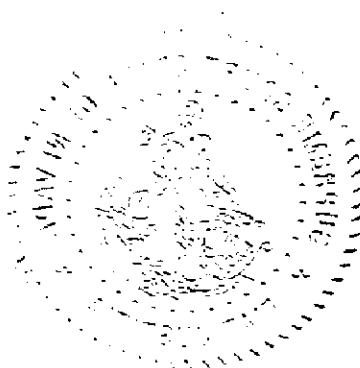
 J.
Douglas

 J.
Cherry

cc: Hon. David B. Barker, District Judge
Alan Demetrius Daniels
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

SUPREME COURT
OF
NEVADA

JD 1947A 



CERTIFIED COPY

This document is a full, true and correct copy of the original on file and of record in my office.

DATE: APRIL 7TH 2014

Supreme Court Clerk, State of Nevada

By [Signature] Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN DEMETRIUS DANIELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 65037
District Court Case No. C262523

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: April 07, 2014

Tracie Lindeman, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. David B. Barker, District Judge
Alan Demetrius Daniels
Attorney General/Carson City
Clark County District Attorney

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on APR 10 2014.

HEATHER UNGERMANN
Deputy District Court Clerk

RECEIVED

APR 09 2014

CLERK OF THE COURT

PP
DA
MC

Electronically Filed
2/21/2018 9:17 AM

Steven B. Grierson
CLERK OF THE COURT

STANDARD
COPY REQUESTED

ALAN DANIELS # 63982

/In Propria Personam
Post Office Box 208 S.D.C.C.
Indian Springs, Nevada 89018

DISTRICT COURT
CLARK COUNTY, NEVADA

ALAN DANIELS,
DEFENDANT,

Case No. CZ62523-1

THE STATE OF NEVADA,
RESPONDENTS.

Dept No. 28

Docket

NOTICE OF MOTION

YOU WILL PLEASE TAKE NOTICE, that DEFENDANTS MOTION TO CORRECT
DISPROPORTIONALITY OF SENTENCE AND TO AMEND THE JUDGMENT OF CONVICTION
will come on for hearing before the above-entitled Court on the ¹⁴22ND day of ^{March}~~FEBRUARY~~ 2018.
at the hour of ^{8:30}9 o'clock ^{XIX}A. M. In Department 28, of said Court.

CC:FILE

DATED: this 7TH day of FEBRUARY, 2018.

x BY:



ALAN DANIELS # 63982
/In Propria Personam

CLERK OF THE COURT

FEB 12 2018

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FEB 21 2018
CLERK OF THE COURT

PP
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MC

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

ALAN D. DANIELS,
DEFENDANT,

VS.

THE STATE OF NEVADA,
RESPONDENT.

CASE NO. C262523-1

DEPT. NO.

Hearing: 3-14-18

Time: 8:30am

MOTION TO CORRECT DISPROPORTIONALITY OF SENTENCE
AND TO AMEND THE JUDGMENT OF CONVICTION

COMES NOW, DEFENDANT, ALAN D. DANIELS, IN PROPER
PERSON, AND HEREBY RESPECTFULLY MOVES THIS COURT FOR AN
ORDER GRANTING HIS MOTION TO CORRECT THE DISPROPORTIONALITY
OF HIS SENTENCE AND TO AMEND THE JUDGMENT OF CONVICTION
IN THIS MATTER.

THIS MOTION IS MADE AND BASED UPON ALL OF THE PAPERS
AND PLEADINGS ON FILE, THE POINTS AND AUTHORITIES IN ARGUMENT
BELOW AND ANY ORAL ARGUMENT TO BE MADE AT THE TIME OF HEARING.

ARGUMENT/POINTS AND AUTHORITIES

DEFENDANT ALAN DANIELS AND HIS CO-DEFENDANT
CARY PICKETT WERE CHARGED AND CONVICTED OF COUNT 1 -
BURGLARY WHILE IN POSSESSION OF A FIREARM; COUNT 2 -
CONSPIRACY TO COMMIT ROBBERY; AND COUNT 3 - ROBBERY
WITH USE OF A DEADLY WEAPON; AND COUNT 4 - POSSESSION
OF A FIREARM BY EX FELON.

CLERK OF THE COURT

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FEB 21 2018
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FEB 12 2018

CLERK OF THE COURT

DANIELS AND PICKETT WERE BOTH CONVICTED AND SENTENCED UNDER THE HABITUAL CRIMINAL STATUTE. HOWEVER, PICKETT WAS SENTENCED UNDER NRS 207.010 ON MAY 10, 2010 AND ON SEPTEMBER 24, 2010, WHILE DANIELS WAS SENTENCED UNDER NRS 207.012, BY STIPULATION, FOR THE SAME EXACT CRIMINAL CONDUCT. THE DISPROPORTIONALITY IN THE SENTENCES OF DANIELS AND PICKETT IS WIDELY DETRIMENTAL TO DANIELS AND PROHIBITED BY LAW FOR CO-DEFENDANTS CONVICTED OF THE SAME EXACT CRIMES.

FIRST, ON COUNT 1, DANIELS WAS SENTENCED TO 60 MONTHS MINIMUM TO 180 MONTHS MAXIMUM, WHILE PICKETT WAS SENTENCED TO LESS THAN HALF OF THAT PUNISHMENT ON COUNT 1, 24 MONTHS MINIMUM TO 60 MONTHS MAXIMUM.

ON COUNT 3, THE COURT SENTENCED PICKETT TO TEN (10) TO TWENTY FIVE (25) YEARS, BUT GAVE DANIELS TEN (10) TO LIFE PRISON TERM FOR THE SAME CONDUCT.

THE DISPARITY/DISPROPORTIONALITY IN SENTENCING IN THIS CASE SHOULD BE CORRECTED AND THE JUDGMENT OF CONVICTION AMENDED BECAUSE THE RECORD REFLECTS THAT DANIELS "STIPULATED" TO THE HABITUAL CRIMINAL STATUTE UNDER NRS 207.012.

NEVADA LAW STATES CLEARLY THAT A DEFENDANT CANNOT STIPULATE TO A STATUS AND THE HABITUAL CRIMINAL STATUTE IS A STATUS, NOT A CRIME. SEE STALEY V. STATE, 787 P.2d 396 (1990).

THE GUILTY PLEA AGREEMENT IN DANIELS CASE, (MARCH 11, 2010), STATES: "DEFENDANT STIPULATES TO VIOLENT HABITUAL CRIMINAL TREATMENT UNDER NRS 207.012". AS STATED ABOVE, A DEFENDANT CANNOT STIPULATE TO A STATUS IN NEVADA.

WHAT IS STRIKING IN THIS CASE IS THAT CO-DEFENDANT PICKETT HAD A MORE EXTENSIVE PRIOR CRIMINAL HISTORY THAN DANIELS HAD LONG BEFORE THESE CRIMES WERE COMMITTED IN 2009.

EVEN MORE STRIKING, IS THE COMPARISON BETWEEN DANIELS, WHO WAS SENTENCED TO TEN YEARS TO LIFE ON COUNT 3, AND HIS CO-DEFENDANT PICKETT, WHO WAS SENTENCED UNDER NRS 207.010, TO TEN YEARS TO TWENTY-FIVE (25) YEARS, ON COUNT 3, FOR THE VERY SAME CRIME!

BOTH DANIELS AND PICKETT WERE CONVICTED OF ROBBERY WITH USE OF A DEADLY WEAPON (CT. 3) AND THE CHARGING INFORMATION IN THIS CASE DEMONSTRATES THAT DANIELS PARTICIPATION IN THE ROBBERY WAS NO MORE SIGNIFICANT THAN PICKETT'S.

WHAT WAS NOT PREVIOUSLY CORRECTED IS THE FACT THAT THE LIFE SENTENCE IMPOSED ON DANIELS IS DISPROPORTIONATE TO THE SENTENCE IMPOSED IN SIMILAR CASES IN THIS STATE, CONSIDERING BOTH THE CRIME AND THE DEFENDANT. THE ERROR OF DISPROPORTIONALITY IN THIS CASE CERTAINLY AFFECTS DANIELS SUBSTANTIAL RIGHTS; AS AN EXTRA LIFE SENTENCE IMPOSED IS "SUBSTANTIAL" BY ANY MEASURE.

EVEN A PLAIN ERROR SHOULD BE CORRECTED ONLY WHEN IT "SERIOUSLY AFFECTS THE FAIRNESS, INTEGRITY, AND PUBLIC REPUTATION OF JUDICIAL PROCEEDINGS." UNITED STATES V. OLANO, 113 S. CT. 1770 (1993); ALSO BIONDI V. STATE, 699 P.2d 1062 (1985); U.S. V. DOOLEY, 688 F.3d 318 (2012) AND HARVEY V. STATE, 682 P.2d 1384 (1984).

I ASK THE COURT TO SET ASIDE MY LIFE SENTENCE AS IT IS COMPARATIVELY DISPROPORTIONATE TO THE OFFENSE AND TO THE BACKGROUND AND CHARACTERISTICS OF THIS OFFENDER.

THE CONSTITUTIONAL VALIDITY OF PRIOR CONVICTIONS IS A LEGAL STATUS TO WHICH A DEFENDANT MAY NOT STIPULATE, NO MATTER WHAT THE PLEA BARGAIN. *McANULTY V. STATE*, 826 P.2d 567 (1992).

I BELIEVE THAT THE DISPROPORTIONALITY OF SENTENCE AND THE DISCRETIONARY ASPECT OF PLAIN ERROR DOCTRINE SUPPORTS RE-SENTENCING IN THIS CASE. THE RECORD IS CLEAR THAT CO-DEFENDANT PICKETT HAD RECEIVED A SENTENCE ON COUNT 3 OF TEN TO LIFE UNDER COUNT 3 ON MAY 10, 2010 BUT ON JULY 27, 2010, DUE TO CLERICAL ERROR, PICKETT'S SENTENCE WAS AMENDED TO REFLECT 10-25 YEARS INSTEAD OF THE LIFE TERM. THEREAFTER, ON SEPTEMBER 22, 2010, THE COURT ORDERED PICKETT'S LIFE SENTENCE REMOVED FROM IMPOSITION.

THE SECOND AMENDED JUDGMENT OF CONVICTION FOR PICKETT CERTAINLY DEMONSTRATES DISPROPORTIONALITY IN THE SENTENCE THAT DANIELS RECEIVED FROM THE SAME JUDGE FOR THE EXACT SAME CRIME. THIS DISPROPORTIONATE SENTENCE IS DETRIMENTAL TO DANIELS AND THERE IS NO JUSTIFICATION FOR THIS DISPARITY IN THE RECORD.

THIS IS A CASE WHERE SIMILAR DEFENDANTS WERE SENTENCED DIFFERENTLY FOR THE IDENTICAL CRIME. SEE *GALL V. UNITED STATES*, 128 S. CT. 586 (2007); ALSO *RLTA V. UNITED STATES*, 127 S. CT. 2486 (2007)

I ASK THIS COURT TO ORDER A RE-SENTENCING IN MY CASE TO VACATE THE LIFE SENTENCE IMPOSED UPON ME ON COUNT 3 AND THE 5-15 YEARS IMPOSED ON COUNT 1, AND TO RE-SENTENCE ME TO THE SAME PRISON TERMS AS MY CO-DEFENDANT RECEIVED ON THOSE COUNTS; 2-5 YEARS ON COUNT 1 AND 10-25 YEARS ON COUNT 3, AMENDING THE JUDGMENT OF CONVICTION TO REFLECT SUCH CORRECTIONS.

RESPECTFULLY SUBMITTED,
ON THIS 7TH DAY OF FEBRUARY, 2018 BY ALAN DANIELS
63982

(4)

PRO SE DEFENDANT

CERTIFICATE OF MAILING

I, ALAN DANIELS, HEREBY CERTIFY THAT ON THIS 7TH DAY
OF FEBRUARY, 2018, I HAVE MAILED A TRUE AND ACCURATE COPY
OF THE FOREGOING MOTION TO CORRECT DISPROPORTIONALITY OF SENTENCE
AND TO AMEND THE JUDGMENT OF CONVICTION BY PLACING SAID COPY
IN THE U.S. MAIL, FIRST CLASS POSTAGE PAID, AND ADDRESSED TO:

① STEVEN GRIGLSON

CLERK OF THE COURT

200 LEWIS AVE., 3RD FLOOR

CAS VEGAS, NV 89155-1160


② DISTRICT ATTORNEY'S OFFICE

200 LEWIS AVENUE

CAS VEGAS, NV

89155-2212

BY



63982

ALAN DANIELS

(5)

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION TO CORRECT

DISPROPORTIONALITY OF SENTENCE AND TO AMEND JUDGMENT OF CONVICTION
(Title of Document)

filed in District Court Case number C262523-1

☒ Does not contain the social security number of any person.

-OR-


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

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

(State specific law)

-or-

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


Signature

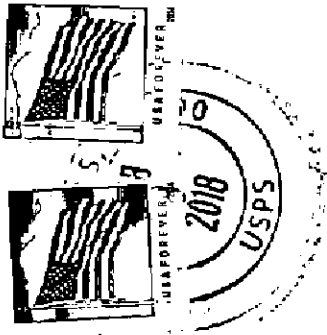
2/7/18
Date

ALAN DANIELS
Print Name

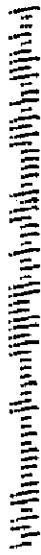
PRO SE DEFENDANT
Title

(6)

ALAN DANIELS #63982
P.O. Box 200 / SDC
Indian Springs, NV 89070



STEVEN GRILSON
CLERK OF THE COURT
200 LEWIS AVE., 3RD FLOOR
LAS VEGAS, NV 89159-1160



SECURITY SERVICES

OUT GOING MAIL

FEB 08 2018

SOUTHERN DESERT
CORRECTIONAL CENTER



RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
CHARLES W. THOMAN
Deputy District Attorney
Nevada Bar #12649
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ALAN DANIELS,
#0747918

Defendant.

CASE NO: 10C262523-1

DEPT NO: XIX

STATE'S RESPONSE TO DEFENDANT'S MOTION TO CORRECT
DISPROPORTIONALITY OF SENTENCE AND AMEND JUDGMENT OF
CONVICTION

DATE OF HEARING: MARCH 14, 2018
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through CHARLES W. THOMAN, Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Motion to Correct Disproportionality of Sentence and Amend Judgment of Conviction.

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

//

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 23, 2010, ALAN DANIELS, aka Alan Demetrius Daniels (hereinafter
4 "Defendant") and his co-defendant Cary Pickett, were charged by way of an Amended
5 Criminal Complaint with seven (7) counts of Burglary While in Possession of a Firearm
6 (Felony – NRS 205.060); eight (8) counts of Robbery with Use of a Deadly Weapon (Felony
7 – NRS 200.380), 193.165), five (5) counts of Conspiracy to Commit Robbery (Felony – NRS
8 199.480, 200.380), and six (6) counts of Possession of Firearm by Ex-Felony (Felony – NRS
9 202.360).

10 On March 8, 2010, the State filed an Information charging Defendant with COUNT 1
11 – Burglary While in Possession of a Firearm; COUNT 2 – Conspiracy to Commit Robbery;
12 COUNT 3 – Robbery with Use of a Deadly Weapon, and COUNT 4 – Possession of Firearm
13 by Ex-Felony. The parties stipulated to violent habitual criminal treatment under NRS
14 207.012. Additionally, the parties stipulated to a term of five (5) to fifteen (15) years with
15 regard to Count 1 and a term of ten (10) years to life with regard to Count 3. Count 3 to run
16 consecutive to Count 1 for a total sentence of 15 years to life. All other counts concurrent with
17 the possibility of parole. The Information included a Notice to Adjudicate Defendant as a
18 Habitual Criminal.

19 On March 11, 2010, Defendant entered a plea of guilty to all charges in the Information
20 pursuant to a Guilty Plea Agreement, which was also filed in open court that day.

21 On May 10, 2010, Defendant was sentenced to the Nevada Department of Corrections
22 as follows: COUNT 1: FIVE (5) to FIFTEEN (15) YEARS; COUNT 2- TWO (2) to FIVE (5)
23 YEARS; COUNT 3 – TEN (10) YEARS to LIFE, COUNT 3 to run consecutive to COUNT
24 1; and COUNT 4 – TWO (2) to FIVE (5) YEARS, COUNT 4 to run concurrent with COUNT
25 2. This sentence was to run consecutive to the sentence in Case Number C156246. Defendant
26 was given ZERO (0) DAYS credit for time served. The Judgement of Conviction was filed on
27 May 14, 2010, and no direct appeal was filed.
28

1 On November 22, 2013, Defendant filed a Motion for Decision on the Merits of Invalid
2 Laws of the State of Nevada Causing the District Court to be Divested of Subject Matter
3 Jurisdiction Ab Initio. The State filed a response to Defendant Motion for Decision on
4 December 3, 2013. This Court denied Defendant's Motion for Decision on December 16,
5 2013.

6 On December 27, 2013, Defendant filed an Accused Reply to State's Opposition to
7 Defendant's Pro Per Accused Motion for Decision on the Merits of Invalid Laws of the State
8 of Nevada Causing the District Court to be Divested of Subject Matter Jurisdiction Ab
9 Initio/Request to Reply to Any Opposition of the Attorney General's Office.

10 On January 10, 2014, this Court filed an Order Denying Defendant's Pro Per Accused
11 Motion for Decision on the Merits of Invalid Laws of the State of Nevada.

12 On February 12, 2014, Defendant filed a Notice of Appeal. On March 13, 2014, the
13 Nevada Supreme Court filed an Order Dismissing Appeal. Remittitur issued April 7, 2014.

14 On February 21, 2018, Defendant filed the instant Motion to Correct Disproportionality
15 of Sentence and to Amend the Judgement of Conviction. The State responds as follows.

16 **ARGUMENT**

17 **I. DEFENDANT IS NOT ENTITLED TO SENTENCE MODIFICATION**

18 In general, a district court lacks jurisdiction to modify a sentence once the defendant
19 has started serving it. Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992).
20 However, a district court has inherent authority to correct, vacate, or modify a sentence that
21 violates due process where the defendant can demonstrate the sentence is based on a materially
22 untrue assumption or mistake of fact about the defendant's criminal record that has worked to
23 the *extreme detriment* of the defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321,
24 324 (1996) (emphasis added); see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373.

25 Not every mistake or error during sentencing gives rise to a due process violation. State
26 v. Eighth Judicial Dist. Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). A district court
27 has jurisdiction to modify a defendant's sentence "only if (1) the district court actually
28 sentenced appellant based on a materially false assumption of fact that worked to appellant's

1 extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the
2 level of a violation of due process.” Passanisi, 108 Nev. at 322-23, 831 P.2d at 1373-74.

3 Defendant complains that he is entitled to sentence modification because his defendant
4 received a more favorable plea from the State and received a shorter sentence from the Court.
5 Motion at 2-4. Defendant also argues that the Court should prepare an Amended Judgment of
6 Conviction. Motion at 4.

7 Sentencing is an individualized process; therefore, no rule of law requires a court to
8 sentence co-defendants to identical terms. Nobles v. Warden, Nev. Dep’t of Prisons, 106 Nev.
9 67, 68, 787 P.2d 390, 391 (1990). Defendant does not point to any materially untrue
10 assumption or mistake of fact about the defendant’s criminal record that has worked to the
11 extreme detriment of the defendant. Furthermore, Defendant was fully aware that upon the
12 entry of his guilty plea that sentencing was within the discretion of the District Court. Guilty
13 Plea Agreement, 3/11/10 at 2.

14 Defendant relies upon Stanley v. State, 106 Nev. 75, 787 P.2d 396 (1990), to assert that
15 a defendant cannot stipulate the status of being a habitual criminal. Motion at 2. Defendant’s
16 representation of the holding of Stanley is not complete. In Stanley, the Nevada Supreme Court
17 held that a defendant may enter into a guilty plea agreement to be treated as a habitual criminal,
18 with the understanding that the State is required to prove the requisite prior convictions at
19 sentencing. Id. at 78, 398. The validity of the prior convictions are to be determined by the
20 District Court as a matter of law prior to the imposition of habitual criminal treatment. Id.

21 Here, Defendant did enter into a Guilty Plea Agreement to be treated as a habitual
22 criminal. Guilty Plea Agreement, 3/11/10 at 1. Further, the State did prove up Defendant’s two
23 prior convictions at sentencing. See Court Minutes 5/10/10 at 1. Subsequently, this Court
24 determined and admitted the certified copies of Defendant’s prior convictions as exhibits
25 finding that they were valid. Id. Based upon the foregoing, Defendant’s sentence is proper and
26 there is no reason for an Amended Judgment of Conviction. Therefore, this Court should deny
27 Defendant’s Motion to Correct Disproportionality of Sentence and to Amend the Judgment of
28 Conviction.

1 CONCLUSION

2 For the forgoing reasons the State respectfully requests that Defendant's Motion to
3 Correct Disproportionality of Sentence and Amend Judgment of Conviction should be
4 DENIED.

5 DATED this 8th day of March, 2018.

6 Respectfully submitted,

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

9 BY /s// CHARLES W. THOMAN
10 CHARLES W. THOMAN
11 Deputy District Attorney
Nevada Bar #12649

12 CERTIFICATE OF MAILING

13 I hereby certify that service of the above and foregoing was made this 8th day of
14 March, 2018, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:
15

16 ALAN DANIELS, #63982
17 S.D.C.C.
18 PO BOX 208
INDIAN SPRINGS, NV 89070

19
20 BY /s// E. DEL PADRE
21 E. DEL PADRE
Secretary for the District Attorney's Office

22
23
24
25
26
27
28 CT/ed/GCU

[Signature]

ALAN DANIELS
In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018

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

THE STATE OF NEVADA,
Plaintiff,

vs.

ALAN DANIELS
Defendant.

Case No. C262523-1

Dept. No. _____

Docket _____

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
ALAN DANIELS, in and through his proper person, hereby
appeals to the Supreme Court of Nevada from the ORDER denying and/or
dismissing the MOTION TO CORRECT DISPROPORTIONALITY OF SENTENCE AND
TO AMEND THE JUDGMENT OF CONVICTION

ruled on the 14TH day of MARCH, 2018.

Dated this 18TH day of MARCH, 2018.

Respectfully Submitted,

x ALAN DANIELS #63982

[Signature]

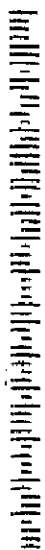
RECEIVED
MAR 22 2018
CLERK OF THE COURT

A. DANIELS # 63982
SDCC
P.O. Box 208
INDIAN SPRINGS, NV.
89070

STEVEN GRIERSON
200 LEWIS AVE. 3rd Floor
LAS VEGAS, NV.
89155-1160

LEGAL MAIL⁹⁹
CONFIDENTIAL

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20 MAR 2018 PM 5 L

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ALAN DANIELS,
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

Electronically Filed
3/22/2018 12:01 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

IN THE 8TH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

THE STATE OF NEVADA

Plaintiff,

vs.

ALAN DANIELS

Defendant.

CASE No. 6262523

DEPT. No. _____

DESIGNATION OF RECORD ON APPEAL

TO: STEVEN GRIERSON
CLERK OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS, NV
89133-1160

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 18TH day of MARCH, 2018.

RESPECTFULLY SUBMITTED BY: -

x

ALAN DANIELS

AD * 63982
Plaintiff/In Propria Persona

RECEIVED
MAR 22 2018
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, ALAN DANIELS, hereby certify, pursuant to NRCP 5(b), that on this
day of MARCH, 2018, I mailed a true and correct copy of the foregoing, "

NOTICE OF APPEAL

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

STEVEN GIBSON
CLERK OF THE COURT
200 LEWIS AVE, 3RD Floor
Las Vegas, NV
89155-1160

CC: FILE

DATED: this 18TH day of MARCH, 2018.

ALAN DANIELS
63982
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOTICE OF APPEAL
(Title of Document)

filed in District Court Case number C262323

☒ Does not contain the social security number of any person.

-OR-

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

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

(State specific law)

-or-

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

x 
Signature

3-18-18
Date

x ALAN DANIELS #63982
Print Name

PRO SE DEFENDANT
Title



1 ASTA

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4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12 ALAN D. DANIELS aka ALAN DANIELS,

13 Defendant(s),

Case No: 10C262523-1

Dept No: XIX

14
15
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Alan Daniels

18 2. Judge: William D. Kephart

19 3. Appellant(s): Alan Daniels

20 Counsel:

21 Alan Daniels #63982
22 P.O. Box 208
23 Indian Springs, NV 89070

24 4. Respondent: The State of Nevada

25 Counsel:

26 Steven B. Wolfson, District Attorney
27 200 Lewis Ave.
28 Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: March 3, 2010

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 58191, 65037, 75042

12. Child Custody or Visitation: N/A

Dated This 27 day of March 2018.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Alan Daniels

Steven D. Grierson

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #013476
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C262523

DEPT NO: XIX

ALAN DANIELS, aka,
Alan Demetrius Daniels, #0747918

Defendant.

**ORDER DENYING DEFENDANT'S MOTION TO CORRECT
DISPROPORTIONALITY OF SENTENCE AND TO AMEND THE JUDGMENT OF
CONVICTION**

DATE OF HEARING: March 14, 2018
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 14th day of March, 2018, the Defendant not being present, represented by MICHAEL V. CASTILLO, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through MICHAEL R. DICKERSON, Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

///

///

///

///

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1 IT IS HEREBY ORDERED that the Defendant's Motion to Correct Disproportionality
2 of Sentence and to Amend the Judgment of Conviction, shall be, and it is DENIED.

3 DATED this 7th day of ~~April~~^{May} 2018.

4 Will Kest
5 DISTRICT JUDGE

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

9 BY M.R.D.
10 MICHAEL R. DICKERSON
11 Deputy District Attorney
12 Nevada Bar #013476
13
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28 cmj/L2

Steven D. Grierson

ORD

MICHAEL L. BECKER, ESQ.
Nevada Bar No. 8765
MICHAEL V. CASTILLO, ESQ.
Nevada Bar No. 11531
LAS VEGAS DEFENSE GROUP, L.L.C.
2970 W. Sahara Avenue
Las Vegas, Nevada 89102
(702) 331-2725
Fax: (702) 974-0524
Attorneys for Defendant

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

ALAN DANIELS,

Defendant.

CASE NO.: 10C262523-1

DEPT NO.: XIX

ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL

IT IS THEREFORE ORDERED that Las Vegas Defense Group, L.L.C. and its associates be withdrawn as counsel of record for said Defendant. That counsel is hereby relieved of any future professional obligation, responsibility or duty to the defendant other than providing access to any and all materials which are necessary to represent the defendant in this case and which are within his possession to new subsequent counsel.

DATED this 11 day of May 2018.

Submitted by:

Michael V. Castillo
MICHAEL V. CASTILLO, ESQ.
Nevada Bar No. 11531

Walt Kest
DISTRICT JUDGE

DOCUMENTARY EXHIBITS

ORIGINAL

FILED

FEB 21 3 42 PM '07

C. Raf. [Signature]
CLERK OF THE COURT

JOCP
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CARY JERARD PICKETT,
#0725059

Defendant.

Case No: C226282

Dept No: 1

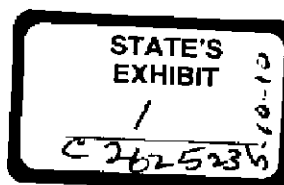
JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime(s) of **TRANSPORT OF A CONTROLLED SUBSTANCE** (Category B, Felony), in violation of NRS 453.321; thereafter, on the 14th day of February, 2007, the Defendant was present in court for sentencing with his counsel, JAMES L. BUCHANAN II, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition to the \$25.00 Administrative Assessment Fee, \$60.00 Drug Analysis fee and \$150.00 DNA Analysis fee are IMPOSED, the Defendant is sentenced as follows: to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY (30) MONTHS in the Nevada Department of Corrections (NDC), SUSPENDED; placed on PROBATION for FIVE (5) YEARS.

CONDITIONS:

1. Enter and complete Drug Court.



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CLERK OF THE COURT

FEB 21 2007

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CLERK OF THE COURT

FEB 20 2007

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- 1 2. Search Clause for illegal substances.
2 3. Maintain full-time employment.

3 DATED this 20 day of February, 2007.

4 *Kenneth Clary*
5 DISTRICT JUDGE

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OF THE ORIGINAL ON FILE

Ann L. Edman
CLERK OF THE COURT

REC'D 24 2010
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● ORIGINAL ●

1 GMEM
2 DAVID ROGER
3 DISTRICT ATTORNEY
4 Nevada Bar #002781
5 ERIC A. BAUMAN
6 Deputy District Attorney
7 Nevada Bar #009755
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT

OCT 17 2005

SHIRLEY B. PARRAGUIRE, CLERK

BY

PAMELA HUMPHREY

DEPUTY

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 CARY JERARD PICKETT,
13 #725059

14 Defendant.

CASE NO: C226282
DEPT NO: VII

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **TRANSPORT OF A CONTROLLED**
17 **SUBSTANCE (Category B Felony - NRS 453.321)**, as more fully alleged in the charging
18 document attached hereto as Exhibit "1".

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

21 The State has agreed to recommend a sentence of twelve (12) to thirty (30) months in
22 the Nevada Department of Corrections (NDC), consecutive to my parole violation in Case
23 No. C145127. Further, the State agrees to not seek treatment as a habitual criminal in this
24 case.

25 CONSEQUENCES OF THE PLEA

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

28 ///

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1 I understand that as a consequence of my plea of guilty the Court must sentence me to
2 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
3 one (1) year and a maximum term of not more than six (6) years. The minimum term of
4 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I
5 understand that I may also be fined up to \$20,000. I understand that the law requires me to
6 pay an Administrative Assessment Fee. I also understand that a conviction of any violation
7 of NRS Chapter 453, the Uniform Controlled Substance Act, requires that I pay a controlled
8 substance analysis fee.

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

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

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

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

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

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

26 I understand that if the State of Nevada has agreed to recommend or stipulate a
27 particular sentence or has agreed not to present argument regarding the sentence, or agreed
28 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor

1 when the offense could have been treated as a felony, such agreement is contingent upon my
2 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
3 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
4 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
5 right to argue for any lawful sentence.

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

9 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
10 United States, I may, in addition to other consequences provided for by federal law, be
11 removed, deported, excluded from entry into the United States or denied naturalization.

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

19 WAIVER OF RIGHTS

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

22 1. The constitutional privilege against self-incrimination, including the right to refuse
23 to testify at trial, in which event the prosecution would not be allowed to comment to the
24 jury about my refusal to testify.

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

1 3. The constitutional right to confront and cross-examine any witnesses who would
2 testify against me.

3 4. The constitutional right to subpoena witnesses to testify on my behalf.

4 5. The constitutional right to testify in my own defense.

5 6. The right to appeal the conviction, with the assistance of an attorney, either
6 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional
7 or other grounds that challenge the legality of the proceedings and except as otherwise
8 provided in subsection 3 of NRS 174.035.

9 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

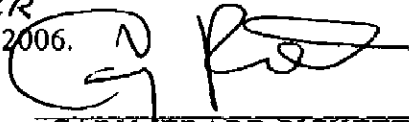
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1 My attorney has answered all my questions regarding this guilty plea agreement and
2 its consequences to my satisfaction and I am satisfied with the services provided by my
3 attorney.

4 DATED this 17 day of ^{OCTOBER}~~September~~, 2006.

5 
6 CARY GERARD PICKETT
Defendant

7
8 AGREED TO BY:

9 
10 ERIC A. BAUMAN
11 Deputy District Attorney
Nevada Bar #009755
12
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1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
5 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. All pleas of guilty offered by the Defendant pursuant to this agreement are
9 consistent with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs
17 1 and 2 above.

18 Dated: This 17 day of ^{OCTOBER}~~September~~, 2006.

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ATTORNEY FOR DEFENDANT

24 CERTIFIED COPY
25 DOCUMENT ATTACHED IS A
26 TRUE AND CORRECT COPY
27 OF THE ORIGINAL ON FILE

28 

CLERK OF THE COURT

FEB 24 2010

Shirley S. Pung
CLERK

1 **INFO**
2 **DAVID ROGER**
3 Clark County District Attorney
4 Nevada Bar #002781
5 **ERIC A BAUMAN**
6 Deputy District Attorney
7 Nevada Bar #009755
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 09/26/06
13 10:30 A.M.
14 **J. BUCHANAN II,**
15 **ESQ.**

DISTRICT COURT
CLARK COUNTY, NEVADA

16 THE STATE OF NEVADA,
17
18 Plaintiff,

19 -vs-

20 **CARY JERARD PICKETT,**
21 **#725059**
22 Defendant.

Case No: C226282
Dept No: VII

INFORMATION

23 STATE OF NEVADA }
24 COUNTY OF CLARK } ss.

25 DAVID ROGER, District Attorney within and for the County of Clark, State of
26 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

27 That CARY JERARD PICKETT, the Defendant(s) above named, having committed
28 the crime of **TRANSPORT OF A CONTROLLED SUBSTANCE (Category B Felony -**
NRS 453.321), on or about the 14th day of July, 2006, within the County of Clark, State of
Nevada, contrary to the form, force and effect of statutes in such cases made and provided,

///

///

///

///

EXHIBIT "1"

1 and against the peace and dignity of the State of Nevada, did then and there wilfully,
2 unlawfully, and feloniously transport within Clark County, Nevada, a controlled substance,
3 to-wit: Cocaine.
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6

7 BY



8 DAVID ROGER
9 DISTRICT ATTORNEY
Nevada Bar #002781
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26 DA#06F13591X/djj
27 LVMPD EV#0607143059
28 TRANSPORT CS - F
(TK6)

ORIGINAL

1 JOCP
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED

MAY 20 11:30 AM '02

Shirley E. Thompson
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 ALAN DEMETRIUS DANIELS,
13 #0747918

14 Defendant.

Case No. C156246
Dept. No. XIV

15
16 JUDGMENT OF CONVICTION
17 (PLEA OF GUILTY)

18 The Defendant previously appeared before the Court herein with counsel and entered a
19 plea of guilty to the crime(s) of COUNT I - BURGLARY WHILE IN POSSESSION OF A
20 FIREARM (Category B Felony) and COUNT II - ROBBERY (Category B Felony), in violation
21 of NRS 200.380; thereafter, on the 14th day of May, 2002, the Defendant was present in court
22 for sentencing with his counsel, STANLEY A. WALTON, ESQUIRE, and good cause
23 appearing.

24 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition
25 to the \$25.00 Administrative Assessment Fee and \$3,400.00 Restitution, the Defendant is
26 sentenced as to COUNT I - to the Nevada Department of Corrections for a MAXIMUM term
27 of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of
28 THIRTY-FIVE (35) MONTHS and on COUNT II - a MAXIMUM term of ONE HUNDRED

RECEIVED

COUNTY CLERK

MAY 20 2002

MAY 23 2002

CE-05

MAY 20 2002

S2

STATE'S
EXHIBIT

10F02742X - DANIELS, ALAN

Page 250 of 299 25

C262523

1 EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35)
2 MONTHS. COUNT II to run CONCURRENT to COUNT I; this sentence to run
3 CONSECUTIVE to the sentence the defendant is currently serving. Defendant to receive
4 THIRTY-SIX (36) DAYS credit for time served.

5 DATED this 24TH day of May, 2002.

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8 DISTRICT JUDGE 8

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24 DEC 09 2009

25 CERTIFIED COPY
26 DOCUMENT ATTACHED IS A
27 TRUE AND CORRECT COPY
28 OF THE ORIGINAL ON FILE


CLERK OF THE COURT

ORIGINAL

FILED IN OPEN COURT
APR - 2 2002

SHIRLEY B. PARRAGUIRE, CLERK
BY Connie Kalski
CONNIE KALSK, DEPUTY

1 GMEM
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

13 Defendant.
14

Case No. C156246
Dept. No. XIV
Docket T

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: COUNT I - BURGLARY WHILE IN POSSESSION
17 OF A FIREARM (Category B Felony - NRS 205.060); and COUNT II - ROBBERY (Category
18 B Felony - NRS 200.380), as more fully alleged in the charging document attached hereto as
19 Exhibit "1".

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

22 The State is not opposed to concurrent time with Case No. C160684, but will retain the
23 right to argue at rendition of sentence.

24 CONSEQUENCES OF THE PLEA

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

27 I understand that as a consequence of my plea of guilty as to Count I, the Court must
28 sentence me to imprisonment in the Nevada State Prison for a minimum term of not less than

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1 two (2) year(s) and a maximum term of not more than fifteen (15) years. The minimum term
2 of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.
3 I understand that I may also be fined up to \$10,000.00; as to Count II, the Court must sentence
4 me to imprisonment in the Nevada State Prison for a minimum term of not less than two (2)
5 year(s) and a maximum term of not more than fifteen (15) years for Robbery. The minimum
6 term of imprisonment may not exceed forty percent (40%) of the maximum term of
7 imprisonment. I understand that the law requires me to pay an Administrative Assessment Fee.
8 I understand that, if appropriate, I will be ordered to make restitution to the victim of the
9 offense(s) to which I am pleading guilty and to the victim of any related offense which is being
10 dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the
11 State of Nevada for any expenses related to my extradition, if any.
12 I understand that as to Count I, I understand that I am eligible for probation for the
13 offense to which I am pleading guilty. I understand that, except as otherwise provided by statute,
14 the question of whether I receive probation is in the discretion of the sentencing judge.
15 I understand as to Count II, I understand that I am not eligible for probation for the
16 offense to which I am pleading guilty.
17 I understand that if more than one sentence of imprisonment is imposed and I am eligible
18 to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences
19 served concurrently or consecutively.
20 I also understand that information regarding charges not filed, dismissed charges, or
21 charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.
22 I have not been promised or guaranteed any particular sentence by anyone. I know that
23 my sentence is to be determined by the Court within the limits prescribed by statute.
24 I understand that if my attorney or the State of Nevada or both recommend any specific
25 punishment to the Court, the Court is not obligated to accept the recommendation.
26 I understand that if the State of Nevada has agreed to recommend or stipulate a particular
27 sentence or has agreed not to present argument regarding the sentence, or agreed not to oppose
28 a particular sentence, such agreement is contingent upon my appearance in court on the initial

1 sentencing date (and any subsequent dates if the sentencing is continued). I understand that if
2 I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior to
3 sentencing the State of Nevada would regain the full right to argue for any lawful sentence.

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

7 I understand that as a consequence of my plea of guilty, if I am not a citizen of the United
8 States, I may, in addition to other consequences provided for by federal law, be removed,
9 deported, excluded from entry into the United States or denied naturalization.

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

17 WAIVER OF RIGHTS

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

20 1. The constitutional privilege against self-incrimination, including the right to refuse to
21 testify at trial, in which event the prosecution would not be allowed to comment to the jury about
22 my refusal to testify.

23 2. The constitutional right to a speedy and public trial by an impartial jury, free of
24 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
25 assistance of an attorney, either appointed or retained. At trial the State would bear the burden
26 of proving beyond a reasonable doubt each element of the offense charged.

27 3. The constitutional right to confront and cross-examine any witnesses who would
28 testify against me.

- 1 4. The constitutional right to subpoena witnesses to testify on my behalf.
2 5. The constitutional right to testify in my own defense.
3 6. The right to appeal the conviction, with the assistance of an attorney, either appointed
4 or retained, unless the appeal is based upon reasonable constitutional jurisdictional or other
5 grounds that challenge the legality of the proceedings and except as otherwise provided in
6 subsection 3 of NRS 174.035.

7 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

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

3 DATED this 2nd day of ^{April 2002}~~August 2001~~.

4
5 
6 ALAN DEMETRIUS DANIELS
7 Defendant

8 AGREED TO BY:

9 
10 Deputy District Attorney
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1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s) to
5 which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution that
7 the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent
9 with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs 1
17 and 2 above.

18 Dated: This 2nd day of April, 2002.
19 ~~August, 2001.~~

20 Stanley A. Dalton
21 ATTORNEY FOR DEFENDANT
22
23
24
25
26
27
28

nmw

1 IND
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

13 Defendant.

Case No. C156246
Dept No. XIV
Docket T

14 AMENDED
15 INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss:

17 The Defendant above named, ALAN DEMETRIUS DANIELS, is accused by the Clark
18 County Grand Jury of the crimes of BURGLARY WHILE IN POSSESSION OF A
19 FIREARM (Felony - NRS 205.060); and ROBBERY (Felony - NRS 200.380), committed at
20 and within the County of Clark, State of Nevada, on or between February 20, 1998, and April
21 12, 1998, as follows:

22 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did, on or about April 12, 2002, then and there wilfully, unlawfully, and feloniously enter,
24 while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or larceny,
25 that certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las
26 Vegas, Clark County, Nevada, and/or ELLIS ISLAND HOTEL AND CASINO, located at 4178
27 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an unnamed
28 individual by counsel and encouragement and by entering into a course of conduct whereby

EXHIBIT "1"

1 Defendant drove said unnamed individual to said location, waited outside and acted as a lookout
2 while the unnamed individual directly committed said act and fled the scene together.

3 COUNT II - ROBBERY

4 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
5 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
6 RICHARD COLACINO, or in their presence, by means of force or violence, or fear of injury
7 to, and without the consent and against the will of the said RICHARD COLACINO, said
8 Defendant aiding or abetting an unnamed individual by counsel and encouragement and by
9 entering into a course of conduct whereby Defendant drove said unnamed individual to said
10 location, waited outside and acted as a lookout while the unnamed individual directly committed
11 said act and fled the scene together.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
Nevada Bar #000477

14 BY B.B. Zadrowski
15 BERNARD B. ZADROWSKI
16 Deputy District Attorney
17 Nevada Bar #006545

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23 DEC 19 2009

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25 CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

26 Alan T. Daniels
27 CLERK OF THE COURT

28 DA#99-156246X/mmw
LVMPD EV#9804120119;9802200082
BURG W/W; ROBB - F
(TKS)

1 **IND**
2 **STEWART L. BELL**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

Stewart L. Bell

JAN 27 12 33 PM '99

ORIGINAL

FILED

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #747918

13 Defendant(s).

Case No. CI56246
Dept. No. XIV
Docket T

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant(s) above named, ALAN DEMETRIUS DANIELS, accused by the Clark
18 County Grand Jury of the crimes of **BURGLARY WHILE IN POSSESSION OF A**
19 **FIREARM (Felony - NRS 205.060, 193.165); ROBBERY WITH USE OF A DEADLY**
20 **WEAPON (Felony - NRS 200.380, 193.165); and CONSPIRACY TO COMMIT**
21 **ROBBERY (Felony - NRS 199.480, 200.380), committed at and within the County of Clark,**
22 State of Nevada, on or between February 20, 1998 and April 12, 1998, as follows:

23 **COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM**

24 did, on or about February 20, 1998, then and there wilfully, unlawfully, and feloniously
25 enter, while in possession of a firearm, with intent to commit a felony, to-wit: robbery, that
26 certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las Vegas,
27 Clark County, Nevada.

28 //

1 COUNT II - ROBBERY WITH USE OF A DEADLY WEAPON

2 did, on or about February 20, 1998, then and there wilfully, unlawfully, and feloniously
3 take personal property, to-wit: \$40,000.00 in lawful money of the United States, from the person
4 of VIRGINIA THOMPSON, or in her presence, by means of force or violence, or fear of injury
5 to, and without the consent and against the will of the said VIRGINIA THOMPSON, said
6 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

7 COUNT III - ROBBERY WITH USE OF A DEADLY WEAPON

8 did, on or about February 20, 1998, then and there wilfully, unlawfully, and feloniously
9 take personal property, to-wit: \$40,000.00 in lawful money of the United States, from the person
10 of WILLIAM COZBY, or in his presence, by means of force or violence, or fear of injury to, and
11 without the consent and against the will of the said WILLIAM COZBY, said Defendant using
12 a deadly weapon, to-wit: a firearm, during the commission of said crime, the Defendant using
13 force or fear to obtain or retain possession of the property, and/or to prevent or overcome
14 resistance to the taking of the property, and/or to facilitate escape with the property.

15 COUNT IV - CONSPIRACY TO COMMIT ROBBERY

16 did, on or about April 12, 1998, then and there meet with an unnamed individual and
17 between themselves, and each of them with the other, wilfully, unlawfully and feloniously
18 conspire and agree to commit a crime, to-wit: robbery, and in furtherance of said conspiracy,
19 did commit the acts as set forth in Counts V and VI, said acts being incorporated by this
20 reference as though fully set forth herein.

21 COUNT V - BURGLARY WHILE IN POSSESSION OF A FIREARM

22 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously
23 enter, while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or
24 larceny, that certain building occupied by ELLIS ISLAND HOTEL AND CASINO, located at
25 4178 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an
26 unnamed individual by counsel and encouragement and by entering into a course of conduct
27 whereby Defendant drove said unnamed individual to said location, waited outside and acted as
28 a lookout while the unnamed individual directly committed said act and fled the scene together.

1 COUNT VI - ROBBERY WITH USE OF A DEADLY WEAPON

2 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
3 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
4 RICHARD COLACINO, or in his presence, by means of force or violence, or fear of injury to,
5 and without the consent and against the will of the said RICHARD COLACINO, said Defendant
6 using a deadly weapon, to-wit: a firearm, during the commission of said crime, said Defendant
7 aiding or abetting an unnamed individual by counsel and encouragement and by entering into
8 a course of conduct whereby Defendant drove said unnamed individual to said location, waited
9 outside and acted as a lookout while the unnamed individual directly committed said act and fled
10 the scene together.

11 DATED this 27 day of January, 1999.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
14 Nevada Bar #000477

15 BY [Signature]
16 BERNARD ZADROWSKI
17 Deputy District Attorney
Nevada Bar #006545

18 ENDORSEMENT: A True Bill

19 [Signature]
20 Foreperson, Clark County Grand Jury
21

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 Names of witnesses testifying before the Grand Jury:

2 VIRGINIA THOMPSON, 4155 KOVAL LANE, LAS VEGAS, NV
3 WILLIAM COZBY, 1901 LAS VEGAS BLVD. NORTH, LAS VEGAS, NV
4 RICHARD J. COLACINO, 4178 KOVAL LANE, LAS VEGAS, NV
5 DET. ANTHONY J. PLEW, LVMPD #2031, ROBBERY
6

7 Names of additional witnesses known to the District Attorney at the time of filing of
8 this indictment:

9 CLINTON MALBURG, LVMPD #4002
10 CLIFFORD MOGG, LVMPD #5096
11 LOUISE RENHARD, LVMPD #5223
12 FRANCIE PULLIAM, LMVPD #5412
13 CHRISTOPHER J. LITTLE, LVMPD #5442
14 BRIAN R. MILDEBRANDT, LVMPD #5449
15 JOANN HOLT, 4690 PHEBE AVE., FREMONT, CA
16 PATRICK HATCH, 3875 CAMBRIDGE, LAS VEGAS, NV
17 DARRELL WRIGHT, 100 S. MARTIN LUTHER KING, LAS VEGAS, NV
18 DANE FRANCIS, 4409 CINDERELLA LANE, LAS VEGAS, NV
19 JAMES COYLE, 3875 CAMBRIDGE, LAS VEGAS, NV
20 COR. METRO COMMUNICATIONS
21
22
23
24
25
26

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27 98BCJ002X/98F06167X/1g
28 I.VMPD EV#9802200082;9804120119
BURG WDW; RWDW; CONSP ROBB - F

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TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Alan J. Daniels
CLERK OF THE COURT

-4-

ORIGINAL

FILED IN OPEN COURT
APR - 2 2002

SHIRLEY B. PABRAGUIRE, CLERK
BY Connie Kalsch
CONNIE KALSCH DEPUTY

1 IND
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

-vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

Defendant.

Case No. C156246
Dept No. XIV
Docket T

AMENDED
INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss:

17 The Defendant above named, ALAN DEMETRIUS DANIELS, is accused by the Clark
18 County Grand Jury of the crimes of BURGLARY WHILE IN POSSESSION OF A
19 FIREARM (Felony - NRS 205.060); and ROBBERY (Felony - NRS 200.380), committed at
20 and within the County of Clark, State of Nevada, on or between February 20, 1998, and April
21 12, 1998, as follows:

22 COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did, on or about April 12, 2002, then and there wilfully, unlawfully, and feloniously enter,
24 while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or larceny,
25 that certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las
26 Vegas, Clark County, Nevada, and/or ELLIS ISLAND HOTEL AND CASINO, located at 4178
27 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an unnamed
28 individual by counsel and encouragement and by entering into a course of conduct whereby

82

1 Defendant drove said unnamed individual to said location, waited outside and acted as a lookout
2 while the unnamed individual directly committed said act and fled the scene together.

3 COUNT II - ROBBERY

4 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
5 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
6 RICHARD COLACINO, or in their presence, by means of force or violence, or fear of injury
7 to, and without the consent and against the will of the said RICHARD COLACINO, said
8 Defendant aiding or abetting an unnamed individual by counsel and encouragement and by
9 entering into a course of conduct whereby Defendant drove said unnamed individual to said
10 location, waited outside and acted as a lookout while the unnamed individual directly committed
11 said act and fled the scene together.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
14 Nevada Bar #000477

15 BY

16 B.B. Zadrowski
17 BERNARD B. ZADROWSKI
18 Deputy District Attorney
19 Nevada Bar #006545
20
21
22
23
24

25 DEC 09 2009

26 CERTIFIED COPY
27 DOCUMENT ATTACHED IS A
28 TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

John J. Johnson
CLERK OF THE COURT

DA#99-156246X/mmww
1.VMPD EV#9804120119;9802200082
BURG W/W; ROBB - F
(TK5)

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA vs Daniels, Alan D

01/27/99 09:00 AM 00 GRAND JURY INDICTMENT

HEARD BY: Lee A Gates, Judge; Dept. 8

OFFICERS: DELOIS WILLIAMS, Court Clerk
YVONNE VALENTIN, Reporter/Recorder

PARTIES: STATE OF NEVADA
001190 Owens, Christopher J.

Y
Y

Jim Treanor, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury Case Number 98BGJ002X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C156246, Department XIV. Exhibit(s) 1 thru 2 lodged with Clerk of District Court. Exhibit 3 returned to DDA Bernard Zadrowski. State requested a summons be issued and sent Stan Walton, Esq.; COURT SO ORDERED. State advised defendant previously posted bail in the amount of \$53,000.00 in Case Number C154432, and requested bail be transferred to this case; and COURT SO ORDERED. COURT FURTHER ORDERED, matter set for initial arraignment.

SUMMONS

2/10/99 9 AM INITIAL ARRAIGNMENT (DEPARTMENT XIV)

02/10/99 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: RITA LOPEZ, Court Clerk
MAUREEN SCHORN, Reporter/Recorder

PARTIES: STATE OF NEVADA
006545 Zadrowski, Bernard B.

0001 D1 Daniels, Alan D
004784 Walton, Stanley A.

Y
Y
Y
Y

DEFENDANT DANIELS ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial. Mr. Walton requested thirty days to file a writ, COURT FURTHER ORDERED, RIGHTS MAINTAINED.

NIC

11/16/99 9:30 AM CALENDAR CALL

11/22/99 1:00 PM TRIAL BY JURY

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 001

11/16/99 09:00 AM 00 CALENDAR CALL

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LINDA SKINNER, Court Clerk
MAUREEN SCHORN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005144	Sweetin, James R.	Y
0001 D1	Daniels, Alan D	Y
004784	Walton, Stanley A.	Y

State announced ready for trial. However, Mr. Walton advised he has picked up a new case that may cause an interference and requested a continuance. Upon Court's inquiry, Mr. Sweetin advised trial would take 5 days with 20 witnesses. COURT ORDERED, matter CONTINUED.

NIC (COC)

CONTINUED TO: 11/17/99 09:30 AM 01

11/17/99 09:30 AM 01 CALENDAR CALL

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LINDA SKINNER, Court Clerk
MAUREEN SCHORN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005144	Sweetin, James R.	Y
0001 D1	Daniels, Alan D	Y
004784	Walton, Stanley A.	Y

Mr. Walton requested trial date be vacated and reset in ordinary course; DEFT WAIVED THE 60 DAY RULE. There being no objection, COURT SO ORDERED.

NIC (COC)

7/18/00 9:30 AM CALENDAR CALL

7/24/00 1:00 PM JURY TRIAL

CONTINUED ON PAGE: 003

PRINT DATE: 12/08/09

PAGE: 002

MINUTES DATE: 11/17/99

10F02742X - DANIELS, ALAN

Page 253 of 299

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 002

07/18/00 09:30 AM 00 CALENDAR CALL (OVERFLOW FROM DEPT. XIV)
SWEETIN // WALTON // 5 DAYS

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: JUDY NORMAN, Court Clerk
MAUREEN SCHORN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
005734 Pandukht, Taleen R. Y
0001 D1 Daniels, Alan D Y
004784 Walton, Stanley A. Y

Ms. Pandukht announced ready for trial. Mr. Walton requested matter continued to resolve matter of post conviction in defendant's other case which could affect this case. Conference at the Bench. COURT ORDERED, MOTION TO CONTINUE DENIED; matter referred to OVERFLOW for FURTHER PROCEEDINGS.

NIC (COC)

/24/00 1:00 PM JURY TRIAL (OVERFLOW DEPT. XIV)
SWEETIN // WALTON
5 DAYS
20 WITNESSES // NO OUT-OF-STATE

CALENDAR CALL

CONTINUED TO: 07/21/00 09:00 AM 01

07/21/00 09:00 AM 01 CALENDAR CALL (OVERFLOW FROM DEPT. XIV)
SWEETIN // WALTON // 5 DAYS

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: JUDY NORMAN, Court Clerk
MAUREEN SCHORN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
005144 Sweetin, James R. Y
0001 D1 Daniels, Alan D Y
004784 Walton, Stanley A. Y

There being no Courtroom available, COURT ORDERED, matter referred to Department XIV for further proceedings.

CUSTODY

CONTINUED ON PAGE: 004

PRINT DATE: 12/08/09

PAGE: 003

MINUTES DATE: 07/21/00

10F02742X - DANIELS, ALAN

Page 254 of 299

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 003

7/27/00 9:00 AM TRIAL SETTING

07/27/00 09:00 AM 00 TRIAL SETTING

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LINDA SKINNER, Court Clerk
MAUREEN SCHORN, Reporter/RecorderPARTIES: STATE OF NEVADA
006639 Fattig, John T
0001 D1 Daniels, Alan D
004784 Walton, Stanley A.Y
Y
Y
Y

Court noted this matter was previously set for trial, however, as no Courts were available, it was referred back to this Dept. As the 60-day rule has been WAIVED, COURT ORDERED, matter reset for trial in ordinary course.

NIC (COC)

2/6/01 9:30 AM CALENDAR CALL

2/12/01 1:00 PM JURY TRIAL

02/06/01 09:30 AM 00 CALENDAR CALL

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LINDA SKINNER, Court Clerk
JOE D'AMATO, Reporter/RecorderPARTIES: STATE OF NEVADA
006526 Turner, Robert B.
0001 D1 Daniels, Alan D
004784 Walton, Stanley A.Y
Y
Y
Y

Mr. Turner advised he has a witness problem and requested to file MOTION TO CONTINUE IN OPEN COURT. Mr. Walton had no opposition to a continuance. COURT ORDERED, trial date VACATED and reset in ordinary course.

NIC (COC)

7/24/01 9:30 AM CALENDAR CALL

7/30/01 1:00 PM JURY TRIAL

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 004

07/24/01 09:30 AM 00 CALENDAR CALL

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Connie Kalski, Relief Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006526 Turner, Robert B.
0001 D1 Daniels, Alan D
004784 Walton, Stanley A.Y
Y
Y
Y

Mr. Walton requested a continuance as he was in trial last week and is picking a jury for another trial today. Further, Mr. Walton stated he believes the matter may negotiate. COURT ORDERED, trial date VACATED and matter set for status check.

NIC (COC)

8/28/01 9:00 AM STATUS CHECK: NEGOTIATIONS/TRIAL SETTING

08/28/01 09:00 AM 00 STATUS CHECK: TRIAL SETTING

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006381 Knapp, Gregory D.
0001 D1 Daniels, Alan D
004784 Walton, Stanley A.Y
Y
Y
Y

Mr. Walton advised matter is close to being negotiated, however, requested matter be set for trial. COURT ORDERED, matter set for trial in ordinary course as defendant has WAIVED THE SIXTY-DAY RULE.

NIC (COC)

4/2/02 9:30 AM CALENDAR CALL

4/8/02 1:00 PM JURY TRIAL

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 005

04/02/02 09:30 AM 00 CALENDAR CALL

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Connie Kalski, Relief Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006545 Zadrowski, Bernard B.
0001 D1 Daniels, Alan D
004784 Walton, Stanley A.Y
Y
Y
Y

Matter TRAILED for the presence of Mr. Walton.

Matter RECALLED with Mr. Walton present. Amended Indictment and Guilty Plea Agreement FILED IN OPEN COURT. NEGOTIATIONS: The State retains the right to argue the facts and circumstances but will not oppose concurrent time between all counts and Defendant's case C160684. Upon Court's inquiry, Defendant WITHDREW his not guilty plea, was ARRAIGNED AND PLED GUILTY to COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F) and COUNT II - ROBBERY (F). Court ACCEPTED plea, referred matter to the Division of Parole and Probation and ORDERED, set for sentencing. FURTHER, trial date VACATED.

NIC (COC)

5/14/02 9:00 AM SENTENCING

05/14/02 09:00 AM 00 SENTENCING

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Connie Kalski, Relief Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006541 Lewis, Linda Y.
0001 D1 Daniels, Alan D
004784 Walton, Stanley A.Y
Y
Y
Y

Officer Lorena Yonashiro of the Division of Parole and Probation present. DEFENDANT DANIELS ADJUDGED GUILTY of COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F) and COUNT II - ROBBERY (F). Statements by counsel and Defendant. COURT ORDERED, in addition to the \$25 Administrative Assessment fee and \$3,400 in RESTITUTION, Defendant SENTENCED on COUNT I - to a MAXIMUM term of ONE-HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35) MONTHS and on COUNT II - to a MAXIMUM term of ONE-HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35)

CONTINUED ON PAGE: 007

PRINT DATE: 12/08/09

PAGE: 006

MINUTES DATE: 05/14/02

10F02742X - DANIELS, ALAN

Page 257 of 299

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 006

MONTHS in the Nevada Department of Corrections. Count II to run CONCURRENT with COUNT I; this sentence to run CONSECUTIVE to the sentence Defendant is currently serving. Defendant to receive 36 DAYS credit for time served.

NDC

01/07/03 09:00 AM 00 DEFT'S PRO PER MTN DISCHARGE ATTY/16

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006541 Lewis, Linda Y.Y
Y

Court noted this is post conviction in nature and ORDERED, motion is GRANTED. Court directed Clerk to notify Mr. Walton to send the file to Defendant.

NDC

CLERK'S NOTE: 1/8/03 Clerk spoke with Carolina from Mr. Walton's Office and advised her of Court's ruling.

02/18/03 09:00 AM 00 DEFT'S PRO PER FOR REHEARING OF MTN TO
DISCHARGE ATTY/PRODUCTN OF PAPER/DOCU/17

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Judy McFadden/jm, Relief Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006381 Knapp, Gregory D.Y
Y

Court noted Mr. Walton is counsel in this matter and is presently in trial. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 02/19/03 09:00 AM 01

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA vs Daniels, Alan D

CONTINUED FROM PAGE: 007

02/19/03 09:00 AM 01 DEFT'S PRO PER FOR REHEARING OF MTN TO
DISCHARGE ATTY/PRODUCTN OF PAPER/DOCU/17

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Judy McFadden, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
007295 Saragosa, Melissa A. Y
0001 D1 Daniels, Alan D Y

Mr. Walton advised the Court that he had sent the files to Deft. several months ago. MATTER RESOLVED.

NDC

04/08/03 09:00 AM 00 DEFT'S PRO PER MTN FOR TRANSCRIPTS/18

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
001648 Barker, David B. Y

Court noted Defendant is asking for discovery from the Court and wants the Court to turn over transcripts. There being no need shown and not the practice of this Court, COURT ORDERED, Deft's motion is DENIED. Further, Court noted Mr. Walton was the previous attorney and he has sent the file to Defendant.

NDC

CRIMINAL COURT MINUTES

C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 008

05/20/03 09:00 AM 00 ALL PENDING MOTIONS 5/20/03

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/RecorderPARTIES: STATE OF NEVADA
000370 Ponticello, Frank M.Y
YDEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO
PER MOTION FOR MODIFICATION OF SENTENCEAs to Deft's Pro Per Motion for Leave to Proceed in Forma Pauperis; COURT
ORDERED, GRANTED.

As to Deft's Pro Per Motion for Modification of Sentence: Court noted Defendant does not indicate where this Court would have jurisdiction; that he does not show material fact at the time of sentencing. Court reviewed the file and stated a writ would have been the proper vehicle for Defendant's allegations. Defendant stated he was not interviewed by Parole and Probation, however, Court noted that Defendant never made the Court aware that he was not. Defendant stated he had a problem with the text of the Pre-sentence Report. Defendant noted the State would not oppose concurrent time, however, the Court noted it is not to be bound by those negotiations. Court noted this motion has no merit and as this Court lacks jurisdiction, ORDERED, motion is DENIED.

NDC

DEC 09 2009

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OF THE ORIGINAL ON FILE
CLERK OF THE COURT

CONFIDENTIAL

APR 10 2000

JOC
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

Connie Kaleb
CLERK OF DISTRICT COURT
DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DANIELS, aka
Alan Demetrius Daniels, #0747918

Defendant.

Case No. C160684
Dept. No. VI
Docket B

AMENDED
JUDGMENT OF CONVICTION (JURY TRIAL)

WHEREAS, on the 10th day of August, 1999, the Defendant ALAN DANIELS, aka Alan Demetrius Daniels, entered a plea of not guilty to the crimes of COUNTS I AND III - BURGLARY WHILE IN POSSESSION OF A FIREARM (CATEGORY B FELONY); AND COUNTS II AND IV - ROBBERY WITH USE OF A DEADLY WEAPON (CATEGORY B FELONY), committed on the 10th day of May, 1999, in violation of NRS 205.060, 193.165; 200.380, 193.165, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crimes of COUNTS I AND III - BURGLARY WHILE IN POSSESSION OF A FIREARM (CATEGORY B FELONY); AND COUNTS II AND IV - ROBBERY WITH USE OF A DEADLY WEAPON (CATEGORY B FELONY) on the 7th day of December, 1999; and

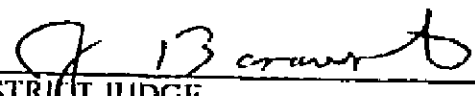
WHEREAS, thereafter, on the 10th day of January, 2000, the Defendant being present in Court with his counsel G. DAFFREN COX, Deputy Public Defender, and TALEEN R.

STATE'S
EXHIBIT
3
262523

1 PANDUKHI, Deputy District Attorney also being present; the above entitled Court did adjudge
2 Defendant guilty thereof by reason of said trial and verdicts and, in addition to the \$25.00
3 Administrative Assessment Fee, \$250.00 DNA Test and Fee, \$4,100.00 Restitution on Count
4 I, and \$3,000.00 Restitution on Count III, Defendant Sentenced as follows:
5 COUNT I - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
6 Twenty-Four (24) Months.
7 COUNT II - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
8 Twenty-Four (24) Months; plus an Equal and Consecutive Maximum term of Ninety (90)
9 Months with a Minimum parole eligibility of Twenty-Four (24) Months for use of a deadly
10 weapon. Count II Concurrent to Count I.
11 COUNT III - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
12 Twenty-Four (24) Months. Count III Concurrent with Count II.
13 COUNT IV - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
14 Twenty-Four (24) Months; plus an Equal and Consecutive Maximum term of Ninety (90)
15 Months with a Minimum parole eligibility of Twenty-Four (24) Months for use of a deadly
16 weapon. Count IV Consecutive to Count II.
17 All sentences above to be served in the Nevada Department of Prisons. Defendant to receive
18 two hundred ten (210) days credit for time served.

19 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
20 Judgment of Conviction as part of the record in the above entitled matter.

21 DATED this 10th day of April, 2000, in the City of Las Vegas, County of Clark, State
22 of Nevada

23
24 
25 DISTRICT JUDGE
26

27 DA#99-160684X/pm
28 LVMPD EV#9905100533
BURGWW; RWDW-F
(1K7)

ORIGINAL

16

JOC
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED

JAN 14 9 40 AM '00

Shirley A. Longenecker
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DANIELS, aka
Alan Demetrius Daniels, #0747918

Defendant.

Case No. C160684
Dept. No. VI
Docket B

JUDGMENT OF CONVICTION (JURY TRIAL)

WHEREAS, on the 10th day of August, 1999, the Defendant ALAN DANIELS, aka Alan Demetrius Daniels, entered a plea of not guilty to the crimes of COUNTS I AND III - BURGLARY WHILE IN POSSESSION OF A FIREARM (CATEGORY B FELONY); AND COUNTS II AND IV - ROBBERY WITH USE OF A DEADLY WEAPON (CATEGORY B FELONY), committed on the 10th day of May, 1999, in violation of NRS 205.060, 193.165; 200.380, 193.165, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crimes of COUNTS I AND III - BURGLARY WHILE IN POSSESSION OF A FIREARM (CATEGORY B FELONY); AND COUNTS II AND IV - ROBBERY WITH USE OF A DEADLY WEAPON (CATEGORY B FELONY) on the 7th day of December, 1999; and

WHEREAS, thereafter, on the 10th day of January, 2000, the Defendant being present in Court with his counsel G. DARREN COX, Deputy Public Defender, and TALEEN R. PANDUKHIT, Deputy District Attorney also being present; the above entitled Court did adjudge

CE-02

JAN 18 2000

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JAN 13 2000
COUNTY CLERK

JAN 11 2000
COUNTY CLERK

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RECEIVED

1 Defendant guilty thereof by reason of said trial and verdicts and, in addition to the \$25.00
2 Administrative Assessment Fee, \$250.00 DNA Test and Fee, \$4,100.00 Restitution on Count
3 I, and \$3,000.00 Restitution on Count III. Defendant Sentenced as follows:
4 COUNT I - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
5 Twenty-Four (24) Months.
6 COUNT II - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
7 Twenty-Four (24) Months; plus an Equal and Consecutive Maximum term of Ninety (90)
8 Months with a Minimum parole eligibility of Twenty-Four (24) Months for use of a deadly
9 weapon. Count II Consecutive to Count I.
10 COUNT III - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
11 Twenty-Four (24) Months. Count III Concurrent with Count I.
12 COUNT IV - to a Maximum term of Ninety (90) Months with a Minimum parole eligibility of
13 Twenty-Four (24) Months; plus an Equal and Consecutive Maximum term of Ninety (90)
14 Months with a Minimum parole eligibility of Twenty-Four (24) Months for use of a deadly
15 weapon. Count IV Concurrent with Count II.
16 All sentences above to be served in the Nevada Department of Prisons. Defendant to receive
17 two hundred ten (210) days credit for time served.

18 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
19 Judgment of Conviction as part of the record in the above entitled matter.

20 DATED this 13th day of January, 2000, in the City of Las Vegas, County of Clark,
21 State of Nevada.

22
23
24 DISTRICT JUDGE

25
26 DA#99-160684X/pm
27 LVMPD EV#9905100533
28 BURGWW; RWDW-F
(TK7)

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

John L. Johnson
CLERK OF THE COURT

DEC 09 2009

P. WILKINSON, JR. 20090101 WPD

-2-

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u

1 INFO
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

AUG 2 10 06 AM '99

Shirley - june
CLERK

9 I.A. 08/10/99
10 8:30 A.M.
11 P.D.

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 ALAN DANIELS, aka
16 Alan Demetrius Daniels, #747918

17 Defendant.

Case No. C
Dept. No. VI
Docket B

160684

INFORMATION

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss:

20 STEWART L. BELL, District Attorney within and for the County of Clark, State of
21 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

22 That ALAN DANIELS, aka Alan Demetrius Daniels, the Defendant(s) above named,
23 having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM**
24 **(Felony - NRS 205.060, 193.165); ROBBERY WITH USE OF A DEADLY WEAPON**
25 **(Felony - NRS 200.380, 193.165); and FIRST DEGREE KIDNAPPING WITH USE OF**
26 **A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165), on or about the 10th day**
27 **of May, 1999, within the County of Clark, State of Nevada, contrary to the form, force and**
28 **effect of statutes in such cases made and provided, and against the peace and dignity of the State**
29 **of Nevada,**

30 **COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM**

31 did then and there wilfully, unlawfully, and feloniously enter, while in possession of a

8

1 firearm, with intent to commit larceny and/or robbery, that certain building occupied by the INN
2 ZONE BAR, located at 238 South Rainbow Boulevard, Las Vegas, Clark County, Nevada.

3 COUNT II - ROBBERY WITH USE OF A DEADLY WEAPON

4 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
5 lawful money of the United States, from the person of DONALD REA and/or BOB [LAST
6 NAME UNKNOWN], or in their presence, by means of force or violence, or fear of injury to,
7 and without the consent and against the will of the said DONALD REA and/or BOB [LAST
8 NAME UNKNOWN], said Defendant using a deadly weapon, to-wit: a firearm, during the
9 commission of said crime.

10 COUNT III - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

11 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,
12 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away DONALD REA and/or BOB
13 [LAST NAME UNKNOWN], human beings, with the intent to hold or detain the said DONALD
14 REA and/or BOB [LAST NAME UNKNOWN], against their will, and without their consent,
15 for the purpose of committing Burglary and/or Robbery Use of a Deadly Weapon, said
16 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

17 COUNT IV - BURGLARY WHILE IN POSSESSION OF A FIREARM

18 did then and there wilfully, unlawfully, and feloniously enter, while in possession of a
19 firearm, with intent to commit larceny and/or robbery, that certain building occupied by PEPE
20 MULDOON'S BAR, located at 4341 North Rancho Drive, Las Vegas, Clark County, Nevada.

21 COUNT V - ROBBERY WITH USE OF A DEADLY WEAPON

22 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
23 lawful money of the United States, from the person of JAMES CASEY, or in his presence, by
24 means of force or violence, or fear of injury to, and without the consent and against the will of
25 the said JAMES CASEY, said Defendant using a deadly weapon, to-wit: a firearm, during the
26 commission of said crime.

27 COUNT VI - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

28 did wilfully, unlawfully, feloniously, and without authority of law, seize, confine,

1 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away JAMES CASEY, a human being,
2 with the intent to hold or detain the said JAMES CASEY, against his will, and without his
3 consent, for the purpose of committing Burglary and/or Robbery Use of a Deadly Weapon, said
4 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

5 STEWART L. BELL
6 DISTRICT ATTORNEY
7 Nevada Bar #000477

8 BY 
9 GARY L. GUYMON
10 Chief Deputy District Attorney
11 Nevada Bar #003726

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

13	NAME	ADDRESS
14	BLASKO, KEITH J.	LVMPD PH2995
15	BOYD, FRED M.	LVMPD PH5216
16	CASEY, JAMES	6633 WHEELBARROW PEAK
17	CUSTODIAN OF RECORDS	LAS VEGAS, NV 89108
18	CUSTODIAN OF RECORDS	CLARK COUNTY DETENTION CENTER
19	FORD, DANIEL P.	330 S. CASINO CENTER BLVD.
20	HANOVER, JOHN W.	LAS VEGAS, NV 89101
21	MENTAL, ROBERT	LVMPD-DISPATCH/COMMUNICATIONS
22	MORTON, LARRY R.	LVMPD PH4244
23	REA, DONALD	LVMPD PH2946
24		238 S. RAINBOW BLVD.
25		LAS VEGAS, NV 89128
26		LVMPD PH4935
27		6609 BURGUNDY WAY
28		LAS VEGAS, NV 89107

DA#99F08053X/sbs
LVMPD EV#9905100533
BURG/W;RWDW;KDNP/W - F
(TK7)

ORIGINAL

FILED IN OPEN COURT

1.11.1999 19

SHIRLEY B. PARRAGUIRRE, CLERK

BY Connie Kalski
CONNIE KALSKI DEPUTY

1 AINF
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

-vs-

11 ALAN DANIELS, aka
12 Alan Demetrius Daniels, #747918

Defendant.

Case No. C160684
Dept. No. VI
Docket B

AMENDED
INFORMATION

15 STATE OF NEVADA)
16)ss:
COUNTY OF CLARK)

17 STEWART L. BELL, District Attorney within and for the County of Clark, State of
18 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That ALAN DANIELS, aka Alan Demetrius Daniels, the Defendant(s) above named,
20 having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM**
21 **(Felony - NRS 205.060, 193.165) and ROBBERY WITH USE OF A DEADLY WEAPON**
22 **(Felony - NRS 200.380, 193.165)**, on or about the 10th day of May, 1999, within the County of
23 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and
24 provided, and against the peace and dignity of the State of Nevada,

25 COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM

26 did then and there wilfully, unlawfully, and feloniously enter, while in possession of a
27 firearm, with intent to commit larceny and/or robbery, that certain building occupied by the INN
28 ZONE BAR, located at 238 South Rainbow Boulevard, Las Vegas, Clark County, Nevada.

1 COUNT II - ROBBERY WITH USE OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
3 lawful money of the United States, from the person of DONALD REA and/or BOB [LAST
4 NAME UNKNOWN], or in their presence, by means of force or violence, or fear of injury to,
5 and without the consent and against the will of the said DONALD REA and/or BOB [LAST
6 NAME UNKNOWN], said Defendant using a deadly weapon, to-wit: a firearm, during the
7 commission of said crime.

8 COUNT III - BURGLARY WHILE IN POSSESSION OF A FIREARM

9 did then and there wilfully, unlawfully, and feloniously enter, while in possession of a
10 firearm, with intent to commit larceny and/or robbery, that certain building occupied by PEPE
11 MULDOON'S BAR, located at 4341 North Rancho Drive, Las Vegas, Clark County, Nevada.

12 COUNT IV - ROBBERY WITH USE OF A DEADLY WEAPON

13 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
14 lawful money of the United States, from the person of JAMES CASEY, or in his presence, by
15 means of force or violence, or fear of injury to, and without the consent and against the will of
16 the said JAMES CASEY, said Defendant using a deadly weapon, to-wit: a firearm, during the
17 commission of said crime.

18 STEWART L. BELL
19 DISTRICT ATTORNEY
Nevada Bar #0005777

20
21 BY 
22 TALEEN PANDURITT
23 Deputy District Attorney
Nevada Bar #005734

24 Names of witnesses known to the District Attorney's Office at the time of filing this
25 information are as follows:

26	NAME	ADDRESS
27	BLASKO, KEITH J.	LVMPD P#2995
28	BOYD, FRED M.	LVMPD P#5216

1 CASEY, JAMES
2
3 CUSTODIAN OF RECORDS
4
5 CUSTODIAN OF RECORDS
6 FORD, DANIEL P.
7 HANOVER, JOHN W.
8 MENTAL, ROBERT
9 MORTON, LARRY R.
10 REA, DONALD
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6633 WHEELBARROW PEAK
LAS VEGAS, NV 89108

CLARK COUNTY DETENTION CENTER
330 S. CASINO CENTER BLVD.
LAS VEGAS, NV 89101

LVMPD - DISPATCH/COMMUNICATIONS

LVMPD P#4244

LVMPD P#2946

238 S. RAINBOW BLVD.
LAS VEGAS, NV 89128

LVMPD P#4935

6609 BURGUNDY WAY
LAS VEGAS, NV 89107

DA#99F08053X/sbs
LVMPD EV#9905100533
BURGW: RWDW - F
(TK7)

DEC 09 2009

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OF THE ORIGINAL ON FILE

Alan L. Daniels
CLERK OF THE COURT

-3-

10F02742X - DANIELS, ALAN

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA vs Daniels, Alan

08/10/99 08:30 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Relief Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
006503 Skupa, Kristy L. Y
0001 D1 Daniels, Alan Y
PUBDEF Public Defender Y
005924 Cox, G. Darren Y

DEFENDANT DANIELS ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY-DAY RULE.
COURT ORDERED, matter set for trial.

CUSTODY

10/14/99 8:30 AM CALENDAR CALL

10/18/99 9:30 AM JURY TRIAL

09/20/99 08:30 AM 00 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Relief Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
005734 Pandukht, Taleen R. Y
0001 D1 Daniels, Alan Y
PUBDEF Public Defender Y
005924 Cox, G. Darren Y

Colloquy between Court and counsel regarding writ. Ms. Pandukht advised the State agrees there are questions regarding counts III and VI and submitted the matter on the State's reply. COURT ORDERED, Writ GRANTED as to COUNTS III and VI. FURTHER ORDERED, trial date STANDS.

CUSTODY

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA

vs Daniels, Alan

CONTINUED FROM PAGE: 001

10/13/99 08:30 AM 00 ALL PENDING MOTIONS 10/13/99

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/RecorderPARTIES: STATE OF NEVADA
005734 Pandukht, Taleen R.
0001 D1 Daniels, Alan
PUBDEF Public Defender
005924 Cox, G. DarrenY
Y
Y
Y
Y

DEFT'S MOTION TO SEVER UNRELATED CRIMINAL OFFENSES...CALENDAR CALL

Ms. Pandukht announced is ready for trial. Mr. Cox advised he received information and is not ready for trial. Court noted the State will not use the fingerprint evidence if the deft. takes a chance and goes to trial now further stated it has the fingerprints on both cases. Ms. Pandukht concurred. Mr. Cox requested a continuance on behalf the deft. COURT ORDERED, trial VACATED and reset. Opposition by Ms. Pandukht on deft's motion. Matter submitted by Mr. Cox. COURT ORDERED, Deft's motion to sever unrelated criminal offenses DENIED.

CUSTODY

12/02/99 8:30 AM CALENDAR CALL

12/06/99 9:30 AM JURY TRIAL

12/02/99 08:30 AM 00 CALENDAR CALL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Relief Clerk
ROBERT MINTUN, Reporter/RecorderPARTIES: STATE OF NEVADA
005734 Pandukht, Taleen R.
0001 D1 Daniels, Alan
PUBDEF Public Defender
005924 Cox, G. DarrenY
Y
Y
Y
Y

AMENDED INFORMATION FILED IN OPEN COURT. Mr. Cox noted the matter has not been negotiated and Defendant requests to proceed to trial; Mr. Cox announced ready. The State announced ready for trial. Court noted for the record, an offer has been made to the defendant to which he has rejected.

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA vs Daniels, Alan

CONTINUED FROM PAGE: 002

COURT ORDERED, trial date STANDS and will proceed on 12/6/99 - 9:15 AM.

CUSTODY

12/06/99 09:15 AM 00 TRIAL BY JURY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	003726 Guymon, Gary L.	Y
	005734 Pandukht, Taleen R.	Y
	0001 D1 Daniels, Alan	Y
	PUBDEF Public Defender	Y
	005924 Cox, G. Darren	Y
	006762 O'Brien, Timothy P.	Y

Jury summoned. Parties announced ready to proceed. The Clerk called the roll of the prospective Jury Panel and all present. Court Clerk gave the Voir Dire Oath. Court and Counsel examined the prospective jurors. CONFERENCE AT THE BENCH. Jury selected and sworn to try the case. Alternate Juror selected and sworn to try the case. Amended Information read to the Jury. COURT ORDERED, 10 minute recess and admonished the jury. Court reconvened with all parties present. Counsel stipulated to the presence of the jury. Opening statements by Ms. Pandukht. Opening statements by Mr. O'Brien. Testimony and exhibits presented (see worksheets.) COURT ORDERED, recess for lunch until 1:15 PM and admonished the jury. Court reconvened with all parties present. Counsel stipulated to the presence of the jury. Testimony and exhibits presented (see worksheets.) Mr. Guymon advised the State will not admit exhibits #12 and #33. State rest. COURT ORDERED, recessed.

OUTSIDE THE PRESENCE OF THE JURY: Counsel stipulated that Jury Instructions were settled in open court and the Court would read them prior to argument. Court read statutes and advised Deft. of his right not to testify. Mr. Cox advised he explained this to his client and advised him of his rights. Argument by Mr. Guymon to bring up two issues, the use a weapon and his gambling. Response by Mr. Cox and Mr. O'Brien. COURT ORDERED, Mr. Guymon will be allowed to pursue these two issues if the Deft. takes the stand; if deft. admits it then will have to drop it. Court advised Mr. Cox it does not want this jury to know about the deft's other trial date and other cases.

Jury summoned. Counsel stipulated to the presence of the jury. Witnesses sworn and testified. Exhibits presented (see worksheets.) CONFERENCE AT THE BENCH. Defense rest. COURT ORDERED, matter CONTINUED tomorrow at 9:00 AM and admonished the jury.

CONTINUED TO: 12/07/99 09:15 AM 01

PRINT DATE: 12/08/09

PAGE: 003

CONTINUED ON PAGE: 004
MINUTES DATE: 12/06/99

10F02742X - DANIELS, ALAN

Page 228 of 299

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA vs Daniels, Alan

CONTINUED FROM PAGE: 003

12/07/99 09:15 AM 01 TRIAL BY JURY

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA
003726 Guymon, Gary L.
005734 Pandukht, Taleen R.

0001 D1 Daniels, Alan
PUBDEF Public Defender
005924 Cox, G. Darren
006762 O'Brien, Timothy P.

Y
Y
Y

Y
Y
Y
Y

OUTSIDE THE PRESENCE OF THE JURY; Court noted Mr. Guymon would like to withdraw a jury instruction. Objection by Mr. O'Brien. Mr. Guymon moved to withdraw stock instruction #15A. COURT ORDERED, Will allow over the objection to withdraw #15A.

Jury summoned. Counsel stipulated to the presence of the jury. Mr. Guymon noted the State rest. Court read the Jury Instructions. Closing argument by Ms. Pandukht. Closing argument by Mr. Cox. Closing argument by Mr. Guymon. 10:20 AM Bailiff sworn to take charge of the Jury and retired them to deliberate. Court thanked and excused the alternate juror.

11:18 AM Jury returned with the Verdict and the Foreperson read it in open Court. CONFERENCE AT THE BENCH. COURT ORDERED, the Jury to return for deliberation again to review instructions 10 and 16 which the Court read.

11:24 AM Bailiff retired the jury for deliberation.

11:26 AM Jury returned with the following VERDICTS:

AS TO COUNT I - GUILTY of BURGLARY WHILE IN POSSESSION OF A FIREARM (F); AS TO COUNT II - GUILTY of ROBBERY WITH USE OF A DEADLY WEAPON (F); AS TO COUNT III - GUILTY of BURGLARY WHILE IN POSSESSION OF A FIREARM (F); AS TO COUNT IV - GUILTY of ROBBERY WITH USE OF A DEADLY WEAPON (F)

Upon request of Defense, Jury polled. COURT ORDERED, matter referred to the Department of Parole & Probation and set for sentencing. Court thanked and excused the Jury. Court recessed.

CUSTODY

1/10/00 8:30 AM SENTENCING

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA vs Daniels, Alan

CONTINUED FROM PAGE: 004

12/27/99 08:30 AM 00 DEFT'S MOTION FOR NEW TRIAL

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Relief Clerk
JERI ANDERSON, Reporter/RecorderPARTIES: STATE OF NEVADA
005398 Lalli, Christopher J.
0001 D1 Daniels, Alan
PUBDEF Public Defender
006762 O'Brien, Timothy P.Y
Y
Y
Y
Y

Mr. O'Brien noted this is Mr. Cox's case who is out of the jurisdiction.
Mr. O'Brien requested matter be continued. COURT ORDERED, matter CONTINUED
to Defendant's sentencing date.

CUSTODY

CONTINUED TO: 01/10/00 08:30 AM 01

01/10/00 08:30 AM 00 ALL PENDING MOTIONS (1/10/00)

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Relief Clerk
ROBERT MINTUN, Reporter/RecorderPARTIES: STATE OF NEVADA
005734 Pandukht, Taleen R.
0001 D1 Daniels, Alan
PUBDEF Public Defender
005924 Cox, G. DarrenY
Y
Y
Y
Y

DEFENDANT'S MOTION FOR NEW TRIAL...SENTENCING

Court advised all the motions and pleadings have been read by the Court.
Court noted the law is clear as to Deft's motion for a new trial based upon
severing. Argument by Mr. Cox. Opposition by the State. COURT ORDERED,
Defendant's Motion DENIED. Officer Dawn Williams of the Division of Parole
and Probation present. By virtue of jury verdicts, DEFENDANT DANIELS
ADJUDGED GUILTY of COUNTS I and III - BURGLARY WHILE IN POSSESSION OF A
FIREARM (F) and COUNTS II and IV - ROBBERY WITH USE OF A DEADLY WEAPON (F).
Statements by counsel and Defendant. COURT ORDERED, in addition to the \$25
Administrative Assessment fee, \$250 DNA Test and Fee, \$4,100 RESTITUTION on
count I, and \$3,000 RESTITUTION on Count III, Defendant SENTENCED as
follows:

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA vs Daniels, Alan

CONTINUED FROM PAGE: 005

COUNT I - to a MAXIMUM term of NINETY (90) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS.

COUNT II - to a MAXIMUM term of NINETY (90) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; plus an EQUAL and CONSECUTIVE MAXIMUM term of NINETY (90) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for use of a deadly weapon. Count II CONCURRENT to Count I.

COUNT III - to a MAXIMUM term of NINETY (90) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS. Count III CONCURRENT with Count II.

COUNT IV - to a MAXIMUM term of NINETY (90) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; plus an EQUAL and CONSECUTIVE MAXIMUM term of NINETY (90) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for use of a deadly weapon. Count IV CONSECUTIVE to Count II.

All sentences above to be served in the Nevada Department of Prisons. Deft to receive 210 DAYS credit for time served.

NDP

CASE CLOSED

CLERK'S NOTE: Minute order amended on 1/20/00 to reflect Count IV CONSECUTIVE to Count II./ck 1/26/00 Minute order amended to reflect Count II CONCURRENT to Count I./ck

04/10/00 09:08 AM 00 DEFT'S REQUEST CLARIFY JUDGMENT OF CONVICTION

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: CONNIE KALSKI, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA
005398 Lalli, Christopher J.

Y
Y

Court noted Defendant is confined to the Nevada Department of Prisons. Mr. Lalli advised an amended JOC needed to be filed, to which he offered to the Court. AMENDED JOC SIGNED in open court.

NDP

CASE CLOSED

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA

vs Daniels, Alan

CONTINUED FROM PAGE: 006

07/25/00 08:30 AM 00 DEFT'S PRO PER MOTION TO DISCHARGE
ATTORNEY OF RECORD

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk
ROBERT MINTUN, Reporter/Recorder

PARTIES: STATE OF NEVADA
005398 Lalli, Christopher J.
0001 D1 Daniels, Alan
PUBDEF Public Defender
005924 Cox, G. Darren

Y
Y
N
Y
Y

COURT ORDERED, Deft's pro per motion to discharge attorney of record GRANTED
and directed Mr. Cox to send the file to the Deft. Mr. Cox stated he will do
so.

NDP

CASE CLOSED

08/22/01 08:30 AM 00 DEFT'S PRO PER PETITION FOR WRIT OF
HABEAS CORPUS

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Carole D'Aloia, Court Clerk
Shawn Ott, Reporter/Recorder

PARTIES: STATE OF NEVADA
004739 Rutledge, Brian S.

Y
Y

Court advised it reviewed Defendant's Petition and the State's Opposition.
Statements by Court regarding the history of the case. Court noted
Defendant is claiming ineffective assistance of counsel as the basis for his
petition. Court advised it agrees with the State that these are just "bare
naked" allegations and, ORDERED, motion DENIED; State to prepare appropriate
Order.

NDC

CRIMINAL COURT MINUTES

C-160684-C STATE OF NEVADA vs Daniels, Alan

CONTINUED FROM PAGE: 007

05/11/06 08:30 AM 01 AT THE REQUEST OF THE COURT POST
CONVICTION WRIT OF HABEAS CORPUS /17

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: Keith Reed, Court Clerk
Bill Nelson, Reporter/Recorder

PARTIES: STATE OF NEVADA
005691 Kochevar, Brian J.
0001 D1 Daniels, Alan
007941 Turner, Paul G.

Y
Y
Y
Y

Arguments in support of motion by Mr. Turner. Court stated findings and
ORDERED, petition DENIED.

NDC

DEC 0-9 2009
CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Alan T. Bonaventure
CLERK OF THE COURT

ORIGINAL

16

1 JOCP
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

FILED

1997 OCT 17 A 9:53

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 CARY JERARD PICKETT, aka
12 Gary Pickett, #0725059

13 Defendant.
14

Case No. C145127
Dept. No. XI
Docket S

15 JUDGMENT OF CONVICTION (PLEA)

16 WHEREAS, on the 18th day of September, 1997, the Defendant CARY JERARD
17 PICKETT, aka Gary Pickett, appeared before the Court herein with his counsel and entered a
18 plea of guilty to the crime(s) of BURGLARY (CATEGORY B FELONY), committed on or
19 about the 7th day of August, 1997, in violation of NRS 205.060 and

20 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
21 Persona, being present in court with his counsel JORDAN, SAVAGE, ESQ., as Stand By
22 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
23 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
24 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
25 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
26 Department of Prisons, to be served consecutive to sentence imposed in Case No. C143146,
27 suspended; placed on probation for an indeterminate period not to exceed five (5) years.
28 Conditions: 1. Search Clause for controlled substances and stolen property. 2. Complete Drug

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OCT 20 1997

STATE'S
EXHIBIT

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C-262523

CE31

OCT 14 1997

1 Court Program, noting there was no use of weapons in this incident. 3. Complete long-term
2 counseling, vocational and educational programs as deemed necessary. 4. Defendant to be
3 supervised in the Nevada Division of Parole and Probation's House Arrest Program for the first
4 four (4) months of probation. Defendant to receive thirty-five (35) days credit for time served.
5 Court referred matter to Drug Court, and Ordered, set for further proceedings on October 6,
6 1997 at 9:00 o'clock a.m. in Department X.

7 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
8 Judgment of Conviction as part of the record in the above entitled matter.

9 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
10 State of Nevada.

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13 DISTRICT JUDGE WB
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26 DA#97-145127X/pm
27 LVMPD EV#9708071616
28 BURG-F
(TKI)

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

John L. Blum
CLERK OF THE COURT

2-22-2010

ORIGINAL

1 GMEM
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED IN OPEN COURT

SEP-18-1997 19

LORETTA BOWMAN, CLERK

By [Signature] Deputy

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 GARY PICKETT, aka
12 Cary Jerard Pickett, #0725059

13 Defendant.
14

Case No. C145127
Dept. No. XI
Docket S

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: BURGLARY (CATEGORY B FELONY - NRS
17 205.060), as more fully alleged in the charging document attached hereto as Exhibit "1". I also
18 hereby agree to plead guilty to Grand Larceny (Category B Felony) in Case No. C143146.

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

21 The State has agreed to retain the right to argue at rendition of sentence. This is a
22 conditional plea. If the Court refuses probation or refuses to sentence to the maximum term of
23 imprisonment the Defendant and/or the State may withdraw this offer.

24 The Defendant and the State agree to request the following:

25 A) That the Defendant be sentenced to a minimum term of thirty-six (36) months to a
26 maximum term of one-hundred twenty (120) months in the Nevada Department of Prisons in this
27 case (C145127). That the Defendant be sentenced to a minimum term of thirty-six (36) months
28 to a maximum term of one-hundred twenty (120) months in the Nevada Department of Prisons

CE31

1 in Case No. C143146, consecutive to this case, for a total of a minimum term of seventy-two
2 (72) months to a maximum term of two-hundred forty (240) months in the Nevada Department
3 of Prisons. The Defendant is to have the sentence suspended and be placed on probation for an
4 indeterminate period not to exceed five (5) years with the following Special Conditions:

- 5 1. Search Clause for the detection of Controlled Substances and Stolen Property.
- 6 2. That the Defendant be released to the Division of Parole and Probation for Intensive
7 Supervision, including House Arrest for the first four (4) to six (6) months of probation as
8 deemed necessary by the Division of Parole and Probation.
- 9 3. Enter and successfully complete the Drug Court Program.
- 10 4. Enter and successfully complete any long term drug counseling, vocational, and
11 controlled education deemed necessary by the Division of Parole and Probation during and after
12 the Drug Court Program.
- 13 5. Complete eight (8) hours of Community Service not to exceed the provisions of NRS
14 176.087.

15 CONSEQUENCES OF THE PLEA

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

18 I understand that as a consequence of my plea of guilty the Court must sentence me to
19 imprisonment in the Nevada State Prison for a minimum term of not less than one (1) year(s)
20 and a maximum term of not more than ten (10) years. The minimum term of imprisonment may
21 not exceed forty percent (40%) of the maximum term of imprisonment. I understand that I may
22 also be fined up to \$10,000.00. I understand that the law requires me to pay an Administrative
23 Assessment Fee.

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

28 I understand that I am eligible for probation for the offense to which I am pleading guilty.

1 I understand that, except as otherwise provided by statute, the question of whether I receive
2 probation is in the discretion of the sentencing judge.

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

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

9 I have not been promised or guaranteed any particular sentence by anyone. I know that
10 my sentence is to be determined by the Court within the limits prescribed by statute. I
11 understand that if my attorney or the State of Nevada or both recommend any specific
12 punishment to the Court, the Court is not obligated to accept the recommendation.

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

20 WAIVER OF RIGHTS

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

23 1. The constitutional privilege against self-incrimination, including the right to refuse to
24 testify at trial, in which event the prosecution would not be allowed to comment to the jury
25 about my refusal to testify.

26 2. The constitutional right to a speedy and public trial by an impartial jury, free of
27 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
28 assistance of an attorney, either appointed or retained. At trial the State would bear the burden

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1 of proving beyond a reasonable doubt each element of the offense charged.

2 3. The constitutional right to confront and cross-examine any witnesses who would
3 testify against me.

4 4. The constitutional right to subpoena witnesses to testify on my behalf.

5 5. The constitutional right to testify in my own defense.

6 6. The right to appeal the conviction, with the assistance of an attorney, either appointed
7 or retained, unless the appeal is based upon reasonable constitutional jurisdictional or other
8 grounds that challenge the legality of the proceedings and except as otherwise provided in
9 subsection 3 of NRS 174.035.

10 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

27 My attorney has answered all my questions regarding this guilty plea agreement and its

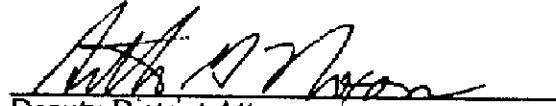
28 ///

1 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

2 DATED this _____ day of September, 1997.

3 
4
5 GARY PICKETT, aka Cary Jerard Pickett
6 Defendant, In Propria Persona

7 AGREED TO BY:

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9 Deputy District Attorney
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1 CERTIFICATE OF COUNSEL:

2 1, the undersigned, as the attorney for the Defendant named herein and as an officer of
3 the court hereby certify that:

4 1. I have fully explained to the Defendant the allegations contained in the charge(s) to
5 which guilty pleas are being entered,

6 2. I have advised the Defendant of the penalties for each charge and the restitution that
7 the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent
9 with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs 1
17 and 2 above.

18 Dated: This 18 day of September, 1997.

19 Jordan Savage
20 STAND-BY ATTORNEY FOR DEFENDANT
21
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pm

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Alan L. Blum
CLERK OF THE COURT

2.22.2010

1 JOC
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

FILED

1997 OCT 17 A 8:51

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 GARY PICKETT, aka
12 Cary Jerard Pickett, #0725059

13 Defendant.

Case No. C143146
Dept. No. XI
Docket S

15 JUDGMENT OF CONVICTION (PLEA)

16 WHEREAS, on the 28th day of August, 1997, the Defendant GARY PICKETT, aka Cary
17 Jerard Pickett, appeared before the Court herein with his counsel and entered a plea of guilty to
18 the crime(s) of GRAND LARCENY (CATEGORY B FELONY), committed on or about the 3rd
19 day of May, 1997, in violation of NRS 205.220 and

20 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
21 Persona, being present in court with his counsel JORDAN SAVAGE, ESQ., as Stand By
22 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
23 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
24 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
25 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
26 Department of Prisons, suspended; placed on probation for an indeterminate period not to
27 exceed five (5) years. Conditions: 1. Search Clause for controlled substances and weapons.
28 2. Complete Drug Court Program, noting weapons were not involved. 3. Complete long-term

OCT 14 1997

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OCT 20 1997

STATE'S
EXHIBIT

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1 counseling, vocational and educational programs as deemed necessary by the Division of Parole
2 and Probation. 4. Complete eight (8) hours community service per month within the first three
3 (3) years of probation. 5. Pursuant to NRS 176.185, Defendant to be supervised in the Nevada
4 Division of Parole and Probation's House Arrest Program for the first four (4) months of
5 probation. Defendant to receive eighty-nine (89) days credit for time served. Court referred
6 matter to Drug Court, and Ordered, set for further proceedings on October 6, 1997 at 9:00
7 o'clock a.m. in Department X.

8 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
9 Judgment of Conviction as part of the record in the above entitled matter.

10 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
11 State of Nevada.

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13 
14 DISTRICT JUDGE MB

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26 DA#97-143146X/pm
27 LVMPD EV#9705030904
28 G/L-F
(TK1)

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OF THE ORIGINAL ON FILE

John L. Johnson
CLERK OF THE COURT

2-22-2010

ORIGINAL

FILED IN OPEN COURT

AUG 28 1997 19

LOUETTA BOWMAN, CLERK

BY Susan Burdette
Deputy

1 GMEM
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 GARY PICKETT, aka
12 Cary Jerard Pickett, #0725059

13 Defendant.
14

Case No. C143146
Dept. No. XI
Docket S

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: GRAND LARCENY (CATEGORY B FELONY - NRS
17 205.220), as more fully alleged in the charging document attached hereto as Exhibit "I". I also
18 hereby agree to plead guilty to Burglary (Category B Felony), in Case No. 97F11223X.

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

21 The State has agreed to retain the right to argue at rendition of sentence. This is a
22 conditional plea. If the Court refuses probation or refuses to sentence to the maximum term of
23 imprisonment the Defendant and/or the State may withdraw this offer.

24 The Defendant and the State agree to request the following:

25 A) That the Defendant be sentenced to a minimum term of thirty-six (36) months to a
26 maximum term of one-hundred twenty (120) months in the Nevada Department of Prisons in this
27 case (C143146). That the Defendant be sentenced to a minimum term of thirty-six (36) months
28 to a maximum term of one-hundred twenty (120) months in the Nevada Department of Prisons

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5

1 in Case No. 97F11223X, consecutive to this case, for a total of a minimum term of seventy-two
2 (72) months to a maximum term of two-hundred forty (240) months in the Nevada Department
3 of Prisons. The Defendant is to have the sentence suspended and be placed on probation for an
4 indeterminate period not to exceed five (5) years with the following Special Conditions:

5 1. Search Clause for the detection of Controlled Substances and Stolen Property.

6 2. That the Defendant be released to the Division of Parole and Probation for Intensive
7 Supervision, including House Arrest for the first four (4) to six (6) months of probation as
8 deemed necessary by the Division of Parole and Probation.

9 3. Enter and successfully complete the Drug Court Program.

10 4. Enter and successfully complete any long term drug counseling, vocational, and
11 controlled education deemed necessary by the Division of Parole and Probation during and after
12 the Drug Court Program.

13 5. Complete eight (8) hours of Community Service not to exceed the provisions of NRS
14 176.087.

15 CONSEQUENCES OF THE PLEA

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

18 I understand that as a consequence of my plea of guilty the Court must sentence me to
19 imprisonment in the Nevada State Prison for a minimum term of not less than one (1) year(s)
20 and a maximum term of not more than ten (10) years. The minimum term of imprisonment may
21 not exceed forty percent (40%) of the maximum term of imprisonment. I understand that I may
22 also be fined up to \$10,000.00. I understand that the law requires me to pay an Administrative
23 Assessment Fee.

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

28 I understand that I am eligible for probation for the offense to which I am pleading guilty.

1 I understand that, except as otherwise provided by statute, the question of whether I receive
2 probation is in the discretion of the sentencing judge.

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

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

9 I have not been promised or guaranteed any particular sentence by anyone. I know that
10 my sentence is to be determined by the Court within the limits prescribed by statute. I
11 understand that if my attorney or the State of Nevada or both recommend any specific
12 punishment to the Court, the Court is not obligated to accept the recommendation.

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

20 WAIVER OF RIGHTS

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

23 1. The constitutional privilege against self-incrimination, including the right to refuse to
24 testify at trial, in which event the prosecution would not be allowed to comment to the jury
25 about my refusal to testify.

26 2. The constitutional right to a speedy and public trial by an impartial jury, free of
27 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
28 assistance of an attorney, either appointed or retained. At trial the State would bear the burden

1 of proving beyond a reasonable doubt each element of the offense charged.

2 3. The constitutional right to confront and cross-examine any witnesses who would
3 testify against me.

4 4. The constitutional right to subpoena witnesses to testify on my behalf.

5 5. The constitutional right to testify in my own defense.

6 6. The right to appeal the conviction, with the assistance of an attorney, either appointed
7 or retained, unless the appeal is based upon reasonable constitutional jurisdictional or other
8 grounds that challenge the legality of the proceedings and except as otherwise provided in
9 subsection 3 of NRS 174.035.

10 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

27 My attorney has answered all my questions regarding this guilty plea agreement and its

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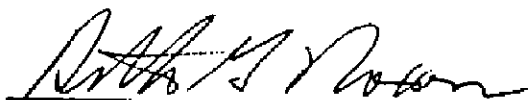
1 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

2 DATED this 27 day of August, 1997.

3 

4
5 GARY PICKETT, aka Cary Jerard Pickett
6 Defendant, In Propria Persona

7 AGREED TO BY:

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9 Deputy District Attorney
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1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s) to
5 which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution that
7 the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are consistent
9 with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs 1
17 and 2 above.

18 Dated: This 27 day of August, 1997.

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pm

Jordan Savage
STAND-BY ATTORNEY FOR DEFENDANT

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE



CLERK OF THE COURT

2.22.2010

1 AINF
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9 Plaintiff,

10 -vs-

11 GARY PICKETT, aka
12 Cary Jerard Pickett, #0725059

13 Defendant.

Case No. C143146
Dept. No. XI
Docket S

AMENDED
INFORMATION

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss:

17 STEWART L. BELL, District Attorney, within and for the County of Clark, State of
18 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That GARY PICKETT, aka Cary Jerard Pickett, the Defendant above named, having
20 committed the crime of GRAND LARCENY (FELONY - NRS 205.220), on or about the 3rd
21 day of May, 1997, within the County of Clark, State of Nevada, contrary to the form, force and
22 effect of statutes in such cases made and provided, and against the peace and dignity of the State
23 of Nevada, did then and there wilfully, unlawfully, and feloniously, with intent to deprive the
24 owner permanently thereof, steal, take, and carry away personal property of ROSS DRESS FOR
25 LESS, 121 North Nellis, Las Vegas, Clark County, Nevada, having a value of \$250.00, or more,


26 ///

27 ///

28 ///

1 to-wit: miscellaneous clothing items.

2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477

5 BY 
6 ARTHUR G. NOXON
7 Deputy District Attorney
8 Nevada Bar #000981

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

11	<u>NAME</u>	<u>ADDRESS</u>
12	BAKER, JAMES D.	LVMPD P#4895
13	HOOTEN, CHERYL D.	LVMPD P#5262
14	PIHLGREN, BRANDY DALE	5075 Spyglass Hill Dr. Las Vegas, NV 89122
15	REDIGER, CHRISTIAN J.	LVMPD P#1886
16	SOTO, FRANK ANTHONY (JR.)	LVMPD P#4516
17	SZUKIEWICZ, JOSEPH P.	LVMPD P#5411
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27	DA#97-143146X/pm	
28	LVMPD EV#9705030904	
	G/L-F	
	(TK1)	

1 UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED HEREINAFTER
2 TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE FOR WHICH THE
3 DEFENDANT IS PRESENTLY CHARGED.

4 Defendant GARY PICKETT, aka Cary Jerard Pickett, hercinbefore named, is placed on
5 notice that, in accordance with the authorization of NRS 207.010, punishment imposed pursuant
6 to the above-stated habitual criminal statute will be urged upon the Court if said Defendant is
7 found guilty on the primary offense of GRAND LARCENY, for which the Defendant is
8 presently charged.

9 This page concerning the prior convictions hereinbelow set forth is to be considered by
10 the Court in its discretion ONLY after the finding of guilty of Defendant on the primary charge
11 herein.

12 That said Defendant GARY PICKETT, aka Cary Jerard Pickett, has been four (4) times
13 convicted of crimes, which, under the laws of the situs of the crime and/or the State of Nevada,
14 amount to felonies, to-wit:

15 1. That on or about the 15th day of July, 1991, the Defendant was convicted in the Eighth
16 Judicial District Court, State of Nevada, in and for the County of Clark, for the crime of Attempt
17 Grand Larceny, in Case No. C99915.

18 2. That on or about the 10th day of December, 1992, the Defendant was convicted in the
19 Eighth Judicial District Court, State of Nevada, in and for the County of Clark, for the crime of
20 Burglary, in Case No. C107733.

21 3. That on or about the 21st day of January, 1993, the Defendant was convicted in the
22 Eighth Judicial District Court, State of Nevada, in and for the County of Clark, for the crime of
23 Attempt Grand Larceny, in Case No. C109725.

24 4. That on or about the 8th day of July, 1994, the Defendant was convicted in the Eighth

25 ///

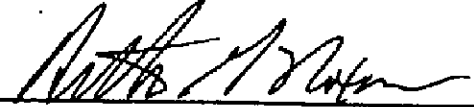
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1 Judicial District Court, State of Nevada, in and for the County of Clark, for the crime of Escape,
2 in Case No. C119000.

3 STEWART L. BELL
4 DISTRICT ATTORNEY
5 Nevada Bar #000477

6 BY 
7 ARTHUR G. NOXON
8 Deputy District Attorney
9 Nevada Bar #000981

10 DO NOT READ TO THE JURY
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26 DA#97-143146X/pm
27 LVMPD EV#9705030904
28 G/L-F
(TKI)

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Alison B. Johnson
CLERK OF THE COURT

2-22-2010

3
ORIGINAL

FILED

JUN 3 11 06 AM '97

Letitia L. Lamm

CLERK

1 **INFO**
2 **STEWART L. BELL**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

9 I.A. 06/05/97
10 9:00 A.M.
11 P.D.

DISTRICT COURT
CLARK COUNTY, NEVADA

12 **THE STATE OF NEVADA,**

13 Plaintiff,

14 -vs-

15 **GARY PICKETT, aka**
16 Cary Jerard Pickett, #0725059

17 Defendant(s).

Case No. C143146
Dept. No. XI
Docket S

INFORMATION

18 **STATE OF NEVADA** }
19 **COUNTY OF CLARK** } ss:

20 STEWART L. BELL, District Attorney within and for the County of Clark, State of
21 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

22 That GARY PICKETT, aka Cary Jerard Pickett, the Defendant(s) above named, having
23 committed the crime of **GRAND LARCENY (Felony - NRS 205.220)**, on or about the 3rd day
24 of May, 1997, within the County of Clark, State of Nevada, contrary to the form, force and
25 effect of statutes in such cases made and provided, and against the peace and dignity of the State
26 of Nevada, did then and there wilfully, unlawfully, and feloniously, with intent to deprive the
27 owner permanently thereof, steal, take, and carry away personal property of **ROSS DRESS FOR**
28 **LESS**, 121 North Nellis, Las Vegas, Clark County, Nevada, having a value of \$250.00, or more.

///

///

///

Letitia L. Lamm

1 to-wit: miscellaneous clothing items.

2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477

5 BY Melisa De La Garza
6 MELISA DE LA GARZA
7 Deputy District Attorney
8 Nevada Bar #005927

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

11 <u>NAME</u>	12 <u>ADDRESS</u>
13 BAKER, JAMES D.	14 LVMPD P#4895
15 HOOTEN, CHERYL D.	16 LVMPD P#5262
17 PIHLGREN, BRANDY DALE	18 5075 Spyglass Hill Dr. 19 Las Vegas, NV 89122
20 REDIGER, CHRISTIAN J.	21 LVMPD P#1886
22 SOTO, FRANK ANTHONY (JR.)	23 LVMPD P#4516
24 SZUKIEWICZ, JOSEPH P.	25 LVMPD P#5411

26 DA#97F06803X/pm
27 LVMPD EV#9705030904
28 G/L-F
(TK1)

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

CLERK OF THE COURT

2-22-2010

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA vs Pickett, Gary

06/05/97 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
DEBRA WINN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004352	Owens, Steven S.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
002293	Creel, Craig D.	Y

DEFENDANT PICKETT ARRAIGNED, PLED NOT GUILTY TO COUNT I - GRAND LARCENY (F)
AND INVOKED THE 60 DAY RULE. COURT ORDERED, matter set for TRIAL.

CUSTODY

07-17-97 9:00 AM CALENDAR CALL

07-21-97 10:00 AM JURY TRIAL

07/14/97 09:00 AM 00 DEFT'S PRO PER REQUEST TO RECEIVE
FERETTA CANVASS

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
001398	Bloxham, Ronald C.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
003749	Justice, Patricia R.	Y

Upon Court's inquiry, Deft. stated he wishes to represent himself as he and Ms. Justice have a conflict of interest; she does not believe he can win this case; she has insulted him and requested a psychological evaluation; he requested a substitution of counsel and she suggested that he represent himself. Court stated the penalty and admonished Deft. that if he represents himself at trial, the Court will not make any exceptions for him. Ms. Justice stated the defenses Deft. wants her to take at trial would be obvious ineffective assistance of counsel and it would be unethical to go forward. Following further statements by Deft., COURT ORDERED, matter CONTINUED; Ms. Justice to contact and discuss with Deft. Court stated he will have his office contact Mr. Savage for possible appointment -- not as counsel of record but as stand-by counsel if Deft. wishes to go forward and

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 001

represent himself. Deft. requested a copy of the discovery. COURT ORDERED, DENIED. Ms. Justice requested this matter be recalled at 2:00 p.m., and COURT SO ORDERED.

At 2:00 P.M., matter recalled with all parties present. COURT ORDERED, State excused. Court noted the Calendar Call and Jury Trial, noted that Deft. wishes to go forward and represent himself, and noted Ms. Justice's request to make certain representations on the record this date. Ms. Justice concurred and make in-camera representations as to this case. Statements by Deft. as to his defense. Court found that Deft. has a right a trial that is based on physical identification of physical evidence available.

CUSTODY

07-17-97 9:00 AM DEFT'S REQUEST: PRO PER MOTION TO RECEIVE FERETA CANVASS CANVASS ... CALENDAR CALL ... POSSIBLE CONFIRMATION OF COUNSEL (J. SAVAGE)

07-21-97 10:00 AM JURY TRIAL

CONTINUED TO: 07/17/97 09:00 AM 01

07/17/97 09:00 AM 00 ALL PENDING MOTIONS (07-17-97)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005218 Peterson, Tamara M.	Y
	0001 D1 Pickett, Gary	Y
	PUBDEF Public Defender	Y
	003749 Justice, Patricia R.	Y
	005480 Savage, Jordan S.	Y

DEFT'S PRO PER REQUEST TO RECEIVE FERETTA CANVASS ... POSSIBLE CONFIRMATION OF COUNSEL (J. SAVAGE) ... CALENDAR CALL

Ms. Justice stated she is prepared to proceed. Court noted Deft's concern as to representing himself; upon Court's inquiry, Deft. stated he is not satisfied that he can be properly represented by counsel. COURT ORDERED, Jury Trial VACATED; Deft's Pro Per Request to Receive Feretta Canvass and Possible Confirmation of Counsel CONTINUED; if need be, the Court will look at having either the State or Mr. Savage as stand-by; a new trial date will be set at that time.

CONTINUED ON PAGE: 003

PRINT DATE: 02/19/10

PAGE: 002

MINUTES DATE: 07/17/97

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 002

CUSTODY

07-22-97 9:00 AM DEFT'S PRO PER REQUEST TO RECEIVE FERETTA CANVASS ...
 POSSIBLE CONFIRMATION OF COUNSEL (J. SAVAGE) ... TRIAL SETTING

07/22/97 09:00 AM 00 ALL PENDING MOTIONS 7-22-97

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
 CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000981	Noxon, Arthur G.	Y
0001 D1	Pickett, Gary	Y
PUBDEF	Public Defender	Y
003749	Justice, Patricia R.	Y
005480	Savage, Jordan S.	Y

POSSIBLE CONFIRMATION OF COUNSEL (J. SAVAGE)...DEFT'S PRO PER REQUEST TO
 RECEIVE FERETTA CANVASS...TRIAL SETTING

Ms. Justice advised the Defendant still wanted to represent himself; she had explained what the Feretta canvass was and the repercussions of representing himself. Upon inquiry by the Court, Defendant Pickett advised he wanted to represent himself and made further statements to the Court. Court advised Defendant the Court would not interfere in negotiations between Defendant and State; the Court would not be pre-bound on what it was going to do; and unless it was in negotiations, the Court would not agree to anything. Mr. Noxon advised the Defendant would not be an automatic referral as Drug Court would have to accept him. Ms. Justice advised an offer had been made and the cap was twelve to thirty. Court gave the Feretta Canvass to Defendant. COURT ORDERED Mr. Savage would be Defendant's stand-by Counsel during the trial; but could not make objections during the trial or aid Defendant in any way; Court would allow Defendant to speak to Mr. Savage in preparation for trial. Court inquired of Defendant if he still wished to represent himself and he stated that he did. At Court's inquiry Defendant advised he had no formal law courses, had not sat through a trial, and did not know how to conduct a trial. Mr. Noxon advised the State had the option and may file habitual criminal on this case. COURT ORDERED matter set for trial in sixty days and a status check in mid-August for status of the trial.

CUSTODY

8-14-97 9:00 AM STATUS CHECK: TRIAL STATUS

8-28-97 9:00 AM CALENDAR CALL

CONTINUED ON PAGE: 004

PRINT DATE: 02/19/10

PAGE: 003

MINUTES DATE: 07/22/97

CRIMINAL COURT MINUTES

97-C-143146-C STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 003

9-2-97 10:00 AM JURY TRIAL

08/14/97 09:00 AM 00 ALL PENDING MOTIONS (08-14-97)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
JANICE LISTON, Reporter/RecorderPARTIES: STATE OF NEVADA
000981 Noxon, Arthur G.
0001 D1 Pickett, Gary
PRO SE Pro Se
005480 Savage, Jordan S.Y
Y
Y
Y
Y

STATUS CHECK: TRIAL STATUS ... STATE'S MOTION TO AMEND INFORMATION

As to STATUS CHECK: TRIAL STATUS: Upon Court's inquiry, Mr. Noxon noted the State is ready for trial. Deft. requested discovery as to the photos. Mr. Noxon lodged the photos and copies of Deft's four (4) prior convictions with Mr. Savage. Mr. Noxon requested that Deft. advise the State, so they can respond, if he challenges any of those convictions.

As to STATE'S MOTION TO AMEND INFORMATION: Mr. Noxon noted the State wishes to seek Habitual Criminal treatment. Deft. objected to the State filing Habitual Criminal treatment at this late date. Response by Mr. Noxon that per Statute, any time up to 15 days prior to sentencing, the State may file Habitual Criminal charges and will obtain the Statute and respond if the Court so wishes, noting the State is within the limit. He further stated that if Deft. wishes to discuss negotiations, he will do so. Court cited NRS 207.010, and ORDERED, State's Motion to Amend Information GRANTED, noting it is the State's prerogative to go forward with it, if appropriate. ORDER TO AMEND INFORMATION signed and FILED IN OPEN COURT. AMENDED INFORMATION FILED IN OPEN COURT. COURT ORDERED, Calendar Call and Jury Trial dates STAND. Mr. Noxon stated he will contact Mr. Savage as to negotiating this matter.

CUSTODY

08-28-97 9:00 AM CALENDAR CALL

09-02-97 10:00 AM JURY TRIAL

CRIMINAL COURT MINUTES

97-C-143146-C

STATE OF NEVADA

vs Pickett, Gary

CONTINUED FROM PAGE: 004

08/28/97 09:00 AM 00 CALENDAR CALL

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:

STATE OF NEVADA
000981 Noxon, Arthur G.Y
Y0001 D1 Pickett, Gary
PRO SE Pro Se
005480 Savage, Jordan S.Y
Y
Y

GUILTY PLEA AGREEMENT FILED IN OPEN COURT. Upon Court's inquiry, Deft. stated he withdrew his plea of Not Guilty. Mr. Noxon noted the State will request that Deft.'s case, 9711223X in Justice Court 4 that will go to District Court Dept. V, and will ask that it be transferred here after entering his plea; he will request the sentencing to be on the same date. As to NEGOTIATIONS, Mr. Noxon stated Deft. will plead guilty to Information; Deft. has four (4) prior felonies and after reviewing same, Deft. may have a drug problem; the State will request 3-10 years in this case and 3-10 years in the subsequent Burglary case; will request probation in this case and noted page 2 of the Guilty Plea Agreement as to the minimums; if Deft. successfully completes drug counseling and goes five (5) years without any problem, the State will look at 6-20 years, noting he has had some conversations with Deft. and with Mr. Savage there. Mr. Noxon further noted that because of the totality of that, this is a conditional plea; if Court is not inclined to follow that, Deft. will be allowed to withdraw his plea and proceed to trial; if the Court would not sentence Deft. to that much, the State would be able to withdraw his plea. Penalty stated. DEFENDANT PICKETT ARRAIGNED AND PLED GUILTY TO COUNT I - GRAND LARCENY (F). Court accepted plea, referred matter to P & P and ORDERED set for sentencing. FURTHER, COURT ORDERED, Trial date VACATED.

CUSTODY

09-25-97 9:00 AM SENTENCING