

Government's Motion
for Judicial Notice

Exhibit A

Figueroa-Beltran Guilty Plea Agreement

ORIGINAL

GPA

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
AGNES BOTELHO
Deputy District Attorney
Nevada Bar #0011064
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

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

JUN 13 2012

BY: Monique Alberto
MONIQUE ALBERTO, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-12-281735-1
GPA
Guilty Plea Agreement
1874450



THE STATE OF NEVADA,
Plaintiff,

-vs-

GIBRAN RICARDO BELTRAN-
FIGUEROA, aka,
Gibran Ricardo Beltranfigueroa,
#2854921

Defendant.

CASE NO: C-12-281735-1

DEPT NO: XV

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337)**, as more fully alleged in the charging document attached hereto as Exhibit "1".

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

The State retains the right to argue. The State also agrees not to submit charges for LVMPD Event No. 120507-2502. The Defendant agrees to forfeit money in all cases, including case that LVMPD will not submit for prosecution as set forth in the Stipulation of Compromise of Seized Property attached hereto as Exhibit "2". The State agrees to dismiss the Remaining Count after rendition of sentence in the instant case.

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

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

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

12 CONSEQUENCES OF THE PLEA

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

15 I understand that as a consequence of my plea of guilty the Court must sentence me to
16 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
17 ONE (1) year and a maximum term of not more than FOUR (4) years. The minimum term
18 of imprisonment may not exceed forty percent (40%) of the maximum term of
19 imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that the
20 law requires me to pay an Administrative Assessment Fee. I also understand that a
21 conviction of any violation of NRS Chapter 453, the Uniform Controlled Substance Act,
22 requires that I pay a controlled substance analysis fee.

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

27 I understand that I am eligible for probation for the offense to which I am pleading

28 ///

1 guilty. I understand that, except as otherwise provided by statute, the question of whether I
2 receive probation is in the discretion of the sentencing judge.

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

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

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

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

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

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

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

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

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

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

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

WAIVER OF RIGHTS

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

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

///

///

VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

///

///

///

///

///

///

///

///

///

///

///

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 13 ^{JUNE} day of ~~May~~, 2012.

5
6 Gibran R.F. Beltran.
7 GIBRAN RICARDO BELTRAN-
8 FIGUEROA, aka,
9 Gibran Ricardo Beltranfigueroa
10 Defendant

11 AGREED TO BY:

12 Agnes Botelho
13 AGNES BOTELHO
14 Deputy District Attorney
15 Nevada Bar #0011064
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CERTIFICATE OF COUNSEL:

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

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

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

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

25 Dated: This 13 day of May, 2012.

26 
27 ATTORNEY FOR DEFENDANT

28 pm

1 **INFM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 AGNES BOTELHO
6 Deputy District Attorney
7 Nevada Bar #0011064
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 06/06/12
13 1:30 P.M.
14 PD

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,
16
17 Plaintiff,

Case No: C-12-281735-1
Dept No: XV

18 -vs-

19 GIBRAN RICARDO BELTRAN-
20 FIGUEROA, aka,
21 Gibran Ricardo Beltranfigueroa,
22 #2854921

23 Defendant.

INFORMATION

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

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

28 That GIBRAN RICARDO BELTRAN-FIGUEROA, aka, Gibran Ricardo
Beltranfigueroa, the Defendant(s) above named, having committed the crime of
POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL
(Category D Felony - NRS 453.337), on or about the 7th day of May, 2012, within the
County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
cases made and provided, and against the peace and dignity of the State of Nevada, did then
and there wilfully, unlawfully, feloniously, knowingly, and intentionally possess, for the

///

EXHIBIT "1"

P:\WPDOCS\INF\207\20736101.DOC

1 purpose of sale, a controlled substance, to-wit: Cocaine.

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565

5 BY


6 AGNES BOTELHO
7 Deputy District Attorney
8 Nevada Bar #0011064
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

27 DA#12F07361X/pm
28 LVMPD EV#1205073104
(TK5)

STIPULATION FOR COMPROMISE OF SEIZED PROPERTY

Defendant Gibran Ricardo Beltran-Figueroa, aka,
Gibran Ricardo Beltranfigueroa ID# 2854921 CRIMINAL CASE# C-12-281735-1
Seizing Law Enforcement Agency Las Vegas Metropolitan Police Department
Seizing Event No. 1205073104 and including 120507-2502 not submitted for prosecution

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

1. PROSECUTOR CHECKS THE APPROPRIATE PARAGRAPHS:

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

Property To Be Forfeited: Money in all cases, including Event No. 120507-2502 not submitted for prosecution.

___ b. PARTIAL FORFEITURE: Within the guidelines and policies of the seizing law enforcement agency, the prosecution agrees to release to the Defendant or his designee the above-described property. That in exchange for release of the aforementioned property, Defendant agrees to release and waive any and all right, title and interest in the remainder of the seized property as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

Property To Be Forfeited: _____

Property To Be Returned: _____

___ c. VEHICLE FORFEITURE: Said property includes, but is not limited to, a motor vehicle whereby the Defendant agrees to release and waive any and all right, title and interest in said motor vehicle as being forfeited to the seizing law enforcement agency and subject to disposition pursuant to Nevada Revised Statutes 179.1175, 179.118 and 179.1185.

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

which each party or assignees may have against each other, agents and employees on account of the seizure or impoundment of said property.

7. That this Stipulation for Compromise shall forever, and completely bar any action or claim in any tribunal in any matter whatsoever, whether State, Federal or otherwise by the Defendant herein concerning the forfeiture of said property.

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

IT IS SO STIPULATED and AGREED

Gibran R. Beltran 6/13/14
Defendant Date

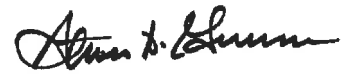
Step J 3447 6/13/14
Attorney for Defendant, Nevada Bar # Date

Agnes Butler #11064 5/25/12
Clark County Deputy District Attorney, Nevada Bar #0011064 Date

Government's Motion
for Judicial Notice

Exhibit B

Keller Information


CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SARAH KILLER
Deputy District Attorney
Nevada Bar #12795
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 2/18/16
10:00 AM
SANFT

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-16-312717-1

-vs-

DEPT NO: XIX

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CHRISTOPHER ROBERT KELLER, the Defendant(s) above named, having committed the crimes of **TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3 - NOC 51160); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336 - NOC 51127); POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337 - NOC 51141); and OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
3 actually or constructively, 28 grams or more, to-wit: approximately 351.4 grams of
4 Methamphetamine, or any mixture of substance consisting of approximately 351.4 grams
5 containing the controlled substance Methamphetamine.

6 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

7 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
8 actually or constructively, 28 grams or more, to-wit: approximately 36.4 grams of Heroin, or
9 any mixture of substance consisting of approximately 36.4 grams containing the controlled
10 substance Heroin.

11 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
13 controlled substance, to-wit: Marijuana, over one (1) ounce.

14 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

15 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
16 substance, to-wit: Methamphetamine.

17 COUNT 5 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

18 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
19 substance, to-wit: Heroin.

20 COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

21 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
22 substance, to-wit: Cocaine.

23 COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

24 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
25 substance, to-wit: Marijuana.

26 COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

27 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
28 his custody or control, a firearm, to-wit: a Beretta handgun, the defendant being a convicted

1 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances
2 Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under
3 the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession
4 of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark
5 County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted
6 of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District
7 Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004,
8 been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark
9 County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted
10 of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the
11 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

12 COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

13 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
14 his custody or control, a firearm, to-wit: a 9 mm handgun, the defendant being a convicted
15 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances
16 Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under
17 the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession
18 of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark
19 County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted
20 of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District
21 Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004,
22 been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark
23 County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted
24 of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the
25 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

26 ///

27 ///

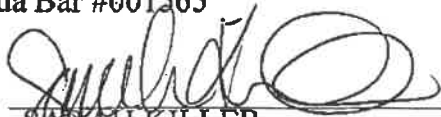
28 ///

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

<u>NAME</u>	<u>ADDRESS</u>
BARLOW, DAWN	CCDA INVESTIGATOR
BELMONT, M.	LVMPD P#8240
COLLINGWOOD, E.	LVMPD P#9494
CUSTODIAN OF RECORDS	LVMPD, Communications, 400 S. Martin Luther
Or Designee	King Blvd, LV, NV
CUSTODIAN OF RECORDS	LVMPD, Records, 400 S. Martin Luther King
Or Designee	Blvd, LV, NV
CUSTODIAN OF RECORDS	Clark County Detention Center, 330 S. Casino
Or Designee	Center Blvd., LV, NV
EMBRY, C.	LVMPD P#6223
HENRY, J.	LVMPD P#14753
HOUGH, S.	LVMPD P#7814
LOPEZ, D.	LVMPD P#9806
TAPIA, D.	LVMPD P#10044
THI, S.	LVMPD P#14373
VANCE, J.	LVMPD P#9004

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

BY


SARAH KILLER
Deputy District Attorney
Nevada Bar #12795

16F01430X /mlb/L-2
LVMPD EV#1601280259
(TK5)

Government's Motion
for Judicial Notice

Exhibit C

Keller Jury Instructions

MAR 10 2017

BY TIA EVERETT
TIA EVERETT, DEPUTY

1 INST

2
3
4 DISTRICT COURT
CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7 Plaintiff,

CASE NO: C-16-312717-1

8 -vs-

DEPT NO: XIX

9 CHRISTOPHER ROBERT KELLER,
#1804258

10 Defendant.

11
12 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

13 MEMBERS OF THE JURY:

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

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

21
22
23
24
25
26 C-16-312717-1
INST
Instructions to the Jury
4630708



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

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

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

In this case, it is charged in an Amended Information that on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, the Defendant committed the offenses of TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336) and POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337).

COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either actually or constructively, 28 grams or more, to-wit: approximately 344.29 grams of Methamphetamine, or any mixture of substance consisting of approximately 344.29 grams containing the controlled substance Methamphetamine.

COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either actually or constructively, 28 grams or more, to-wit: approximately 33.92 grams of Heroin, or any mixture of substance consisting of approximately 33.92 grams containing the controlled substance Heroin.

COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

did willfully, unlawfully, feloniously, and knowingly or intentionally possess a controlled substance, to-wit: Marijuana, over one (1) ounce.

COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled substance, to-wit: Methamphetamine.

COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled substance, to-wit: Heroin.

1 COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

2 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a
3 controlled substance, to-wit: Cocaine.

4 COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

5 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a
6 controlled substance, to-wit: Marijuana.

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

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

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

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

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

INSTRUCTION NO. 5

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

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

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

INSTRUCTION NO. 6

You are here to determine the guilt or innocence of the Defendant from the evidence in the case. You are not called upon to return a verdict as to the guilt or innocence of any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

INSTRUCTION NO. 7

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

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

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

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

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

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

INSTRUCTION NO. 9

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

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

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

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

INSTRUCTION NO. 10

Any person who is knowingly or intentionally in actual or constructive possession of a Schedule I controlled substance or any mixture which contains a Schedule I controlled substance, the quantity of which weighs, or is represented by that person to weigh, 28 grams or more, is guilty of Trafficking in Controlled Substance.

The phrase "28 grams or more" refers to the aggregate weight of the entire mixture rather than the weight of the controlled substance that is contained in the mixture.

Methamphetamine is a Schedule I controlled substance.

Heroin is a Schedule I controlled substance.

1
2 Except as authorized by law, anyone who knowingly or intentionally has a controlled
3 substance in his possession with the intent to sell any portion of the controlled substance is
4 guilty of Possession of Controlled Substance With Intent to Sell.

5 Methamphetamine is a controlled substance.

6 Heroin is a controlled substance.

7 Cocaine is a controlled substance.

8 Marijuana is a controlled substance.

9 No actual sale need occur. No specific quantity is necessary. The intent of the
10 possessor is derived from all the circumstances surrounding the possession. Evidence of the
11 specific intent to sell a controlled substance may be circumstantial, and may consist of
12 evidence regarding the quantity of the controlled substance, the place and circumstances
13 where it was found, the manner of packaging, and the opinion of experts that the narcotic
14 was packaged for sale.

15 If you do not find that the defendant had the intent to sell any portion of the controlled
16 substance he possessed, the appropriate verdict is guilty of Possession of Controlled
17 Substance.
18
19
20
21
22
23
24
25
26
27
28

Except as authorized by law, anyone who knowingly or intentionally has marijuana in his possession in an amount weighing greater than one ounce is guilty of Possession of Controlled Substance – Marijuana Greater than One Ounce.

"Marijuana" means:

1. All parts of any plant of the genus Cannabis, whether growing or not;
2. The seeds thereof;
3. The resin extracted from any part of the plant; and
4. Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

"Marijuana" does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

1
2 In order to prove the commission of Trafficking In Controlled Substance as charged
3 in Counts 1 and 2, Possession Of Controlled Substance, Marijuana as charged in Count 3,
4 and Possession Of Controlled Substance With Intent To Sell as charged in Counts 4 through
5 7, the State must prove that the defendant had knowledge of the item's nature as a controlled
6 substance.

7 A defendant's knowledge that the substance he possessed was a controlled substance
8 may be shown by direct evidence or by circumstantial evidence and reasonably drawn
9 inferences.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A person is in possession of an article or object if it is carried on his person or, if not carried on his person, he knows that it is present and he has custody, dominion, or control over it.

The law recognizes two kinds of possession: actual possession and constructive possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention, at a given time, to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

You may find that the element of possession as that term is used in these instructions is present if you find beyond a reasonable doubt that a defendant had actual or constructive possession, either alone or jointly with others.

"Knowingly" imports a knowledge that the facts exist which constitute the act or omission of a crime, and does not require knowledge of its unlawfulness. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person on notice. An act or a failure to act is "knowingly" done if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

The intent of a person or the knowledge that a person possesses at any given time may not ordinarily be proved directly because there is no way of directly scrutinizing the workings of the human mind. In determining the issue of what a person knew or what a person intended at a particular time, you may consider any statements made or acts done by that person and all other facts and circumstances received in evidence which may aid in your determination of that person's knowledge or intent.

INSTRUCTION NO. 16

Mere presence at the scene of a crime or knowledge that a crime is being committed is not sufficient to establish that a defendant is guilty of an offense unless you find beyond reasonable doubt that the defendant was a participant and not merely a knowing spectator.

However, the presence of a person at the scene of a crime and companionship with another person engaged in the commission of the crime and a course of conduct before and after the offense are circumstances which may be considered in determining whether such person directly committed or aided or abetted the commission of that crime.

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

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

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of the guilt or innocence of the Defendant.

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

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

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

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

- 1) Communicate with anyone in any way regarding this case or its merits-either by phone, text, internet, or other means;
- 2) Read, watch, or listen to any news or media accounts or commentary about the case;
- 3) Do any research, such as consulting dictionaries, using the internet, or using reference materials;
- 4) Make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

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

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

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

GIVEN:

Will Kephart
DISTRICT JUDGE

Government's Motion
for Judicial Notice

Exhibit D

Keller Verdict

1 VER

@ 11:24 AM
FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 10 2017

BY Tia Everett
TIA EVERETT, DEPUTY

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO: C-16-312717-1

9 -VS-

DEPT NO: XIX

10 CHRISTOPHER ROBERT KELLER,
#1804258

11 Defendant.

12 VERDICT

13 We, the jury in the above entitled case, find the Defendant CHRISTOPHER ROBERT
14 KELLER, as follows:

15 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

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

- 17 ☒ Guilty of Trafficking In Controlled Substance
18 ☐ Not Guilty

19 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

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

- 21 ☒ Guilty of Trafficking In Controlled Substance
22 ☐ Not Guilty

23 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE – MARIJUANA GREATER
24 THAN ONE OUNCE

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

- 26 ☒ Guilty of Possession of Controlled Substance – Marijuana Greater than
27 One Ounce
28 ☐ Not Guilty

C-16-312717-1
VER
Verdict
4830710



**COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
METHAMPHETAMINE**

(Please check the appropriate box, select only one)

☒ Guilty of Possession of Controlled Substance with Intent to Sell

☐ Not Guilty

**COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
HEROIN**

(Please check the appropriate box, select only one)

☒ Guilty of Possession of Controlled Substance with Intent to Sell

☐ Not Guilty

**COUNT 6 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
COCAINE**

(Please check the appropriate box, select only one)

☒ Guilty of Possession of Controlled Substance with Intent to Sell

☐ Not Guilty

**COUNT 7 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
MARIJUANA**

(Please check the appropriate box, select only one)

☒ Guilty of Possession of Controlled Substance with Intent to Sell

☐ Not Guilty

DATED this 10 day of March, 2017



FOREPERSON

Government's Motion
for Judicial Notice

Exhibit E

Keller Judgment

Steven D. Grierson

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER
#1804258

Defendant.

CASE NO. C-16-312717-1

DEPT. NO. XIX

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony) in violation of
NRS 453.3385.3; COUNT 2 – TRAFFICKING IN CONTROLLED SUBSTANCE
(Category A Felony) in violation of NRS 453.3385.3; COUNT 3 – POSSESSION OF
CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony) in violation of NRS
453.336; COUNT 4 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
TO SELL (Category D Felony) in violation of NRS 535.337; COUNT 5 – POSSESSION
OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony) in

//

- | | |
|---|--|
| <input type="checkbox"/> Nolle Prosequi (before trial) | <input type="checkbox"/> Bench (Non-Jury) Trial |
| <input type="checkbox"/> Dismissed (after diversion) | <input type="checkbox"/> Dismissed (during trial) |
| <input type="checkbox"/> Dismissed (before trial) | <input type="checkbox"/> Acquittal |
| <input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial) | <input type="checkbox"/> Guilty Plea with Sent. (during trial) |
| <input type="checkbox"/> Transferred (before/during trial) | <input type="checkbox"/> Conviction |
| <input type="checkbox"/> Other Manner of Disposition | |

violation of NRS 535.337, of COUNT 6 – POSSESSION OF CONTROLLED
SUBSTANCE WITH INTENT TO SELL (Category D Felony) in violation of NRS
535.337; COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
TO SELL (Category D Felony) in violation of NRS 535.337; COUNT 8 – OWNERSHIP
OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
violation of NRS 202.360; COUNT 9 – OWNERSHIP OR POSSESSION OF FIREARM
BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360, and the
matter having been tried before a jury and the Defendant having been found guilty of
the crimes of COUNT 1 – TRAFFICKING IN CONTROLLED SUBSTANCE (Category
A Felony) in violation of NRS 453.3385.3; COUNT 2 – TRAFFICKING IN
CONTROLLED SUBSTANCE (Category A Felony) in violation of NRS 453.3385.3;
COUNT 3 – POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA GREATER
THAN ONE OUNCE (Category E Felony) in violation of NRS 453.336; COUNT 4 –
POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D
Felony) in violation of NRS 535.337; COUNT 5 – POSSESSION OF CONTROLLED
SUBSTANCE WITH INTENT TO SELL (Category D Felony) in violation of NRS
535.337, of COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH
INTENT TO SELL (Category D Felony) in violation of NRS 535.337; COUNT 7 –
POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL
(Category D Felony) in violation of NRS 535.337; COUNT 8 – OWNERSHIP OR
POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
violation of NRS 202.360; COUNT 9 – OWNERSHIP OR POSSESSION OF
FIREARM BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360;



1 thereafter, on the 7th day of August, 2017, the Defendant was present in court for
2 sentencing with counsel KENNETH FRIZZELL, and good cause appearing,
3

4 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses as set forth in
5 the jury's verdict, in addition to the \$25.00 Administrative Assessment Fee and
6 \$10,000.00 fine plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
7 Nevada Department of Corrections (NDC) as follows: **COUNT 1** - LIFE with a
8 **MINIMUM Parole Eligibility after TEN (10) YEARS; COUNT 2** - LIFE with a **MINIMUM**
9 **Parole Eligibility after TEN (10) YEARS, CONCURRENT with COUNT 1; COUNT 3** - a
10 **MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of**
11 **TWELVE (12) MONTHS, CONCURRENT with COUNT 2; COUNT 4** – a **MAXIMUM of**
12 **FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12)**
13 **MONTHS, CONCURRENT with COUNT 3; COUNT 5** - a **MAXIMUM of FORTY-EIGHT**
14 **(48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,**
15 **CONCURRENT with COUNT 4; COUNT 6** - a **MAXIMUM of FORTY-EIGHT (48)**
16 **MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,**
17 **CONCURRENT with COUNT 5; COUNT 7** - a **MAXIMUM of FORTY-EIGHT (48)**
18 **MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,**
19 **CONCURRENT with COUNT 6; COUNT 8** –LIFE with a **MINIMUM Parole Eligibility**
20 **after TEN (10) YEARS under the LARGE HABITUAL Criminal Statute, CONSECUTIVE**
21 **to COUNTS 1, 2, 3, 4, 5, 6 and 7; and COUNT 9** –LIFE with a **MINIMUM Parole**
22 **Eligibility after TEN (10) YEARS under the LARGE HABITUAL Criminal Statute,**
23 **CONCURRENT with COUNT 8; with FIVE HUNDRED FIFTY-NINE (559) DAYS credit**
24
25
26
27
28

1 for time served. . As the \$150.00 DNA Analysis Fee and Genetic Testing have been
2 previously imposed, the Fee and Testing in the current case are WAIVED.
3

4 The AGGREGATE TOTAL sentence is LIFE with a MINIMUM PAROLE ELIGIBILITY
5 OF TWENTY (20) YEARS

6 DATED this 10th day of August, 2017.
7
8

9
10 
11 WILLIAM D. KEPHART
12 DISTRICT COURT JUDGE 
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Government's Motion
for Judicial Notice

Exhibit F

Mure Information


CLERK OF THE COURT

INFO

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SANDRA K. DIGIACOMO
Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 1/25/07
1:30 P.M.
PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,)
)
-vs-)
)
TROY MURE aka Tyrone Lee Williams,)
#0934325)
)
Defendant.)

Case No: C229552
Dept No: V

I N F O R M A T I O N

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That TROY MURE aka Tyrone Lee Williams, the Defendant(s) above named, having committed the crime of POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL, THIRD OFFENSE (Felony - NRS 453.337), on or about the 16th 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, and against the peace and dignity of the State of Nevada,

COUNT 1 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL,
THIRD OFFENSE

did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally possess, for the purpose of sale, a controlled substance, to-wit: Methamphetamine, said

Defendant having been previously convicted of the crimes of Possession of a Controlled Substance and Possession of a Controlled Substance With Intent to Deliver, in the District Court of the State of Iowa, Polk County, in Case No. 38033, and having also previously been convicted of the crime of Possession of Controlled Substance: Marijuana, Schedule I, in the District Court of the State of Iowa, Polk County, in Case No. 54585.

COUNT 2 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL,
THIRD OFFENSE

did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally possess, for the purpose of sale, a controlled substance, to-wit: Alprazolam, said Defendant having been previously convicted of the crimes of Possession of a Controlled Substance and Possession of a Controlled Substance With Intent to Deliver, in the District Court of the State of Iowa, Polk County, in Case No. 38033, and having also previously been convicted of the crime of Possession of Controlled Substance: Marijuana, Schedule I, in the District Court of the State of Iowa, Polk County, in Case No. 54585.

BY



DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

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

<u>NAME</u>	<u>ADDRESS</u>
BROUHARD, JIMMY	UNKNOWN ADDRESS
CONNELL, P.	LVMPD #6764
COR	LVMPD – DISPATCH
MATUKE, CARL	UNKNOWN ADDRESS
MCNABB, R.	LVMPD #8399
ROBBINS, A.	LVMPD #4287
WELCH, D.	LVMPD #1418

1 UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED
2 HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE FOR
3 WHICH THE DEFENDANT IS PRESENTLY CHARGED.

4 Defendant TROY MURE aka Tyrone Lee Williams, hereinbefore named, is placed on
5 notice that, in accordance with the authorization of NRS 207.010, punishment imposed
6 pursuant to the above-stated habitual criminal statute will be urged upon the Court if said
7 Defendant is found guilty on the primary offense of POSSESSION OF CONTROLLED
8 SUBSTANCE, for which the Defendant is presently charged.

9 This page concerning the prior convictions hereinbelow set forth is to be considered
10 by the Court in its discretion ONLY after the finding of guilty of Defendant on the primary
11 charge herein.

12 That said Defendant TROY MURE aka Tyrone Lee Williams, has been seven (7)
13 times convicted of crimes, which, under the laws of the situs of the crime and/or the State of
14 Nevada, amount to felonies, to-wit:

15 1. That on or about July 14, 2003, the Defendant was convicted in the Eighth Judicial
16 District Court, in and for the State of Nevada, County of Clark, for the crime of Burglary, in
17 Case No. C190166.

18 2. That in 1983, the Defendant was convicted in the District Court of the State of
19 Iowa, Polk County, for the crime of Robbery in the Second Degree, in Case No. 21211.

20 3. That in 1988, the Defendant was convicted in the District Court of the State of
21 Iowa, Polk County, for the crime of Theft in the Third Degree, in Case No. 37462.

22 4. That in 1988, the Defendant was convicted in the District Court of the State of
23 Iowa, Polk County, for the crimes of (1) Possession of Controlled Substance; (2) Possession
24 of Controlled Substance With Intent to Deliver; and (3) Receipt, Transportation and
25 Possession of Firearms and Destructive Devices By Felons, in Case No. 38033.

26 5. That in 1989, the Defendant was convicted in the District Court of the State of
27 Iowa, Polk County, for the crime of Receipt, Transportation and Possession of Firearms and
28 Destructive Devices By Felons, in Case No. 45065.

6. That in 1992, the Defendant was convicted in the District Court of the State of

1 Iowa, Polk County, for the crime of Possession of Controlled Substance: Marijuana,
2 Schedule I, in Case No. 54585.

3 7. That in 1999, the Defendant was convicted in the District Court of the State of
4 Iowa, Polk County, for the crimes of (1) Terrorism; and (2) Receipt, Transportation,
5 Dominion and Control of Firearms and Offensive Weapons By a Felon, in Case No. 68631.
6

7
8 BY



9 DAVID ROGER
10 DISTRICT ATTORNEY
11 Nevada Bar #002781
12
13
14
15
16
17
18
19
20
21
22
23
24

25 **DO NOT READ TO THE JURY**

26 DA#06F13650X/mb
27 LVMPD EV#060716-1532
28 PCSWITS - F
(TK4)

Government's Motion
for Judicial Notice

Exhibit G

Mure Guilty Plea Agreement

JUN 02 2007

ORIGINAL

CHARLES J. SHORT
CLERK OF THE COURT

SANDRA JETER DEPUTY

1 **GMEM**
2 **DAVID ROGER**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #002781
5 **SANDRA K. DIGIACOMO**
6 **Chief Deputy District Attorney**
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

14 **THE STATE OF NEVADA,**

15 **Plaintiff,**

16 **-vs-**

17 **TROY LEE MURE, aka Tyrone Lee**
18 **Williams,**
19 **#934325**

20 **Defendant.**

CASE NO: C229552
DEPT NO: V

21 **GUILTY PLEA AGREEMENT**

22 I hereby agree to plead guilty to: COUNT 1 - POSSESSION OF CONTROLLED
23 SUBSTANCE WITH INTENT TO SELL THIRD OFFENSE (Category B Felony - NRS
24 453.337), as more fully alleged in the charging document attached hereto as Exhibit "1".

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

27 The State and I stipulate that I will receive a sentence of thirty six (36) to ninety (90)
28 months in the Nevada Department of Corrections. This sentence will run concurrent to Case
No. C218574 and C222792. Further the State agrees not to seek the habitual criminal
enhancement.

CONSEQUENCES OF THE PLEA

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

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 three (3) years and a maximum term of not more than fifteen (15) years. The minimum term
4 of imprisonment may not exceed forty percent (40%) of the maximum term of
5 imprisonment. I understand that I may also be fined up to \$20,000.00. I understand that the
6 law requires me to pay an Administrative Assessment Fee. Further, I understand that I will
7 be required to pay a Drug Fee of \$60.00

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

12 I understand that I am not eligible for probation for the offense to which I am
13 pleading guilty.

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

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

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

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

24 I understand that if the State of Nevada has agreed to recommend or stipulate a
25 particular sentence or has agreed not to present argument regarding the sentence, or agreed
26 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
27 when the offense could have been treated as a felony, such agreement is contingent upon my
28 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing

1 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
2 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
3 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
5 was incarcerated on another charge or while I was on probation or parole that I am not
6 eligible for 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
8 United States, I may, in addition to other consequences provided for by federal law, be
9 removed, 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
14 opportunity to comment on the information contained in the report at the time of sentencing.
15 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
16 may also comment on this report.

17 WAIVER OF RIGHTS

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

20 1. The constitutional privilege against self-incrimination, including the right to refuse
21 to testify at trial, in which event the prosecution would not be allowed to comment to the
22 jury about 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
26 burden 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.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

///

///


///

///

///

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 18 day of June, 2007.

5 
6 TROY LEE MURE, aka Tyrone Lee
7 Williams
8 Defendant

9 AGREED TO BY:

10 
11 SANDRA E. DIGIACOMO
12 Chief Deputy District Attorney
13 Nevada Bar #006204
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of
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 18 day of June, 2007.

19 
20 ATTORNEY FOR DEFENDANT
21
22
23
24
25
26
27
28

ddm


CLERK OF THE COURT

1 **INFO**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SANDRA K. DIGIACOMO
6 Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 1/25/07
13 1:30 P.M.
14 PD

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,)

16 Plaintiff,)

17 -vs-)

18 TROY MURE aka Tyrone Lee Williams,)
19 #0934325)

20 Defendant.)

Case No: C229552
Dept No: V

INFORMATION

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

23 DAVID ROGER, District Attorney within and for the County of Clark, State of
24 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That TROY MURE aka Tyrone Lee Williams, the Defendant(s) above named, having
26 committed the crime of POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
27 TO SELL, THIRD OFFENSE (Felony - NRS 453.337), on or about the 16th day of July,
28 2006, within the County of Clark, State of Nevada, contrary to the form, force and effect of
statutes in such cases made and provided, and against the peace and dignity of the State of
Nevada,

COUNT 1 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL,
THIRD OFFENSE

did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally
possess, for the purpose of sale, a controlled substance, to-wit: Methamphetamine, said

EXHIBIT "1"

1 Defendant having been previously convicted of the crimes of Possession of a Controlled
2 Substance and Possession of a Controlled Substance With Intent to Deliver, in the District
3 Court of the State of Iowa, Polk County, in Case No. 38033, and having also previously been
4 convicted of the crime of Possession of Controlled Substance: Marijuana, Schedule I, in the
5 District Court of the State of Iowa, Polk County, in Case No. 54585.

6 COUNT 2 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL,
7 THIRD OFFENSE

8 did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally
9 possess, for the purpose of sale, a controlled substance, to-wit: Alprazolam, said Defendant
10 having been previously convicted of the crimes of Possession of a Controlled Substance and
11 Possession of a Controlled Substance With Intent to Deliver, in the District Court of the
12 State of Iowa, Polk County, in Case No. 38033, and having also previously been convicted
13 of the crime of Possession of Controlled Substance: Marijuana, Schedule I, in the District
14 Court of the State of Iowa, Polk County, in Case No. 54585.

15
16 BY


17 DAVID ROGER
18 DISTRICT ATTORNEY
Nevada Bar #002781

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

<u>NAME</u>	<u>ADDRESS</u>
BROUHARD, JIMMY	UNKNOWN ADDRESS
CONNELL, P.	LVMPD #6764
COR	LVMPD - DISPATCH
MATUKE, CARL	UNKNOWN ADDRESS
MCNABB, R.	LVMPD #8399
ROBBINS, A.	LVMPD #4287
WELCH, D.	LVMPD #1418

1 UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED
2 HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE FOR
3 WHICH THE DEFENDANT IS PRESENTLY CHARGED.

4 Defendant TROY MURE aka Tyrone Lee Williams, hereinbefore named, is placed on
5 notice that, in accordance with the authorization of NRS 207.010, punishment imposed
6 pursuant to the above-stated habitual criminal statute will be urged upon the Court if said
7 Defendant is found guilty on the primary offense of POSSESSION OF CONTROLLED
8 SUBSTANCE, for which the Defendant is presently charged.

9 This page concerning the prior convictions hereinbelow set forth is to be considered
10 by the Court in its discretion ONLY after the finding of guilty of Defendant on the primary
11 charge herein.

12 That said Defendant TROY MURE aka Tyrone Lee Williams, has been seven (7)
13 times convicted of crimes, which, under the laws of the situs of the crime and/or the State of
14 Nevada, amount to felonies, to-wit:

15 1. That on or about July 14, 2003, the Defendant was convicted in the Eighth Judicial
16 District Court, in and for the State of Nevada, County of Clark, for the crime of Burglary, in
17 Case No. C190166.

18 2. That in 1983, the Defendant was convicted in the District Court of the State of
19 Iowa, Polk County, for the crime of Robbery in the Second Degree, in Case No. 21211.

20 3. That in 1988, the Defendant was convicted in the District Court of the State of
21 Iowa, Polk County, for the crime of Theft in the Third Degree, in Case No. 37462.

22 4. That in 1988, the Defendant was convicted in the District Court of the State of
23 Iowa, Polk County, for the crimes of (1) Possession of Controlled Substance; (2) Possession
24 of Controlled Substance With Intent to Deliver; and (3) Receipt, Transportation and
25 Possession of Firearms and Destructive Devices By Felons, in Case No. 38033.

26 5. That in 1989, the Defendant was convicted in the District Court of the State of
27 Iowa, Polk County, for the crime of Receipt, Transportation and Possession of Firearms and
28 Destructive Devices By Felons, in Case No. 45065.

6. That in 1992, the Defendant was convicted in the District Court of the State of

1 Iowa, Polk County, for the crime of Possession of Controlled Substance: Marijuana,
2 Schedule I, in Case No. 54585.

3 7. That in 1999, the Defendant was convicted in the District Court of the State of
4 Iowa, Polk County, for the crimes of (1) Terrorism; and (2) Receipt, Transportation,
5 Dominion and Control of Firearms and Offensive Weapons By a Felon, in Case No. 68631.
6

7
8 BY



9 DAVID ROGER
10 DISTRICT ATTORNEY
11 Nevada Bar #002781
12
13
14
15
16
17
18
19
20
21
22
23
24

25 **DO NOT READ TO THE JURY**

26 DA#06F13650X/mb
27 LVMPD EV#060716-1532
28 PCSWITS - F
(TK4)

Government's Motion
for Judicial Notice

Exhibit H

Mure Judgment

JOCP

9
FILED

JUN 25 8 19 AM '07

Chaf
CLERK OF THE COURT

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C229552

-vs-

DEPT. NO. V

TROY MURE

aka Tyrone Lee Williams

#0934325

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of COUNT 1 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL, THIRD OFFENSE (Category B Felony) in violation of NRS 453.337; thereafter, on the 18th day of June, 2007, the Defendant was present in court for sentencing with his counsel, KEVIN SPEED, Deputy Public Defender, thereupon using the presentence report from C222792, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$60.00 Drug Analysis Fee, and

RECEIVED

JUN 25 2007

CLERK OF THE COURT

1 \$150.00 DNA Analysis Fee including testing to determine genetic markers, the
2 Defendant is sentenced as follows: TO A MAXIMUM of NINETY (90) MONTHS with a
3 MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS, in the Nevada Department of
4 Corrections (NDC), SENTENCE to run CONCURRENT with C218574 and C222792;
5 with THREE (3) DAYS credit for time served. COUNT 2 - DISMISSED.
6
7
8
9

10 DATED this 21 day of June, 2007

11
12 
13 JACKIE GLASS
14 DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28 

IN THE SUPREME COURT OF THE STATE OF NEVADA

GIBRAN RICHARDO
FIGUEROA-BELTRAN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Respondent.

Electronically Filed
Jun 13 2019 01:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No. 76038

Ninth Circuit Court of Appeals
Case No. 16-10388

Respondent's Motion for Judicial Notice

The government hereby moves the Court to take judicial notice of court records, including (1) Figueroa-Beltran's guilty plea agreement for the state conviction underlying the certified issue from the Ninth Circuit, and (2) charging and conviction documents in two other Nevada cases involving convictions for violations of NRS 453.337, possessing a controlled substance for sale.

I. Legal Standard

Under NRS 47.130, the Court may take judicial notice of "facts in issue or facts from which they may be inferred." To take judicial notice of such a fact, the fact must be "[g]enerally known within the territorial jurisdiction of the trial court," or "[c]apable of accurate and ready determination by resort to

sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute.” *Id.* The Court “shall take judicial notice if requested by a party and supplied with the necessary information.” NRS 47.150(2). “Judicial notice may be taken at any stage of the proceeding prior to submission to the court or jury.” NRS 47.170.

When Nevada adopted its judicial notice statute, it used the draft Federal Rule of Evidence 201. *See id.*, Subcommittee’s Comment. *Compare* Fed. R. Evid. 201 (court may take notice of “generally known” facts, or those that “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned”). Under the parallel federal rule, the category of judicially-noticeable facts that are capable of ready and accurate verification includes court records. *See* Fed. R. Evid. § 201, Notes of Advisory Committee on Subdivision (b) (citing McCormick on Evidence, § 327); *see also*, *e.g.*, *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980) (“a court may take judicial notice of its own records in other cases, as well as the records of an inferior court in other cases”) (citing 9 Wright and Miller, Federal Practice and Procedure § 2410, at 359-61 (1971); *Kasey v. Molybdenum Corp. of America*, 336 F.2d 560 (9th Cir. 1964)).

Notwithstanding the fact that Nevada adopted its judicial notice statute from the federal rule, this Court has announced that, “[a]s a general rule, [it]

will not take judicial notice of records in another and different case, even though the cases are connected.” *Mack v. Estate of Mack*, 206 P.3d 98, 106 (Nev. 2009). “However, this rule is flexible in its application and, under some circumstances, [the Court] will invoke judicial notice to take cognizance of the record in another case.” *Id.* (taking judicial notice “of the outcome of [husband’s] murder trial for [wife’s] death because it falls within the exception to the general rule of judicial notice”).

“To determine if a particular circumstance falls within the exception, [the Court] examine[s] the closeness of the relationship between the two cases.” *Id.* In past cases, the Court has “taken judicial notice of other state court and administrative proceedings when a valid reason presented itself.” *Id.* (citing, *e.g.*, *Cannon v. Taylor*, 493 P.2d 1313 (Nev. 1972) (taking notice of relevant Nevada Attorney General opinion); *State Farm Mut. v. Comm’r of Ins.*, 958 P.2d 733 (Nev. 1998) (taking notice of judgment in related declaratory judgment action)).

II. Analysis

The government moves the Court to take judicial notice of the attached exhibits because each falls within the parameters of NRS 47.130(2)(b). This is so because, as copies of official court records, each document is “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot

reasonably be questioned,” and a valid reason—namely, the certified issue presented in this case—exists for the Court to take notice of each record.

Figueroa-Beltran’s Guilty Plea Agreement. The certified issue presented in this case involves Gibran Ricardo Figueroa-Beltran’s 2012 Nevada prosecution for possessing cocaine for sale. Some of the relevant state court documents are already in the record. *See* Appellant’s Appendix, pp. 0001 (Information), 0003 (Judgment). For completeness, the government moves the Court to take notice of the Guilty Plea Agreement that is a companion document to the Information and Judgment in the underlying state case, which gave rise to the certified issue on appeal. *See* Ex. A (Guilty Plea Agreement).

Other Trial Court Documents. The certified issue presented in this case involves discerning the elements of NRS 453.337. Specifically, the Ninth Circuit has asked this Court to advise whether the identity of the controlled substance charged is an element of the offense that the State must prove to sustain a conviction.

As explained in the government’s answering brief, the government believes the Court can resolve the issue presented by applying *Muller v. Sheriff*, 93 Nev. 686, 572 P.2d 1245 (1977), and *Andrews v. State*, 134 Nev., Adv. Op. 12, 412 P.3d 37 (2018). *See* Answering Brief at 34. To the extent the Court would like to consider statutory authority and charging practices, however, the

government supplies additional state court records from cases involving NRS 453.337 convictions, for the Court's consideration. The government provides these records in response to Figueroa-Beltran's related court-records argument.¹

Keller – Information. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C-16-312717-1). From this court record, the Court can observe that the defendant was charged with four counts of violating NRS 453.337, that is, the Information charges that the defendant possessed for sale methamphetamine (Count 4), heroin (Count 5), cocaine (Count 6), and marijuana (Count 7). *See* Ex. B (Information).

Keller – Jury Instructions. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C-16-312717-1). From this court record, the Court can observe how the trial court instructed the jury concerning the NRS 453.337 counts, including the identity of the controlled substances. *See* Ex. C (Jury Instructions).

¹ Figueroa-Beltran's opening brief also appears to ask this Court to take judicial notice of state court records from *State v. Howard*, CR14-1513, of which he asked the Ninth Circuit to take notice, but on which the Ninth Circuit never ruled. *See* Answering Brief at 37 n.17 (describing procedural history). The remaining exhibits the government attaches to this motion are responsive to Figueroa-Beltran's arguments concerning *Howard*.

Keller – Verdict. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C-16-312717). From this court record, the Court can observe that the jury found the defendant guilty on four counts of violating NRS 453.337, based on the charges involving four distinct controlled substances. *See* Ex. D (Verdict).

Keller – Judgment. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C-16-312717). From this court record, the Court can observe that, following his jury trial, the defendant was convicted of all four counts of violating NRS 453.337. *See* Ex. E (Judgment).

Mure – Information. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C229552). From this court record, the Court can observe that the defendant was charged with two counts of violating NRS 453.337, for possessing for sale methamphetamine (Count 1) and alprazolam (Count 2). *See* Ex. F (Information).

Mure – Guilty Plea Agreement. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C229552). From this court record, the Court can observe that the defendant pleaded guilty only to Count 1, for violating NRS 453.337. *See* Ex. G (Guilty Plea Agreement).

Mure – Judgement. This is a copy of a certified court record filed in the District Court in Clark County, Nevada (case no. C229552). From this court record, the Court can observe that the defendant was convicted of one count of violating NRS 453.337. *See* Ex. H (Judgment).

III. Conclusion

Because the attached documents fit within the parameters of NRS 47.130(2)(b), the government asks the Court to take judicial notice of Figueroa-Beltran's Guilty Plea Agreement (Exhibit A). And, if the Court reaches Figueroa-Beltran's charging-practices argument, which relies on state court records from *State v. Howard*, then the government respectfully requests that the Court also take judicial notice of the remaining attached state court records from proceedings involving convictions for violating NRS 453.337 (Exhibits B-H).

Dated: June 13, 2019

Respectfully submitted,
Nicholas A. Trutanich
United States Attorney

Elizabeth O. White
Appellate Chief

s/ Nancy M. Olson
Nancy M. Olson
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that this document was filed electronically with the Nevada Supreme Court on June 13, 2019, electronic service of the foregoing Motion for Judicial Notice shall be made in accordance with the Master Service List as follows:

Cristen C. Thayer
Assistant Federal Public Defender
Cristen.Thayer@fd.org

s/ Nancy M. Olson
Nancy M. Olson
Assistant United States Attorney