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Attorney for Appellant

Electronically Filed
Jun 15 2019 03:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES HOWARD HAYES, JR.,
Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: 78590

APPELLANT'S APPENDIX INDEX (VOLUME 1 OF 1)

Description	Vol.	Pages	Date
Information (in C-16-315718-1)	1	A001-A003	6/17/16
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Judgment of Conviction	1	A013	3/12/19
Notice of Appeal	1	A014-A018	3/28/19
Information (in C-19-338412-1)	1	A019-A021	2/27/19


CLERK OF THE COURT

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

DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 6/23/16
10:00 AM
PD

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAMES HOWARD HAYES,
aka James Howard Hayes, Jr., #2796708

Defendant.

CASE NO: C-16-315718-1

DEPT NO: XII

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 JAMES HOWARD HAYES, aka James Howard Hayes, Jr., the Defendant(s) above named, having committed the crime of BURGLARY (Category B Felony - NRS 205.060 - NOC 50424), on or about the 9th day of April, 2013, 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, and feloniously enter, with intent to commit larceny, Room No. 17151, of the

///

///

///

///

1 EXCALIBUR HOTEL & CASINO, located at 3850 South Las Vegas Boulevard, Las Vegas,
2 Clark County, Nevada, occupied by JOSHUA JARVIS.

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

6 BY M.A. Dickerson
7 MICHAEL DICKERSON
8 Deputy District Attorney
9 Nevada Bar #013476
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28

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

NAME

ADDRESS

CUSTODIAN OF RECORDS
OR DESIGNEE

Clark County Detention Center,
330 S. Casino Center Blvd., Las Vegas, NV

CUSTODIAN OF RECORDS
OR DESIGNEE

LVMPD Communications

CUSTODIAN OF RECORDS
OR DESIGNEE

LVMPD Dispatch

CUSTODIAN OF RECORDS
OR DESIGNEE

LVMPD Records, 400 S. Martin Luther King Blvd.,
Las Vegas, NV

CUSTODIAN OF RECORDS
OR DESIGNEE

LVMPD Project Management & Video Bureau

CUSTODIAN OF RECORDS
OR DESIGNEE

Nevada DMV

BARLOW, DAWN OR DESIGNEE Clark County District Attorney's Office-Investigator

ERMILIO, JOHN

Excalibur Hotel, 3850 S. Las Vegas Blvd., Las Vegas, NV

JARVIS, JOSHUA

46 Kenneth St., Hartford, CT

ORTIZ, JESSICA

Unknown

RADER, D.

LVMPD P#4918

RADER, W.

LVMPD P#5468

RAMIREZ, DAISY

Unknown

13F10723X /cc/L2
LVMPD EV#1304090843
(TK5)

ORIGINAL

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

NOV 07 2018

BY: 
TIA EVERETT, DEPUTY

GPA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL 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: C-16-315718-1

JAMES HOWARD HAYES, aka
James Howard Hayes, Jr.,
#2796708

DEPT NO: XIX

Defendant.

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty, pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), to: **ATTEMPT GRAND LARCENY (Category D Felony/Gross Misdemeanor - NRS 205.220.1, 205.222.2, 193.330 - NOC 56025/56026)**, as more fully alleged in the charging document attached hereto as Exhibit "1".

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

The State has agreed to make no recommendation at the time of sentencing. The State has no opposition to probation with the only condition being thirty (30) days in the Clark County Detention Center (CCDC), with thirty (30) days credit for time served.

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.

///

C-16-315718-1
GPA
Guilty Plea Agreement
4794960

W:\2013\2013F\107\23\13F10723-GPA-(HAYES__JAMES)-004.DOCX



A004

1 I understand and agree that, if I fail to interview with the Department of Parole and
2 Probation (P&P), 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, the State will have
5 the unqualified right to argue for any legal sentence and term of confinement allowable for the
6 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
7 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, Life without
8 the possibility of parole, Life with the possibility of parole after ten (10) years, or a definite
9 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 By pleading guilty pursuant to the Alford decision, it is my desire to avoid the
14 possibility of being convicted of more offenses or of a greater offense if I were to proceed to
15 trial on the original charge(s) and of also receiving a greater penalty. I understand that my
16 decision to plead guilty by way of the Alford decision does not require me to admit guilt, but
17 is based upon my belief that the State would present sufficient evidence at trial that a jury
18 would return a verdict of guilty of a greater offense or of more offenses than that to which I
19 am pleading guilty.

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

22 I understand that as a consequence of my plea of guilty by way of the Alford decision
23 the Court may elect to treat this offense as a felony or as a gross misdemeanor. If the Court
24 elects to treat this offense as a felony I may be imprisoned in the Nevada Department of
25 Corrections for a minimum term of not less than one (1) year and a maximum term of not more
26 than four (4) years. In addition, I may be fined up to \$5,000.00. I further understand that the
27 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of
28 imprisonment. If the Court elects to treat this offense as a gross misdemeanor, I may be

1 imprisoned in the Clark County Detention Center for a period of not more than three hundred
2 sixty-four (364) days. In addition, I may be fined up to \$2,000.00. I understand that the law
3 requires me to pay an Administrative Assessment Fee.

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

8 If the Court elects to treat this offense as a felony or as a gross misdemeanor, I
9 understand that I am eligible for probation for the offense(s) to which I am pleading guilty. I
10 understand that, except as otherwise provided by statute, the question of whether I receive
11 probation is in the discretion of the sentencing judge.

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

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

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

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

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

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

27 I understand that if the offense(s) to which I am pleading guilty was committed while I
28 was incarcerated on another charge or while I was on probation or parole that I am not eligible

1 for credit for time served toward the instant offense(s).

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

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

10
11 Regardless of what I have been told by any attorney, no one can promise me that this
12 conviction will not result in negative immigration consequences and/or impact my ability to
13 become a United States citizen and/or a legal resident.

14 I understand that P&P will prepare a report for the sentencing judge prior to sentencing.
15 This report will include matters relevant to the issue of sentencing, including my criminal
16 history. This report may contain hearsay information regarding my background and criminal
17 history. My attorney and I will each have the opportunity to comment on the information
18 contained in the report at the time of sentencing. Unless the District Attorney has specifically
19 agreed otherwise, then the District Attorney may 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
24 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.
- 25 2. The constitutional right to a speedy and public trial by an impartial jury,
26 free of excessive pretrial publicity prejudicial to the defense, at which
27 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.
- 28 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.

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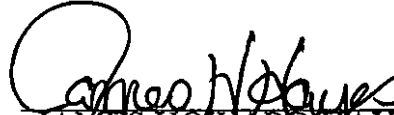
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1 I am not now under the influence of any intoxicating liquor, a controlled substance or
2 other drug which would in any manner impair my ability to comprehend or understand this
3 agreement or the proceedings surrounding my entry of this plea.

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

6 DATED this 7 day of ~~September~~^{NOVEMBER}, 2018.

7
8 

JAMES HOWARD HAYES, aka
James Howard Hayes, Jr.
Defendant

10
11 AGREED TO BY:

12 

13 MICHAEL R. DICKERSON
14 Deputy District Attorney
Nevada Bar #013476

1 CERTIFICATE OF COUNSEL:

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

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

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

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

Dated: This 7 day of ~~September~~^{NOVEMBER}, 2018.

ATTORNEY FOR DEFENDANT

cg/L2

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL DICKERSON
6 Deputy District Attorney
7 Nevada Bar #013476
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 JAMES HOWARD HAYES, aka,
13 James Howard Hayes Jr., #2796708

14 Defendant.

CASE NO. C-16-315718-1

DEPT NO. XIX

AMENDED

INFORMATION

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss:

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

19 That JAMES HOWARD HAYES, aka, James Howard Hayes Jr., the Defendant(s)
20 above named, having committed the crime of **ATTEMPT GRAND LARCENY (Category**
21 **D Felony/Gross Misdemeanor - NRS 205.220.1, 205.222.2, 193.330 - NOC 56025/56026),**
22 on or about the 9th day of April, 2013, within the County of Clark, State of Nevada, contrary
23 to the form, force and effect of statutes in such cases made and provided, and against the peace
24 and dignity of the State of Nevada, did willfully, unlawfully, feloniously, and intentionally,
25 with intent to deprive the owner permanently thereof, attempt to steal, take and carry away
26 lawful money of the United States in an amount of \$650.00, or greater, owned by another

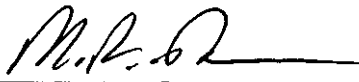
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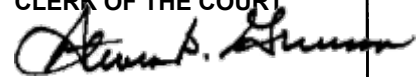
EXHIBIT "L" 99

1 person, to wit: JOSHUA JARVIS, by attempting to steal lawful money of the United States,
2 an iPhone and other personal items from the said JOSHUA JAVIS.

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

6 BY 
7 MICHAEL DICKERSON
8 Deputy District Attorney
9 Nevada Bar #013476

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26 DA#13F10723X /cmj/L2
27 LVMPD EV#1304090843
28 (TK3)



JOCP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAMES HOWARD HAYES aka
James Howard Hayes, Jr.
#2796708

Defendant.

CASE NO: C-16-315718-1

DEPT NO: XIX

**JUDGMENT OF CONVICTION
(PLEA OF GUILTY-ALFORD)**

The Defendant previously appeared before the Court with counsel and entered a plea of guilty pursuant to Alford Decision to the crime of ATTEMPT GRAND LARCENY (Category D Felony/Gross Misdemeanor) in violation of NRS 205.220.1, 205.222.2 193.330; thereafter, on the 6th day of March, 2019, the Defendant was present in court for sentencing with counsel MICHAEL W. SANFT, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense under the felony statute and SMALL HABITUAL Criminal Statute and, in addition to \$25.00 Administrative Assessment Fee plus the \$3.00 DNA Collection Fee, the Defendant is sentenced to - a MAXIMUM of ONE HUNDRED SEVENTY-FOUR (174) MONTHS and a MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to C315125; with TEN (10) DAYS credit for time served. As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously imposed, the Fee and Testing in the current case are WAIVED.

DATED this 12th day of March, 2019.


WILLIAM D. KEPHART
DISTRICT COURT JUDGE

- | | |
|---|--|
| <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 | |

A013

1 NOAS

2 Name: Hayes, James H # 1175077

3 Address: P.O. Box 650

4 City/State/Zip: Indian Springs, NV 89070

5 Phone: 323 471 7514

FILED

MAR 28 2019

Elizabeth A. Brown
CLERK OF COURT

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

9 State of Nevada

10 Plaintiff,

11 v.

CASE NO. C-16-315718-1

DEPT. NO. XIX

12 James H Hayes # 2796208

13 Defendant.

14 NOTICE OF APPEAL

15 Notice is hereby given that James H Hayes, Defendant above-named,
16 hereby appeals to the Supreme Court of Nevada from Final Judgment for
17 conviction of Attempt Grand Larceny NRS 205.222.2
18

19 entered in this action on the 20th day of March, 2019.
20

21 DATED this 20th day of March, 2019.

22 *James H Hayes*
23 Defendant's Signature

24 C-16-315718-1
25 NOAS
26 Notice of Appeal (criminal)
4829176



27 NOTE: list either the Final Judgment or an Order (describe it) on the lines above.

28 MAR 28 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

PAGE 1 of 4

A014

5

CLERK OF THE COURT

APR 12 2019

RECEIVED
APPEALS

Now comes the appellant, James H. Hayes, respectfully moves this Honorable court, pursuant to the United States Const. and the Nevada Const. to overrule and dismiss the judgement entered against him in the above captioned case.

WHEREAS, the state violated the United States Const. 5th, 6th, 8th and 14th amendments in the judgement of conviction for attempt grand larceny by subjecting appellant to Double Jeopardy through prosecution or punishment twice for the same offense. Where the state at preliminary hearing prosecuted appellant by the way of Criminal Complaint for the crimes of burglary and attempt grand larceny and at the conclusion of the hearing only the charge of burglary was bound over to district court leaving the charge of attempt grand larceny dismissed for No corpus delicti, slight or marginal evidence to proceed to district court for the first time appellant was put in jeopardy. The second time appellant was subjected to jeopardy was when the burglary charge was dismissed in District court and the state proceeded by charging and convicting appellant for the crime of attempt grand larceny. Which is clearly being prosecuted or punish twice for the same offense.

WHEREAS, the state violated the United States Const. 8th amendment by adjudicating the appellant as a habitual

criminal that easily "shock the conscience" as being disproportionate to the crime convicted attempt grand larceny which is a clear miscarriage of justice.

Whereas, appellant's criminal history at the time and date of the ispe divit event was credit card abuse and fraudulent use/pass of identifying information that is a state jail crime in Texas that does not carry a prison sentence, mandatory supervision, nor parole and is not a category A, B, C, D, or E felony it's a state jail crime that carries only jail time equivalent to what Nevada ~~is~~ a gross misdemeanor that appellant was convicted of in September 2006. In December 2010 appellant was convicted of a category E felony (attempt pass of credit or debit card without cardholders consent) here in Nevada and received a dishonorable discharge in February 2012.

Whereas, the state violated United States Const. Amendments 6 and 14 where the state breached the Guilty Plea Agreement on impalpable and highly suspect evidence that allegedly took place January 2019 that greatly prejudice the appellant, whereby, the victim testified at preliminary hearing under oath facing the penalty of perjury that the appellant was not the perpetrator who committed the alleged event and 100% sure not 80%. So there was NO corpus delicti

or slight or marginal evidence leaving no causation for the state to breach the terms and spirit of agreement that does not serve the interests of justice. In addition, the sentencing Judge Keppert considered a conviction that took place after the time and date that the adjudicated crime occurred namely a burglary conviction that took place in April 2016 to the extreme detriment of appellant.

Whereas, appellant never violated a provision of a statute that would have allowed the district court to not stand by the sentence agreed upon by the parties set forth in the guilty plea agreement. Furthermore, the appellant was never given notice that the district court would seek habitual treatment if appellant violated a provision of a statute making this an illegal sentence. Finally, the 2013 conviction can not be consecutive to the 2016 conviction due to the fact that the appellant made parole in October 2018 on the 2016 conviction and released from custody and not cell parole.

Dated this 20th day of March, 2019. I James H Hayes, do solemnly swear, under the penalty of perjury, that the above Notice of Appeal is accurate, correct, and true to the best of my knowledge. NRS. 171.02 and NRS 208.165

Respectfully submitted

James H Hayes #1175077
appellant

pages 4 of 4
4.0.5.0
P.O. Box 658
Arden Springs, NV
89070

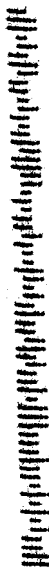
INTAKE
NSF 3763

Supreme Court of the State of Nevada
Attn: "Clerk of the Court"

Capital Complex
Carson City, Nevada

89701

8970135999

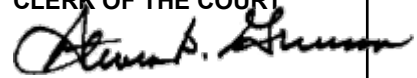


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3-25-19



INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
W.C. ROWLES
Deputy District Attorney
Nevada Bar #013577
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

I.A. 02-28-2019
10:00 A.M.
M. SANFT

THE STATE OF NEVADA,

Plaintiff,

CASE NO: **C-19-338412-1**

-vs-

DEPT NO: **XIX**

**JAMES HOWARD HAYES, aka,
James Howard Hayes, Jr., #2796708**

Defendant.

I N F O R M A T I O N

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

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 **JAMES HOWARD HAYES, aka, James Howard Hayes, Jr.**, the Defendant above named, having committed the crimes of **BURGLARY (Category B Felony - NRS 205.060 - NOC 50424)** and **UNLAWFUL USE OF HOTEL KEY (Gross Misdemeanor - NRS 205.900 - NOC 50841)**, on or about the 26th day of January, 2019, 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 - BURGLARY

did willfully, unlawfully, and feloniously enter a hotel room, owned or occupied by MIRAGE HOTEL & CASINO, located at 3400 South Las Vegas Boulevard, Las Vegas, Clark County, Nevada, with intent to commit larceny.

1 COUNT 2 - UNLAWFUL USE OF HOTEL KEY

2 did then and there willfully and unlawfully possess a key or other device used by a
3 guest in a hotel, or by the hotel to gain entrance to a room in a hotel, under circumstances that
4 demonstrate Defendant's intent to use or to allow the use of the device in the commission of a
5 crime, to wit: Burglary, and/or Theft or Attempt Theft, and/or Petit Larceny, and/or Trespass.

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

8
9 BY W.C. Rowles
10 W.C. ROWLES
Deputy District Attorney
11 Nevada Bar #013577
12

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

15 BATOAN, APOLONIO; 3400 S. Las Vegas Blvd., LVN

16 CUSTODIAN OF RECORDS; CCDC

17 CUSTODIAN OF RECORDS; LVMPD Communications

18 CUSTODIAN OF RECORDS; LVMPD Records

19 CUSTODIAN OF RECORDS; Mirage Hotel & Casino, 3400 S. Las Vegas Blvd., LVN

20 ERHART, RYAN; 3400 S. Las Vegas Blvd., LVN

21 FOX, A.; LVMPD #16559

22 HUANG, BRANDON; 3400 S. Las Vegas Blvd., LVN

23 JEZ, L.; LVMPD #16622

24 MCELROY, D.; LVMPD #16995

25 MCGROTH, JAMES; c/o CCDA's Office, 200 Lewis Ave., LVN

26 VARSIN, E.; LVMPD #16252
27
28

1 **DO NOT READ TO THE JURY**

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

5 **NOTICE OF PRIOR BURGLARY AND/OR HOME INVASION CONVICTIONS**

6 The State of Nevada hereby places Defendant **JAMES HOWARD HAYES, aka,**
7 **James Howard Hayes, Jr.** on notice that in the event of a Burglary conviction pursuant to
8 NRS 205.060 and/or a Home Invasion conviction pursuant to NRS 205.067 in the above-
9 entitled action, he will not be eligible for probation as Defendant **JAMES HOWARD**
10 **HAYES, aka, James Howard Hayes, Jr.** has already suffered ONE (1) prior Burglary and/or
11 Home Invasion conviction(s), to wit:

12 That on or about the 23rd day of February, 2017, the Defendant was convicted in the
13 Eighth Judicial District Court, in and for the County of Clark, State of Nevada, for the crime
14 of BURGLARY, in Case No. C315125-1.

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

18 BY W.C. Rowles
19 W.C. ROWLES
20 Deputy District Attorney
21 Nevada Bar #013577
22
23
24

25 **DO NOT READ TO THE JURY**

26
27 19F01534X/jg/L2
28 LVMPD EV#190100120467
(TK14)