

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO MIXON,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

No. 78900 Electronically Filed
Aug 28 2019 01:45 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX – VOL. III - PAGES 486 - 735

DARIN F. IMLAY
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

STEVEN B. WOLFSON
Clark County District Attorney
200 South Third Street
Las Vegas, Nevada 89155

AARON FORD
Attorney General
100 North Carson Street
Carson City, Nevada 89701
(702) 687-3538

Counsel for Respondent

INDEX
ANTONIO MIXON
Case No. 78900

PAGE NO.

1		
2		
3	Amended Information filed 03/26/19	536-537
4	Amended Motion for Extension of Time	
5	Date of Hrg: 11/20/18	397-401
6	Criminal Complaint filed 08/18/17	1-2
7	Defendant's Motion for Expert Witnesses/Transport Order	
8	Date of Hrg: 06/05/18	305-312
9	Defendant's Motion for Withdrawal of Attorney of Record, Request to Obtain Copy of Defendant's File, and Request for Self-Representation	
10	Date of Hrg: 01/23/18	107-109
11	Defendant's Motion for Withdrawal of Attorney of Record, Request to Obtain Copy of Defendant's File, and Request for Self-Representation	
12	Date of Hrg: 04/18/18	301-303
13	Defendant's Motion to Continue Trial Setting an Orders	
14	Date of Hrg: 01/08/19	473-478
15	Defendant's Motion to Dismiss with Prejudice	
16	Date of Hrg: 03/15/18	228-237
17	Defendant's Motion to Withdraw Guilty Plea	
18	Date of Hrg: 04/30/19	546-550
19	Defendant's Notice of Witnesses filed 12/22/17	105-106
20	Defendant's Notice of Witnesses and/or Expert Witnesses filed 03/21/19	525-535
21	Defendant's Opposition to Plaintiff's Motion to Increase Bail filed 03/28/19	520-523
22	Defendant's Reply to State's Opposition to Defendant's Motion to Withdraw Guilty Plea filed 05/16/19	574-588
23	Discovery Order filed 01/04/18	64-67
24	District Court Minutes from 11/01/17 through 05/21/19	600-624
25	Guilty Plea Agreement filed 03/26/19	538-545
26	Information filed 10/25/17	11-13
27	Judgment of Conviction (Plea of Guilty) filed 05/28/19	599
28	Justice Court Minutes from 08/22/17 through 10/24/17	3-6
	Motion for Clarification on Last Ruling and Order	
	Date of Hrg: 02/15/18	116

1	Motion for Discovery, For Trial Date to be Resetted and for Order Transporting	
2	Inmate for Oral Argument at the Time of The Hearing “Amended”	
	Date of Hrg: 09/18/18.....	319-325
3	Motion for Expert Witnesses	
4	Date of Hrg: 10/11/18.....	361-369
	Motion for Extension of Time	
5	Date of Hrg: 11/06/18.....	389-395
6	Motion for Extension of Time	
7	Date of Hrg: 04/16/19.....	590-593
	Motion for Initial Arraignment	
8	Date of Hrg: 8/23/17.....	7-8
9	Motion for Jury Instructions	
10	Date of Hrg: 11/27/18.....	407-411
	Motion for Leave to Amend	
11	Date of Hrg: 11/20/18.....	396
12	Motion for Leave to Amend	
13	Date of Hrg: 01/08/19.....	479-485
	Motion for Leave to File an Amended “Motion to Suppress” and	
14	“Motion for Expert Witnesses” Oral Argument Requested	
15	Date of Hrg: 10/25/18.....	344-349
	Motion for Status Check; Trial readiness; Discovery Issues; Transportation Order	
16	Date of Hrg: 08/30/18.....	314-318
17	Motion for Stay of Trial Setting and/or Motion for Time Extension	
18	Date of Hrg: 12/11/18.....	434-440
	Motion for Voir Dire	
19	Date of Hrg: 11/27/18.....	415-420
20	Motion in Limine to Exclude Defense Witnesses from	
21	Testifying filed 12/29/17	110-113
	Motion to Compel Production of Discovery & Brady Material	
22	Date of Hrg: 12/05/17.....	14-47
23	Motion to Dismiss	
24	Date of Hrg: 11/27/18.....	421-430
	Motion to Dismiss Based Upon Vindictive Prosecution	
25	Date of Hrg: 03/15/18.....	117-142
26	Motion to Disqualify the Attorney General’s Office	
27	Date of Hrg: 03/15/18	160-214
28	Motion to Increase Bail filed 03/18/19.....	515-519

1	Motion to Place on Calendar	
2	Date of Hrg: 01/10/19.....	486-490
3	Motion to Suppress	
4	Date of Hrg: 10/11/18.....	326-337
5	Motion to Withdraw and Allow Defendant to Represent Himself	
6	Date of Hrg: 01/09/18.....	73-102
7	Notice Advising the Court and Plaintiff filed 02/21/19	504-508
8	Notice of Appeal (Pro Per) filed 10/15/18.....	380-383
9	Notice of Appeal filed 05/23/19	595-598
10	Notice of Defense filed 01/18/19.....	494-497
11	Notice of Hearing filed 04/04/18.....	304
12	Notice of Hearing filed 03/19/19.....	524
13	Notice of Hearing filed 04/16/19.....	594
14	Notice of Intent to Use Citation filed 01/03/19	491-493
15	Notice of Intent to Use Cor Affidavit and/or	
16	Unsworn Declaration filed 12/13/17	68-69
17	Notice of Motion filed 08/08/18.....	313
18	Notice of Motion filed 09/19/18.....	338
19	Notice of Motion filed 09/19/18	370
20	Notice of Motion filed 10/01/18	350-351
21	Notice of Motion filed 10/29/18	406
22	Notice of Motion filed 11/02/18	431-433
23	Opposition to Defendant's Motion for Expert Witnesses	
24	Date of Hrg: 10/11/18.....	371-374
25	Opposition to Defendant's Motion to Suppress	
26	Date of Hrg: 10/11/18.....	339-343
27	Opposition to Defendant's Motion to Withdraw Guilty Plea	
28	Date of Hrg: 04/30/19.....	551-573
	Order and Decision on Defendant's Motion to Withdraw Plea filed 06/05/19	589
	Order Denying Defendant's Motion to Suppress filed 10/22/18.....	360
	Order for Transcript filed 01/25/18	114-115

1	Renotice of Hearing on Motion to Withdraw and Allow Defendant to Represent Himself filed 12/15/17	103-104
2		
3	Reply to State’s Opposition to Defendant’s Motion for Expert Witnesses Date of Hrg: 10/11/18.....	375-379
4	Reply to State’s Opposition to Defendant’s Motion to Dismiss, Supplemental Motion to Dismiss and Supplement Jury Instructions	
5	Date of Hrg: 03/05/19.....	470-472
6	Reply to State’s Opposition to Defendant’s Motion to Suppress Date of Hrg: 10/11/18.....	352-359
7		
8	State’s Amended Opposition to Defendant’s Motion to Dismiss Based Upon Vindictive Prosecution	
9	Date of Hrg: 03/15/18.....	150-159
10	State’s Amended Opposition to Defendant’s Motion to Disqualify the Attorney General’s Office	
11	Date of Hrg: 03/15/18.....	221-227
12	State’s First Amended Notice of Witnesses and/or Expert Witnesses filed 02/27/19.....	512-514
13	State’s Notice of Motion and Motion to Place on Calendar Date of Hrg: 03/05/19.....	509-511
14	State’s Notice of Witnesses and/or Expert Witnesses filed 12/15/17	70-72
15	State’s Opposition to Defendant’s Amended Motion for Extension of Time Date of Hrg: 11/20/18.....	402-405
16	State’s Opposition to Defendant’s Motion for Jury Instructions Date of Hrg: 11/27/18.....	412-414
17	State’s Opposition to Defendant’s Motion to Compel Discovery & Brady Material Date of Hrg: 12/05/17	48-63
18	State’s Opposition to Defendant’s Motion to Dismiss Based Upon Vindictive Prosecution Date of Hrg: 03/15/18.....	143-149
19	State’s Opposition to Defendant’s Motion to Dismiss, Supplemental Motion to Dismiss and Supplement Jury Instructions	
20	Date of Hrg: 03/05/19.....	466-469
21	State’s Opposition to Defendant’s Motion to Dismiss with Prejudice Date of Hrg: 03/15/18.....	238-300
22	State’s Opposition to Defendant’s Motion to Disqualify the Attorney General’s Office Date of Hrg: 03/15/18.....	215-220
23	Supplement to Motion to Dismiss and Supplement to Jury Instructions of the Defendants’ filed 12/04/18	441-465
24	Supplemental Jury Instructions Date of Hrg: 03/05/19.....	498-503
25		
26		
27		
28		

1	Supreme Court Judgment, Order Dismissing Appeal, Remittitur filed 11/29/18	384-388
2	Transport Order filed 08/25/17	9-10

TRANSCRIPTS

5	Recorder's Transcript JURY TRIAL DAY 1 (Voir Dire & Jury Selection) Date of Hrg: 01/02/18	641-789
7	Recorder's Transcript JURY TRIAL DAY 1 (State's Opening; Direct and Cross-Examination of Dean Ontiveros) Date of Hrg: 01/02/18	790-836
10	Recorder's Transcript Calendar Call Date of Hrg: 12/12/17	631-637
12	Recorder's Transcript Defendant's Amended Motion for Extension of Time; Defendant's Notice of Motion Date of Hrg: 11/20/18	916-928
14	Recorder's Transcript Defendant's Motion to Compel Production of Discovery & Brady Material Date of Hrg: 12/05/17	628-630
16	Recorder's Transcript Defendant's Motion to Dismiss with Prejudice; Defendant's Motion to Disqualify the Attorney General's Office; Defendant's Motion to Dismiss Based on Vindictive Prosecution Date of Hrg: 03/15/18	845-856
19	Recorder's Transcript Defendant's Motion to Withdraw and Allow Defendant to Represent Himself Date of Hrg: 01/02/18	638-640
21	Recorder's Transcript Defendant's Pro Per Motion for Expert Witness/Transport Order Date of Hrg: 06/05/18	886-891
23	Recorder's Transcript Defendant's Pro Per Motion for Expert Witness; Defendant's Pro Per Motion to Suppress Date of Hrg: 10/11/18	907-911
25	Recorder's Transcript Defendant's Pro Per Motion for Leave to File an Amended Motion to Support and Motion for Expert Witnesses Date of Hrg: 10/25/18	912-915

1	Recorder's Transcript	
2	Defendant's Pro Per Motion for Status Check; Trial Readiness; Discovery Issues;	
3	Transportation Order; Oral Agreement Requested	
	Date of Hrg: 08/30/18.....	900-906
4	Recorder's Transcript	
5	Defendant's Pro Per Motion for Withdrawal of Attorney of Record,	
6	Request to Obtain Copy of Defendant's File, and Request for Self-Representation,	
	Defendant's Motion to Dismiss Based Upon Vindictive Prosecution,	
	Status Check: Trial Setting, Faretta Canvass	
	Date of Hrg: 04/06/18.....	867-885
7	Recorder's Transcript	
8	Initial Arraignment	
	Date of Hrg: 11/01/17.....	624-627
9	Recorder's Transcript	
10	Motion for Leave to Amend; Motion to Continue Trial Date	
	Date of Hrg: 01/08/19.....	933-944
11	Recorder's Transcript	
12	Motion for Stay of Trial Setting and/or Motion for Time Extension	
	Date of Hrg: 12/11/18.....	929-932
13	Recorder's Transcript	
14	Motion to Dismiss; State's Notice of Motion and	
15	Motion to Place on Calendar; Calendar Call	
	Date of Hrg: 03/05/19.....	945-956
16	Recorder's Transcript	
17	Motion to Withdraw Guilty Plea; Sentencing	
	Date of Hrg: 05/21/19.....	967-980
18	Recorder's Transcript	
19	State's Motion for an Extension of Time; Motion to Withdraw Guilty Plea	
	Date of Hrg: 04/30/19.....	964-966
20	Recorder's Transcript	
21	State's Motion to Increase Bail	
	Date of Hrg: 03/26/19.....	957-963
22	Recorder's Transcript	
23	Status Check	
	Date of Hrg: 01/04/18.....	837-839
24	Recorder's Transcript	
25	Status Check	
	Date of Hrg: 02/08/18.....	840-844
26	Recorder's Transcript	
27	Status Check: Library Privilege	
	Date of Hrg: 06/19/18.....	892-899

1	Recorder's Transcript	
2	Status Check: Trial Setting; Defendant's Motion to	
3	Dismiss Based on Vindictive Prosecution	
4	Date of Hrg: 03/29/18.....	857-860
5	Recorder's Transcript	
6	Status Check: Trial Setting; Defendant's Motion to	
7	Dismiss Based on Vindictive Prosecution	
8	Date of Hrg: 04/05/18.....	861-866
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

PP
PA

1 MOT -

2 ANTONIO LEE MIXON

3 Post Office Box 650

4 INDIAN SPRINGS, NV 89470

5 "no fax number" and/or "no e-mail address"

6 Attorney For: Defendant, Antonio LEE Mixon

7 DISTRICT COURT

8 Clark County, NEVADA

9 THE STATE OF NEVADA

10 Plaintiff, Plaintiff,

11 vs.

12 Antonio LEE Mixon

13 Defendant.

14

15 MOTION TO PLACE ON CALENDAR

16 DATE OF HEARING:

17 TIME OF HEARING:

18

19 Comes now, ANTONIO LEE MIXON, through self-representative,
20 submits this motion to place on calendar for purposes of argument and
21 of issues on the motion to dismiss and supplemental to that motion
22 of Mr. Mixon's which were previously-submitted motion to amend motion
23 to dismiss, motion to dismiss, supplemental to motion to dismiss.

24

DATED: this 13th of December, 2015.

25

ANTONIO LEE MIXON
Defendant

26

a. L. Mixon Jr.

27

28

FILED

DEC 18 2018

Alvin L. Blum
CLERK OF COURT

CASE NO. C-17-327439-1

Dept. XVII


January 10, 2019

@ 8:30 AM

CLERK OF THE COURT

DEC 18 2018

RECEIVED

C-17-327439-1
MOT
Motion
4803946


486

1
2 I declare under penalty and perjury to the best of my belief
3 and knowledge that the following facts and circumstances
4 are true and correct pursuant to 28 USC 1746. Executed on
5 12/13/2018. A. G. Mason Jr.
6 Signature of Defendant

Memorandum of points and authorities

Defendant submitted Motions in regards to dismiss this case and wants to know the status of the activity of these motions and they are all in regards to dismissing this case. (1) Motion to dismiss, (2) Supplemental to motion to dismiss (3) motion to amend said motions above in (1), (2). (2) Bar code (document coded) SUPPL 4800867.

NOTICE OF MOTION

Please take notice that the above-entitled Motion to Place on Calendar will be heard on the ~~23~~ day of ~~December~~, ~~2018~~, at ~~8:00 A~~ AM/PM in Dept. XVII of the Eighth Judicial District Court, Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada.

DATED: this 13 of December, 2018.

Antonio Lee Minton

U.S. Minton Jr.

CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to mail papers; I have placed in an envelope and/or placing said motion in Prison's regular mailing system with ~~first~~ FIRST-class prepaid postage this motion addressed to the following:
(on 12/13/2018) Chelsea N. Kallas
Deputy Attorney General
Office of Attorney General
555 East Washington Ave., Suite #3900
Las Vegas, NV 89101
STEVEN D. GRIFFIN,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-2160

I certify under penalty and perjury to the best of my belief and knowledge that the foregoing Certificate of Service is true and correct pursuant to NRS 53.045 and 20 USC 1746. Executed on 12/13/2018. Antonio Lee Minton Jr.
Signature of Defendant

Antonio Lee Nixon Jr. #1019028
High Desert State Prison
Post Office Box 650
Indian Springs, NV 89070

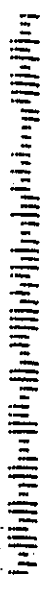
LAS VEGAS NV 890

Happy
Birthday



STEVEN D. GRIERSON,
Clerk of Court
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155-1160

000000-10168



2011-2012

DEC 13 2013

UNIT 4

pp

ANTONIO LEE MISON JR.

Pro se

High Desert State Prison

P.O. BOX 650

INDIAN SPRINGS, NV 89070

FILED

JAN 03 2019

CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

CASE No. C-17-327439-1

Plaintiff

Dept. No. XVII

-VS-

ANTONIO LEE MISON JR.

Defendant

C-17-327439-1
NOTC
Notice
4806847



NOTICE OF INTENT TO USE CITATION
MEMORANDUM OF LAW Points and Authorities

In the foregoing citation sheehan V. Stout (in re stout) (2006), BL NO W Vg) 348
BR 61, The author's written OATH OF OFFICE had EFFECT TO THE Authors' Written signed
and dated documents which satisfied the Verification requirements of the U.S. Constitution
when Both the author's Written Oath of OFFICE and the authors' written signed and dated
documents are authenticated by written certification that satisfy the certification requirements
of the U.S. Constitution when both those written certifications are of the same Custodian
of records. In THIS INSTANT CASE, giving the Unavailability of THE author of the
Memorandum (Exhibit H) of the defenses' Motion to dismiss, a certified copy of the Exhibit H
by the Custodian of Records and certified copies of the author's(s) written OATH of OFFICE
by the same Custodian of Records Verifies and authenticates Exhibit H of the defenses' Motion
to dismiss. This Fore makes Exhibit H Constitutionally Considerable for the Court's consideration for
which the Court determines the decision on whether or not dismissal of this case is warranted.
Considered with whichever other evidence and argument of the defense Court considers.
I declare Under penalty of perjury that to the best of my belief and Knowledge
the foregoing Facts and Circumstances are true and correct Pursuant to NRS. 53.045

Executed on December 29th, 2018. Antonio Lee Mison Jr.
(Signature)

RECEIVED

JAN 03 2019

CLERK OF THE COURT

Certificate of service by mailing

I, Defendant placed and/or placing said NOTICE OF INTENT TO USE CITATION In an envelope and/or placed and/or placing said envelope that's First-class postage prepaid in Persons' regular mailing system on or about December 30th, 2018 addressed to the following:

Chelsea N. Kallas

Deputy Attorney General

OFFICE OF ATTORNEY General

555 E. Washington Avenue, Suite 3900

Las Vegas, Nevada 89101-1068

STEVEN D. GRIERSON,

Clerk of the Court

200 Lewis Avenue, 3rd Floor

Las Vegas, NV 89155-1760

I Declare Under penalty ~~and~~ of perjury that to the best of my belief and knowledge the foregoing Certificate of service is true and correct see NRS ~~53.045~~ 53.045 EXCITED on or about December 30th, 2018, S. L. Miron, Sr.
(Signature)

CL:File

Armando GE Milon Jr. #1019828
High Desert State Prison
Post Office Box 650
Indian Springs, NV 89070

HIGH DESERT STATE PRISON
DEC 30 2018
UNIT 4 A/B

LAS VEGAS NV 890
31 DEC 2018 PM 3:1

STEVEN D. GELFSON,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-1160

89101-630000

PP

1 NOTE NOTC
2 ANTONIO LEE MIXON
3 PRO SE
4 High Desert STATE Prison
5 P.O. Box 650

FILED
JAN 18 2019

7

CLERK OF COURT

DISTRICT COURT
CLARK County, NEVADA

9 THE STATE OF NEVADA
10 PLAINTIFF,
11 VS-

CASE No.: C-17-327439-1
DEPT. No. XVII

12 ANTONIO LEE MIXON SR.
13 DEFENDANT

C-17-327439-1
NOTC
Notice
4810351



NOTICE OF DEFENSE

14
15
16 This is the Defense's denial, answer, or plea opposing the truth
17 or validity of the Plaintiff's case, given notice that defense intends
18 to introduce testimony or other evidence designed to refute
19 all or part of the allegations of the Plaintiff's case. For Count one
20 Defense invokes "INJURIA ABSQUE DAMNO;" as Defense;
21 The state pleads a cause of action where that injury is an
22 element The Defendant Defense's maxim express the Defense
23 that a wrong which causes no injury recognized as such by
24 the law cannot give rise to a cause of action. For Count Two
25 The state pleads a cause of action that requires actual or constructive
possession or control and for Criminal possession. Defendant invokes
the "peaceable possession" Defense which precludes the existence of
adverse claims when an actual ~~dispossessing made~~ attempt dispossessing made

CLERK OF THE COURT

x

1. This may be accomplished by cross-examination or by
2 demurrer.

3 Certificate of Service by mailing
4 I Defendant placed and/or placing said "NOTICE OF DEFENSE"
5 IN envelope and/or placed and/or placing said envelope that
6 First-class postage prepaid in Prisoners' regular mailing system
7 on or about January 14, 2019 addressed to the following:
8 Chelsea N. Kallas
9 Deputy Attorney General
10 Office of Attorney General
11 555 E. Washington Avenue, Suite 3900 Las Vegas, NV 89155-1160
12 Las Vegas, Nevada 89101-1068
13

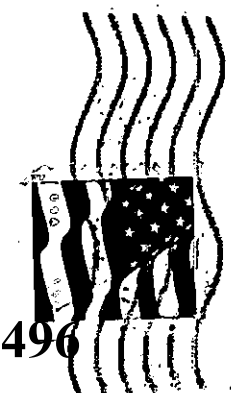
14 I Declare Under penalty of perjury that to the best of
15 my belief and knowledge the foregoing Certificate of Service
16 is true and correct see NRS 3.045. Executed on or about
17 January 14, 2019. Steven D. Grierson
18 (Signature)

19
20
21
22
23
24
25
26
27
28

Anthony Lee Mixon Jr 10/19/82
High Desert State Prison
Post Box 650
Indian Springs, NV 89470

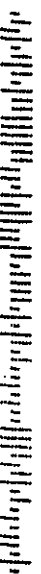
LAS VEGAS NV SPD

15 JAN 2019 PM 3 L



STEVEN D. GRIPSON,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-1160

89101-630000



HIGH DESERT STATE PRISON

JAN 14 2019

UNIT 4 A/B

PP
NA

1 Suppl

2 ANTONIO LEE MIXON 1019020

3 High Desert State Prison

4 Indian Springs, NV 89070

5 "No Fax number" for "no email address"

6 Attorney For: Antonio Lee Mixon

7 DISTRICT COURT

8 Clark County, Nevada

9 The State of Nevada

10 Plaintiff

11 vs.

12 Antonio Lee Mixon

13 Defendant

14 Case No. C-17-327439-1

15 Dept. XVII

16 DATE OF HEARING: March 5, 2019

17 TIME OF HEARING: 9:30 A.M.

18 ~~Antonio~~ Supplemental to Jury Instructions

19 Antonio Lee Mixon Jr. through Self representation hereby submits
20 Defendants Supplemental to Defendant's Jury Instructions. This Motion is made
21 and based upon the pleadings on file, the following Memorandum of Points and
22 Authorities and any oral arguments the Court may allow.

23 I hereby Verify Under penalty of perjury that to
24 the best of my belief and knowledge the following Facts and circumstances
25 are true and correct pursuant to NRS. 53.045. Executed on Jan. 28th,
26 2019. Antonio Lee Mixon Jr.
27 (Signature)

C-17-327439-1
SUPP
Supplemental
4814190



Memorandum of Points and Authorities

Defendant Filed a NOTICE OF DEFENSE And this Request For Jury Instructions is in support of said notice but in ~~repeal~~ ^{release} of the initial request For Jury instructions.

Argument

Defendant's jury instruction in support of Defendant's defense For count one of the plaintiff's case that is listed in the Defendant's Notice of Defense is that the plaintiff has insufficient elements to support the degree of charge in that the essential element in any touching of "B" By "A" coupled with the severity of the injury that resulted is used to measure the severity of the various desperate elements of the plaintiff's count one for the plaintiff to classify count one as an aggravated assault that requires a punishment of six years in prison. Defense believes Plaintiff used the circumstances as elements of the victim being an unworn officer, the age of 54, the allegation that a rock was thrown at victim coupled with the allegation that the rock struck him. One, Battery is a ^{misdemeanor} ~~felony~~ at common law depending on the severity of the injury, misdemeanor would be 30 days in county jail. Here Plaintiff's attorney charges Defendant with a Felony. No one can say this is a bias crime against officers not giving the injury. Being Bias For officers would just be bias against prisoners. Exclude That Bias. Victim is not a senior citizen let alone 60 or older. Based off No injury no one can say that the alleged ~~rock was thrown with~~ ^{throwing of, the rock was with} deadly force making it a dangerous weapon. It's millions of dimensions away from a deadly weapon. Your honor it also is apparent that it's less than 50% of the victim's own fault that he's complaining. For one, ^{start} ~~starts~~ with foreseeability. The victim alleges he seen a subject walking in circles this subject coming upon him knowingly

down grabbed some dirt, From here the victim alleged Subject was 10 to 15 Feet away the victim had mace didn't spray plus he could have simply just moved out the way. This isn't like he's alleging, it was unforeseen, unpreventable, hindsight occurrence where the victim had to make a split-second life or death decision. A little Breach and Trust of duty, merely Forgetfulness even here. Defense believes Plaintiff's attorney's excuse for filing the criminal prosecution in this case after 20 months from when this incident was alleged to have occurred is because she/he did a thorough investigation of the defendant to find aggravating circumstances to increase the severity of the crime given defendant's Constitutional right to collateral estoppel, ¹397 US 436, 25 L. Ed. 2d 469, 90 S. Ct 1189 (argued Nov. 13, 1969, Decided Apr. 6, 1970, quoted). In the case Otis Lee Minnix the serious bodily injury was an essential element required under the statutory definition of aggravated assault. The victim's injury in Minnix were contusions on his face and laceration of the lip ^{and he} underwent surgical debridement, under a local anesthetic to suture the lip in layers, layers meaning tissue, fat, muscles. Minnix was given 90 days in county jail for that and appealed, the court modified MINNIX's sentence to 30 days in jail with a fine of \$100, because the evidence was insufficient to meet the limited statutory definition of aggravated assault. See Otis Lee Minnix, Plaintiff, v. The State of Oklahoma, Defendant, Court of Criminal Appeals of Oklahoma, 1955 OK CR 37; 282 P.2d 773; 1955 OK Cr. App. Lexis 199 March 9, 1955. It was held that whether fractured jawbone was a serious bodily injury that would justify conviction of one who inflicted it of aggravated assault and battery was for the jury see Davis v. State, 150 Tex. Ct. R. 131, 199 S.W. 2d 167 (quoted in Minnix at P.2) (page 21). Defense ask for a jury instruction accordingly given the facts and circumstances.

NOTE: Victim in this case took no medications, zero was given or prescribed.

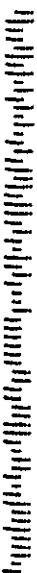
1 Some jurisdictions have by statute defined criminal assault to include what at
2 common law was the battery - the actual physical injury. In these jurisdictions an offense of
3 4 3 "menacing" often replaces the common law assault. see E.g., N.Y. Penal Law, Art. 120;
4 5 4 Model Penal code 211.1. Some modern criminal statutes no longer retain the
5 6 5 misdemeanor / Felony distinction. Instead crimes and offenses are classified
6 7 6 according to degrees see Model Penal code 1.04. The measure of the seriousness
7 8 7 of a criminal act which determines the range of criminal sanctions that may
8 9 8 imposed the crime. For instance, Under the Model Penal code, assault can be
9 10 9 classified into any of four degrees depending upon the Victim or manner of
10 11 10 commission. A simple assault could be petty misdemeanor carrying a sentence
11 12 11 of not more than thirty days or misdemeanor carrying a sentence not more
12 13 12 than one year; an aggravated assault could be a crime of the third degree
13 14 13 exposing the defendant to five years or a crime of the second degree carrying
14 15 14 of ten years see Model Penal code 211.1 et seq. 6.06. and 6.07 & 6.08. The
15 16 15 core of the defense's Argument is The world acts as if it doesn't know
16 17 16 what constitutes a CRIME. Your Honor, INJURY, LOSS, or DAMAGE
17 18 17 constitutes a crime. The Severity of the INJURY, LOSS, or DAMAGE
18 19 18 constitutes the Severity of the crime. And this Basis, (Core, Soul) is
19 20 19 the analysis Defendant needs Court to use in deciding the granting
20 21 20 of this Supplement. I certify Under penalty of perjury that to the best of my
21 22 21 belief I caused to be deposited this Supplement in the regular mailing system
22 23 22 with First-Class Prepaid postage addressed to the Following: Chelsea N. Kallas, Deputy
23 24 23 Attorney General, 555 E. Washington Avenue STE. 3900, LAS VEGAS, NV, 89101-1068.
24 25 24 STEVEN D. BRIERSON, Clerk of the Court, 200 Lewis Avenue, 3rd Floor, LV, NV 89155-1160
25 26 25 and that this Certificate of Service is true and correct. Executed on Jan.
26 27 26 13th, 2019. g. g. Miron-Jui
27 28 27 (Signature)

ANTONIO LEE NIXON JR. 1019828
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

LRB

* LE GAC MAIL *

89101-630000



STEVEN D. GRIERSON,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
LV, NV 89155-1160

(2 motions inside)



502

HIGH DESERT STATE PRISON
JAN 23 2018
UNIT 4 A/B

UNIT 4 A/B
JAN 26 2018
HIGH DESERT STATE PRISON

NOT

ANTONIO LEE MIXON 1019828
High Desert STATE Prison
P.O. Box 650
INDIAN SPRINGS, NV 89670

C-17-327439-1
NOTICE
4817399



FILED

FEB 21 2019

CLERK OF COURT

"NO FAX number" and/or "no e-mail address"

DISTRICT COURT
CLARK COUNTY, Nevada

THE STATE OF Nevada
Plaintiff,
VS.
Antonio Lee Mixon Sr.

CASE NO. C-17-327439-1
Dept. XVII
ORAL ARGUMENT: OPEN COURT
(IF NECESSARY)

NOTICE advising THE COURT and Plaintiff that Plaintiff's Pleadings on Complaint should be precluded from a trial in this Court for Failure to state a cause of action upon which relief could be granted because of want of Prosecution. For the Following reasons:
The Territorial Court which makes all needed rules and regulations respecting territory or other property belonging to the United States, 370 U.S. 530, 543; 371 F.2d 79, 81 and Under Art. IV, Sec. 3, Cl. 2 of the U.S. Const. Which establishes Territorial Jurisdiction which is the territory over which a government or a subdivision thereof has jurisdiction, 147 P.2d 858, 861; relates to a tribunal's power with regard to the territory within which it is to be exercised, and connotes power over property and persons within such territory. 41 N.E. 2d 438, 440. The Victim in the Plaintiff's Complaint has already been benefitted and compensated for the same allegations in a court system Military Court system. The Victim had a choice to restitution or Fine but elected Restitution A Subject received

RECEIVED
FEB 22 2019
CLERK OF THE COURT

1 A sentence of confinement of six months imprisonment total and a loss of privileges and rights for 24 Mos. pursuant to
2 10 U.S.C. 801 makes the territory Victim alleges these allegations occurred military jurisdiction.
3 Whether people within that territory have military status or not that Jurisdiction governs
4 non-military offenses which are those that are alleged to have occurred within its
5 territory but the citizen or people their doesn't have military status. The Court
6 system within that territory/state can generally deal with capital cases that are
7 alleged to have occurred within its territory pursuant to 10 U.S.C. 818. Can hear
8 all other cases pursuant to 10 U.S.C. 819 and 10 U.S.C. 820. That Court system
9 can give and gives sentence of confinements pursuant to 10 U.S.C. 858, 858a and
10 can extend confinements by given sentence confinements pursuant to 10 U.S.C. 819
11 for non-capital offenses. The Plaintiff Filing the Complaint now in this District Court
12 is moot and Unlawful. The defendant not residing in a Jurisdiction that governs
13 any allegations against defendant to be heard in this Court And the Victim where ever
14 he resides if not where he alleges this took place creates Either a Federal question
15 Jurisdiction in which only the Federal district courts and that system can
16 hear pursuant to 28 U.S.C. 1331 and/or a diversity of citizenship which only the
17 Federal district courts and that system can hear pursuant to 28 U.S.C. 1332 the
18 highest Court in that system the U.S. Supreme Court has Judicial Power to hear
19 those types of case pursuant to Art. III Sec. 2 of the U.S. Const. In this instant
20 case the different states that exist is agreed upon see 8 U.S.C. 1101(a)(29)(36); 2.
21 character; 3 condition, status, or situation; 4. Circumstances; 5. display, say or declare -
22 I've asked Correctional officers within the territory are there G.I.s on the reserve list to be
23 deployed to the military and they said "yes." The 11th U.S. Const. Amend. Bar Plaintiff's
24 Complaint also. In addition to that the Supreme Court has held that the 10th U.S. Const. Amend.
25 bars Congress from exercising power that impinges directly upon state functions essential to the state's separate
26 and independent existence see 426 U.S. 833, 851, Schwartz, Constitutional Law § 2.2 (2d ed 1979).
27 The Court letting this matter proceed would intend to cause
28 Defendant to suffer physical restraint; physical restraining

1 or, threatening to physically restrain Defendant by Plaintiff / Court by
2 abusing the legal process see Minn. stat. ch. 609 § 291 (2009).
3 I declare Under penalty of perjury that to the best of my belief and knowledge that
4 the contents of this Notice is true and correct, 28 U.S.C. 1746, NRS 53.045
5 EXECUTED on or about Feb. 18, 2019 a. z. Mearns Jr. On the Court's own
6 motion Court should dismiss Plaintiff's Complaint. And Defense wants to
7 note that in the case Mixon VS. Nevada case NO. 0218245, (V06-3029) Evidential
8 / seized Property which state alleges was in the constructive possession of
9 the defendant ~~of~~ that case those weapons being (2) sai martial Arts daggers,
10 (1) set of NUN-chukas (1) semi-automatic replica air pistol. The Defendant
11 of that case received sixty days imprisonment. You can't use prior convictions
12 to increase the punishment of a crime in the event an accused is convicted
13 or Subject to Conviction, that would punish accused twice ~~for~~ of past offenses
14 which would violate a fundamental Right of the accused which is the accused
15 Fifth Amendment Right of the U.S. Const. to be Free From Multiple punishments
16 or punished twice for the same offense see 395 U.S. 717.

17 Certificate of Service by mailing
18 I hereby certify that I caused to be deposited the NOTICE on or about
19 Feb. 18, 2019 First-class prepaid postage paid caused to be deposited
20 in the prison's regular ~~mail~~ mailing system to the following addresses:
21 STEVEN D. GRIERSON, Clerk of the Court, 200 Lewis Avenue, 3rd Floor, Las Vegas,
22 Nevada 89155-1160. Chelsea N. Kallas, ~~Attorney~~ Attorney General, State of
23 Nevada, Office of Attorney General, 555 E. Washington Ave., STE. 3700,
24 Las Vegas, Nevada 89101-1060. I certify Under penalty of perjury that to
25 the best of my belief and knowledge the Certificate of service by
26 mailing is true and correct. 28 U.S.C. 1746, NRS 53.045 EXECUTED
11 on or about Feb. 18th, 2019. a. z. Mearns Jr.

18 cc: File

HIGH DESERT STATE PRISON

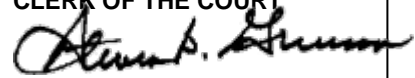
FEB 18 2019

UNIT 4 A/B

HIGH DESERT STATE PRISON

FEB 12 2019

UNIT 4 A/B



1 **NOTM**
2 AARON D. FORD
3 Attorney General
4 CHELSEA KALLAS (Bar No. 13902)
5 Deputy Attorney General
6 Office of the Attorney General
7 555 E. Washington Ave., Ste. 3900
8 Las Vegas, Nevada 89101-1068
9 P: (702) 486-5707
10 F: (702) 486-0660
11 Ckallas@ag.nv.gov
12 *Attorneys for the State of Nevada*

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

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 ANTONIO LEE MIXON, ID #1968172

14 Defendant(s).

Case No. C-17-327439-1

Dept. No. 17

15
16 **STATE'S NOTICE OF MOTION AND MOTION TO PLACE ON CALENDAR**

17 THE STATE OF NEVADA, through legal counsel, AARON D. FORD, Attorney General of the
18 State of Nevada, by and through Deputy Attorney General, CHELSEA KALLAS, moves this Court to
19 place the above-entitled matter on the Court's calendar for the purpose of obtaining the parties trial
20 readiness status.

21
22 SUBMITTED BY:

23 AARON D. FORD
24 Attorney General

25 By: /s/ Chelsea Kallas
26 CHELSEA KALLAS (Bar No. 13902)
27 Deputy Attorney General
28

1 **NOTICE OF MOTION**

2 TO: Antonio Lee Mixon

3 YOU WILL PLEASE TAKE NOTICE that the undersigned requests that the above-entitled matter
4 be placed on calendar on the **5th** day of **March**, 2019, at **8:30** AM in Department No. 17 for
5 the purpose of obtaining the parties trial readiness status.

6 DATED this 21th day of February, 2019.

7 SUBMITTED BY:

8 AARON D. FORD
9 Attorney General

10 By: /s/ Chelsea Kallas
11 Chelsea Kallas, Bar No. 13902
12 Deputy Attorney General
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

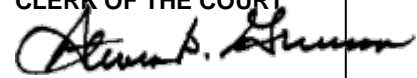
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing STATE’S NOTICE OF MOTION AND MOTION TO PLACE ON CALENDAR with the Clerk of the Court by using the electronic filing system on the 20th day of February, 2019.

I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or via facsimile transmission or e-mail; or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following unregistered participants:

Antonio Lee Mixon 1019828
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070-0650

/s/ A. Reber
A. Reber, An employee of the office
of the Nevada Attorney General



1 **ANOT**
2 AARON D. FORD
3 Attorney General
4 CHELSEA KALLAS (Bar No. 13902)
5 Deputy Attorney General
6 State of Nevada
7 Office of the Attorney General
8 555 E. Washington Ave., Ste. 3900
9 Las Vegas, Nevada 89101-1068
10 P: (702) 486-3420
11 F: (702) 486-0660
12 Ckallas@ag.nv.gov
13 *Attorneys for the State of Nevada*

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

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 ANTONIO LEE MIXON, ID #1968172

14 Defendant(s).

Case No. C-17-327439-1

Dept. No. 17

16 **STATE'S FIRST AMENDED NOTICE OF WITNESSES AND/OR EXPERT WITNESSES**

17 AARON D. FORD, Attorney General of the State of Nevada, by and through Deputy Attorney
18 General, CHELSEA KALLAS, in accordance with NRS 174.234 sets forth the State's list of witnesses
19 for trial in the above referenced matter as follows:

- 20 1. Victor Daniel
21 Former Investigator
22 Office of the Inspector General
- 23 2. Kurt Krohm
24 Correction Officer
25 High Desert State Prison
26 22010 Cold Creek Road
Indian Springs, NV 89070
- 27 3. Tyler Mcaninch
28 Former Correction Officer
High Desert State Prison

///

///

4. Dean Ontiveros
Correction Officer
High Desert State Prison
22010 Cold Creek Road
Indian Springs, NV 89070
5. Dustin Mumpower
2090 East Flamingo Road, Suite 200
Las Vegas, NV 89104
6. Brian Crooks
Correction Officer
High Desert State Prison
22010 Cold Creek Road
Indian Springs, NV 89070

DATED this 27th day of February, 2019

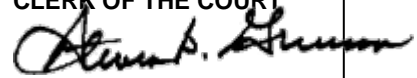
AARON D. FORD
Attorney General

By: /s/ Chelsea Kallas
CHELSEA KALLAS (Bar No. 13902)
Deputy Attorney General

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or via facsimile transmission or e-mail; or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following unregistered participants:

/s/ R. Holm
An employee of the office
of the Nevada Attorney General



1 **MINC**
2 AARON D. FORD
3 Attorney General
4 CHELSEA KALLAS (Bar No. 13902)
5 Deputy Attorney General
6 Office of the Attorney General
7 555 E. Washington Ave., Ste. 3900
8 Las Vegas, Nevada 89101-1068
9 P: (702) 486-5707
10 F: (702) 486-2377
11 Ckallas@ag.nv.gov
12 *Attorneys for the State of Nevada*

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

10 STATE OF NEVADA,

11 Plaintiff,

12 v.

13 ANTONIO LEE MIXON, ID #1968172

14 Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

15
16 **MOTION TO INCREASE BAIL**

17 Comes now the STATE OF NEVADA by and through AARON D. FORD, Attorney General and
18 his Deputy Attorney General, CHELSEA KALLAS, hereby moves this Court for an order to increase
19 bail in this matter.

20 This motion is made and based upon the pleadings and papers on file, the following memorandum
21 of points and authorities, and any oral argument the Court may allow.

22 DATED this 18th day of March, 2019.

23
24 SUBMITTED BY:

25 AARON D. FORD
26 Attorney General

27 By: /s/ Chelsea Kallas
28 CHELSEA KALLAS (Bar No. 13902)
Deputy Attorney General

1 **NOTICE OF MOTION**

2 TO: All Interested Parties and their Counsel

3 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the forgoing MOTION
4 TO INCREASE BAIL on for a hearing in Department 17 of the 8th Judicial District Court (RJC), State
5 of Nevada, on the _____ day of _____, 2019, at _____ am/pm or as soon thereafter as
6 counsel may be heard.

7 DATED this 18th day of March, 2019.

8
9 SUBMITTED BY:

10 AARON D. FORD
11 Attorney General

12 By: /s/ Chelsea Kallas
13 CHELSEA KALLAS (Bar No. 13902)
14 Deputy Attorney General
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **FACTS AND RELEVANT PROCEDURAL HISTORY**

3 On December 4, 2015, Antonio Lee Mixon (hereinafter “Defendant”), struck Senior Correctional
4 Officer D. Ontiveros in the abdomen with a rock, while Defendant was incarcerated at High Desert State
5 Prison. After being struck, Senior Correctional Officer Ontiveros approached Defendant, at which time
6 Defendant removed a prison made weapon, commonly referred to as a “shank” from his shoe. Senior
7 Correctional Officer Ontiveros removed his oleoresin capsicum spray and ordered Defendant get on the
8 ground. Defendant dropped the weapon and was placed in restraints. Defendant later exclaimed “you’re
9 lucky you had that mace or I would have stuck your bitch ass.”

10 On August 18, 2017, Defendant was charged by way of Criminal Complaint with the following:
11 Count 1 – Battery By A Prisoner (Category B Felony – NRS 200.482(2)(f)); and Count 2 – Possession
12 or Control of Dangerous Weapon or Facsimile By An Incarcerated Person (Category B Felony – NRS
13 212.185(c)). On August 22, 2017, Defendant’s bail was set at a total of \$10,000. On October 24, 2017,
14 the Court reduced Defendant’s bail to \$250. On that same date, Defendant waived his right to a
15 preliminary hearing and the matter was bound up to District Court. On November 1, 2017, Defendant
16 pled not guilty and invoked his right to a speedy trial. The instant case has continued for over a year and
17 a half with six (6) trial settings. A status check is currently set for April 4, 2019.

18 Defendant is currently serving an aggregate sentence of 8 to 20 years for Voluntary Manslaughter
19 with a Deadly Weapon in Case No. C-11-277977-1. Defendant is eligible for release on parole in that
20 case on September 18, 2019.

21 **SUBSEQUENT ACTIONS BY DEFENDANT AFTER BAIL REDUCTION**

22 Since Defendant’s bail reduction on October 24, 2017, Defendant has repeatedly made threats of
23 physical violence against correctional officers, similar to the threat Defendant made in the instant case.

24 On December 12, 2017, a maintenance worker at High Desert State Prison inadvertently opened
25 Defendant’s cell door, at which time Defendant exited his cell. Correctional officers ordered Defendant
26 to return to his cell, explaining to Defendant that his door opened accidentally. Defendant refused and
27 became combative with correctional officers, opening his shirt and saying “Fuck it. Let’s do it.”

28 / / /

1 On August 23, 2018, Defendant made several threats to Correctional Officer S. Kurdali, stating
2 “when you open this door I will kill you bitch ass CO.” When Correctional Officer S. Kurdali asked
3 Defendant why he was upset, Defendant responded by spitting at his cell window and kicking his door.
4 Defendant threatened Correctional Officer S. Kurdali again, exclaiming that he would “beat [his] ass you
5 soft pig.”

6 **ARGUMENT**

7 NRS 178.499 provides “At any time after a district or justice's court has ordered bail to be set at
8 a specific amount, and before acquittal or conviction, the court may upon its own motion or upon motion
9 of the district attorney and after notice to the defendant's attorney or record or, if none, to the defendant,
10 increase the amount of bail for good cause shown.”

11 The Court should increase Defendant’s bail pursuant to NRS 178.499(1), as Defendant’s current
12 bail is clearly insufficient. Defendant has failed to stay out of trouble and has clearly demonstrated that
13 he continues to be a danger to this community, evidenced by his continued threats of violence. As such,
14 Defendant’s bail in the instant case should be increased to at least \$10,000.

15 **CONCLUSION**

16 Based on the foregoing, the State respectfully requests that the Court increase Defendant’s bail to
17 the amount of \$10,000.

18 DATED this 18th day of March, 2019.

19
20 SUBMITTED BY:

21 AARON D. FORD
22 Attorney General

23 By: /s/ Chelsea Kallas
24 CHELSEA KALLAS (Bar No. 13902)
25 Deputy Attorney General
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on March 18, 2019, I filed the foregoing **MOTION TO INCREASE BAIL** this Court's electronic filing system.

I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or via facsimile transmission or e-mail; or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following unregistered participants:

Antonio Mixon, Inmate ID #1019828
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

/s/ A. Reber
An employee of the Office of the Attorney General

19

- 1 OFF
- 2 ANTONIO LEE MIXON #10, 828
- 3 SELF-REPRESENTATIVE
- 4 High Desert State Prison
- 5 P.O. BOX 650
- 6 INDIAN SPRINGS, NV 89070
- 7 NO Email / NO Fax or Phone
- 8 Attorney for Defendant

FILED
MAR 28 2019
7
Clerk of Court

9
10
11 STATE OF NEVADA
12 Plaintiff,
13 v.
14 Antonio LEE MIXON, ID#1968172
15 Defendant.

DISTRICT COURT
Clark County, Nevada
Case No. C-17-327439-1
Dept. No. 17

16 Defendants' OPPOSITION TO Plaintiff's Motion TO INCREASE Bail
17 comes now The Defendant by and through Pro-se, Antonio LEE MIXON and
18 hereby asks this honorable court for an order to dismiss Plaintiff's
19 motion to increase bail in this matter.

20 This motion is made and based upon the pleadings and
21 papers on file, the following memorandum of points and authorities,
22 and any oral argument the court may allow.

23 DATED this 28th day of March, 2019.

24
25
26
27
28
CLERK OF THE COURT
MAR 29 2019
RECEIVED

Submitted BY:
ANTONIO LEE MIXON
Pro-se
By: A. J. Mixon Jr.
Self-Representatives

Memorandum of points and authorities

Argument

Generally, Bail is a form of security given to insure the appearance of the defendant at every stage of the proceedings. See 120 P. 2d 980. There posting bail with money is the security for the accused's appearance. It is used "to procure release of a prisoner by securing his future attendance." 42 F. 2d 26, 28; . The Basis for the Bail reduction prior counsel argued and won is that the defendant wouldn't be able to afford the \$10,000 bail initially set because defendant has indigent status which affects his responsibility to pay fines, certain fees, such as court costs 497 P. 2d 523, 525; 452 F. Supp. 939, 942. The defendant status of Indigent has not changed. The \$10,000 bail requested of the Plaintiff is excessive bail which is prohibited by the Eighth Amendment to the United States Constitution and by the Constitution of various states. By Plaintiff DEMANDING BAIL in such ~~amount~~ amount is in fact a denial of bail where a right to bail exists. 342 U.S. 524, 544. It is provided only that if bail is permitted it may not be set at an excessive amount. 416 A. 2d 137. The \$250 bail is reasonably calculated to fulfill the purpose of assuring that the accused will stand trial and submit to sentence if found guilty. 342 U.S. 1, 4.

Conclusion

The \$250 bail should stand and Plaintiff's Motion to increase such amount should be denied.

Declaration of Defendant

I Declare that to the best of my belief and knowledge that the foregoing facts and circumstances in this motion is true and correct and I declare this Under penalty of perjury pursuant to NRS 53.045 ETELUED on the 25th of March, 2019
signature: *Arif M. Nixon Jr.*

NOTICE OF MOTION

TO: All interested parties and counsel

You will please take notice that the undersigned will bring the foregoing opposition to STATE'S MOTION TO INCREASE BAIL on for a hearing in Dept 17 or the 8th Judicial District Court (CRJC), STATE OF Nevada Clark County on the ____ day of ____, 2019, at ____ a.m./p.m. or as soon thereafter as ^{PFO-SP} ~~court~~ may be heard. Dated 25th, March, 2019. Submitted By:

ANTONIO LEE MIXIN

By: G. L. Miers Jr.

Certificate of service by Mailing

Defendant certifies that on 25th March 2019 Defendant caused to be deposited Defendant's opposition to Plaintiff's Motion to Increase Bail by first-class Mail, postage prepaid to the following address(es):

STEVEN D. GRIFFIN, Clerk of the Court Chelsea N. Kallas

200 Lewis Avenue, 3rd Floor

Deputy Attorney General

Las Vegas, NV 89155-1160

Office of the Attorney General

555 E. Washington Ave., STE. 3900

Defendant certifies Under penalty of perjury that to the best of my belief the certificate of service by mailing is true and correct.

Executed on 25th, March, 2019. NRS 53.045

(signature): G. L. Miers Jr.

CC: FLP

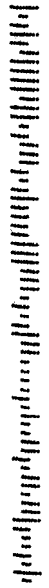
Antonio Lee Nixon #1014824
1405P
P.O. Box 650
Indian Springs, NV 89470

LAS VEGAS NV 890
26 MAR 2009 PM 4 L



STEVEN D. GRIERSON, Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-1160

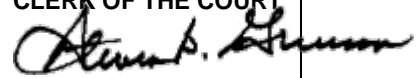
69101-630000



NOT POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
3/19/2019 8:33 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Antonio Mixon

Case No.: C-17-327439-1
Department 17

NOTICE OF HEARING

Please be advised that the above-entitled matter has been scheduled for State's Motion to Increase Bail, to be heard in Department 17, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89101, on the 26th day of March, 2019, at the hour of 8:30 AM.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 19th day of March, 2019, a copy of this Notice of Hearing was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program and/or placed in the attorney's folder maintained by the Clerk of the Court and/or mailed, postage prepaid, by United States mail to the proper parties as follows:

Antonio Lee Mixon #1079828
P.O. Box 650
Indian Springs, NV 89070

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

pp

1 NWEW

2 ANTONIO L. MIXON

3 PRO-SE

4 H.D.S.P.

5 P.O. BOX 650

6 INDIAN SPRINGS, NV 89070

7 "NO Phone Number" and/or "no Email"

8 Attorney For The Defendants

9 DISTRICT COURT

10 CLARK COUNTY, Nevada

11 STATE OF NEVADA,

12 Plaintiff,

13 v.

14 ANTONIO LEE MIXON, ID #1968172

Case No.: C-17-327439-1

Dept. NO.: 17

17 Defendant's Notice of Witnesses and/or Expert Witness

18 Antonio LEE MIXON SR., Pro-se, by and through self-
19 representation, in accordance with NRS 174.234 sets forth the
20 Defense's ~~list of witnesses~~ list of witnesses for trial in the above-referenced matter
21 as follows:

22 1. Mark Preusch

23 981 W. Charleston, STE. 2-774 Las Vegas, Nevada 89117

24 (Expert witness and/or lay witness expert witness

25 pursuant to Fed. R. Evid. 701).

Mr. Preusch is expected to testify to his Discovery Review/
research in the above-referenced matter. Dated: 02/20/19 By: A.L. Mixon Jr.

FILED

MAR 21 2019

CLERK OF COURT

RECEIVED

MAR 21 2019

CLERK OF DISTRICT COURT

C-17-327439-1
NOTC
Notice
4824428



525

1 I hereby verify under penalty of perjury that to the best of my belief
2 and knowledge the notice of witnesses and/or expert witnesses
3 of the Defendant's, is true and correct. 28 U.S.C. 1746; NRS
4 57.045. EXECUTED on or about Feb. ~~19th~~^{20th}, 2019. G. G. Nixon Jr.

5 Certificate of service by mailing

6 I certify ~~under penalty~~ I have caused and/or is causing
7 the said notice to be deposited in the prison's regular mailing
8 system, First-class Mail, postage prepaid to the following
9 address: STEVEN D. GRIERSON, Clerk of the Court, 200 Lewis
10 Avenue, 3rd Floor, Las Vegas, Nevada 89155-1160.

11 Chelsea N. Kallas, Deputy Attorney General, of the office
12 of Attorney General, 555 E. Washington Ave., STE. 3900, Las Vegas,
13 Nevada 89101-1068. Attorney for the State of Nevada.

14 I certify under penalty ~~and~~ of perjury that to the
15 best of my belief and knowledge the foregoing Certificate of
16 service by mailing is true and correct, 28 U.S.C. 1746; NRS
17 57.045. EXECUTED on or about Feb. 19th, 2019. G. G. Nixon Jr.

18
19
20 CC: FILE
21
22
23
24
25
26
27
28



Discovery Review/Research

Antonio Mixon

Confidential

Discovery summary:

Suspect:

Antonio Mixon

Involved Persons/ Victim:

Senior Correctional Officer- Dean Ontiveros

Charges: Battery by a Prisoner, Possession or Control of Dangerous Weapon or Facsimile by Incarcerated Person.

Location: High Desert State Prison- 5/6 Small Yard

Summary: On December 4th, 2015 at 9:05 a.m, correctional officer Dean Ontiveros was supervising the prison yard at High Desert State Prison when he noticed an inmate, suspect Antonio Mixon appearing upset. Officer Dean Ontiveros advised another officer to "keep an eye on him." Upon hearing this, suspect Mixon approached Officer Ontiveros and Officer Mcanich and threw a rock in their direction. The rock struck officer Ontiveros in the lower abdomen. Mixon then pulled out a prison made weapon from his shoe. Officer Ontiveros pulled out OC spray and ordered suspect Mixon to get on the group. Initially Mixon refused but eventually dropped the weapon and was apprehended by Officer Ontiveros.

Witnesses: (Note: all witness listed in State's discovery are correctional officers at High Desert State Prison)

1. Senior Correctional Officer Dean Ontiveros: Relays consistent information contained in the investigation report.
2. Senior Correctional Officer Franklin Dickens: Dickens report records the wrong day of incident November 4th, 2015.

INCIDENT DATE AND TIME	INSTITUTION	LOCATION
12-04-2015 0905HRS	High Desert State Prison	UNIT 5/6 SMALL YARD

THE FOLLOWING IS A COPY OF THE 026 SUBMITTED IN NOTIS BY SENIOR CORRECTIONAL OFFICER FRANKLIN DICKENS

On the 4th of November 2015 at approximately 0905 I Sc/o Dickens while performing duties as the lead Search & Escort Officer at HDSP was notified via radio of a 10-33 officer needs assistance call in the 5-6 quad. Myself and the S&E's C/O's Estill and Hessler responded to the 5-6 quad. We yelled for all the inmates to get on the ground. Sc/o Ontiveros and C/o t Mcininch were on the ground each holding inmate Mixon NDOC # 1019828 arms. i responded assist by putting the restraints on inmate Mixon. Medical showed up along CERT Members to assist escorting inmate Mixon to intake then to his new unit. I then with the other C/O's who responded to the incident done a pat down on all the inmates that were on yard at this time. End of report.

3. Correctional Officer Ryan Hessler: Relays consistent information contained in the investigation report.
4. Correctional Sergeant Dustin Mumpower: Relays consistent information contained in the investigation report.
5. Correctional Officer Benjamin Estill: Relays consistent information contained in the investigation report.
6. Correctional Officer Kurt Krohm: Relays consistent information contained in the investigation report.
7. Correctional Officer Brian Crooks: Relays consistent information contained in the investigation report.

Prepared By: Global Reliance Investigations, LLC 9811 W. Charleston Ste. 2-774 Las Vegas, Nevada 89117
Nevada State License No. 1890A

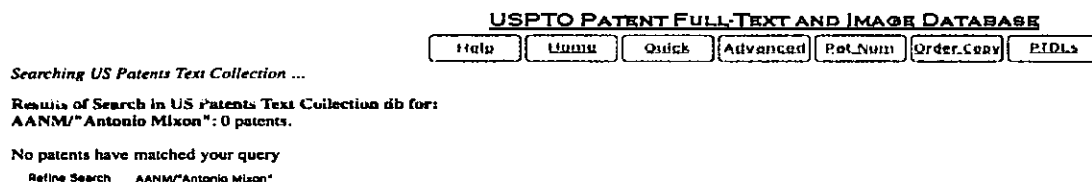
Additional Information:

- Officer Dean Ontiveros returned to work the next day for his scheduled shift.
- Officer was paid for the day of his injury.
- The radiology report for officer Ontiveros shows no acute findings.
- Officer Ontiveros is seeking disability reimbursement from workers compensation.

Existing Patents under Antonio Mixon

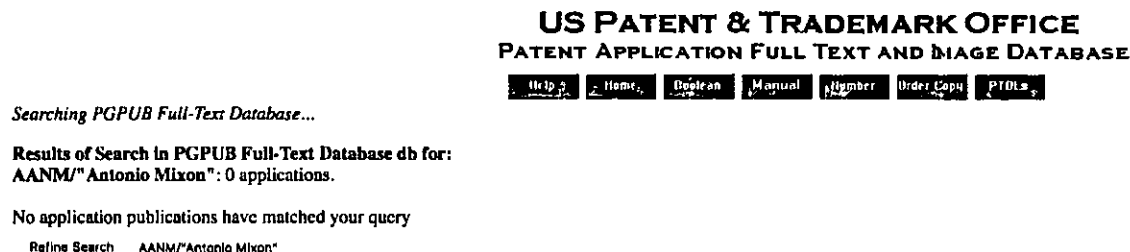
Existing Patent's Under the Name 'Antonio Mixon':

While using the United States Patent and Trademark Office's online Patent Full Text Database (<http://apft.uspto.gov>), I searched under "applicant name" in the patent search bar and typed 'Mixon' into the last name search bar and 'Antonio' into the first name search bar. The search results pulled up existing patents from 1976- present that exist in the United States. The result revealed that there are zero patents existing under the name Antonio Mixon. See photo below.



Applications for Patents Under the Name 'Antonio Mixon':

While using the United States Patent and Trademark Office's online Patent Full Text Database (<http://apft.uspto.gov>), I searched under "applicant name" in the patent search bar and typed 'Mixon' into the last name search bar and 'Antonio' into the first name search bar. The search results pulled up applications for patents from 1976- present that exist in the United States. The result revealed that there are zero patents in the application process that are under the name Antonio Mixon. See photo below.



Information Regarding Apple Shareholders and Dividends

- According to Apple's Stock Ownership Guidelines.... "The following may be used in determining share ownership: 1. Shares owned directly (including open market purchases or acquired and held upon vesting of Company equity awards) 2. Shares owned jointly with or separately by the individuals spouse. 3. Shares held in trust for the benefit of the individual, the individual's spouse and /or children."
- If an individual is arrested or put into prison he or she still has control over their shares. Unless otherwise specified by the shareholder before the arrest, their rights to their shares will not be impacted by imprisonment. (Source: Dana Shultz Esq.)
- There are two ways dividends are typically paid out. 1. In the form of a check. 2. Reinvestment into other stocks.
- On the date that dividends are expected to be paid, major corporations use the Depository Trust Company (DTC). If payments are made in cash, they are sent to brokerage firms that apply cash dividends to the specific client who owns the shares.
- The DTC is responsible for paying out dividends to many shareholders. The DTC is registered with the Securities and Exchange Commission and is a member of the Federal Reserve System. The DTC is responsible for over a trillion dollars' worth of securities.

Information Regarding High Desert State Prison:

- "High Desert State Prison is located in Indian Springs Nevada. It is currently the largest correctional facility in the Nevada Department of Corrections. It is one of the most technologically advanced prisons in the country and is the reception center for all inmates in Southern Nevada. The current capacity of this prison is 4,176 inmates and is still expanding as High Desert State Prison becomes the first facility in a complex of several that will make up the Southern Nevada Prison Complex."(www.prisonpro.com)
- The Bureau of Justice Assistance along with the National Prea Resource Center conducts what they call "PREA Audits" on adult prisons and jails. On January 7th, 2015 an audit was conducted on High Desert State Prison. The audit includes touring the facility, interviewing randomized inmates and staff. The audit rates various areas of the prison with 1. Exceeds Standards 2. Meets Standards or 3. Does Not Meet Standard. The results were as follows:
 - Supervision and Monitoring (this includes providing adequate staffing levels and video monitoring): High Desert State Prison-**Meets Standard.**
 - Hiring and Promotion Decisions (the audit goes through hiring records and looks for staff members who have in the past engaged in sexual abuse, have been convicted of engaging in violence by force): High Desert State Prison-**Meets Standard.**
 - Employee Training: High Desert State Prison-**Meets Standard**
 - Criminal and Administrative Investigations (the audit checks if the prison is compliant to the Peace Officer's Bill of Rights which has very strict requirements for administrative investigations for staff members.) High Desert State Prison- **Meets Standards.**

Confidential

- Evidentiary Standards for Administrative Investigations: High Desert State Prison-**Meets Standards.**

END



INTERVIEW-ATTORNEY WORK PRODUCT

Case No. C 17 327439-1

Antonio Mixon

06/27/2018

I, Mark Preusch, a licensed private investigator in the State of Nevada, met with and interviewed Antonio Mixon at the High Desert state prison where he is currently incarcerated. Mr. Mixon provided the following information concerning his case:

Mr. Mixon believes he was set up by the Ely prison guards because they are vindictive and have been stealing his invention patents. He claims to have invented and patented a steaming music phone application, as well as several other un-named inventions.

He believes the prison employees are getting dividend checks from the Apple Corporation as a result of his invention that they have stolen and sold to Apple.

Mr. Mixon requested that I research his patent applications and determine if the prison employees at the Ely State prison are getting dividend checks from his invention (s).

END

GLOBAL RELIANCE INVESTIGATIONS

Nevada State License No. 1890A

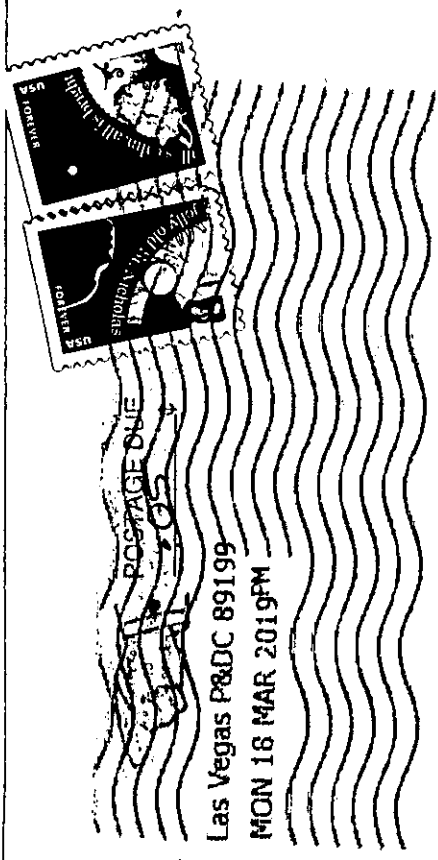
702-328-2464 FAX: 702-656-7827

Globalrelianceinvestigations.com

9811 W. Charleston., Ste. 2-774 Las Vegas, Nevada 89117

ANTONIO LEE MIXON SR. #1019828
HIGH DESERT STATE RELSON
P.O. BOX 650
INDIAN SPRINGS NV 89070

4842



STEVEN D. GRIERSON,
CLERK OF THE COURT
200 LEWIS AVENUE 3rd Floor
Las Vegas, NEVADA 89155-1160

HIGH DESERT STATE PRISON

FEB 20 2019

UNIT 4 A/B

2-20-19 - 2-20-19

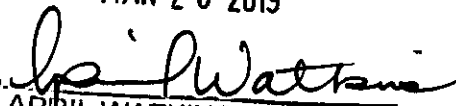


ORIGINAL

AINF
AARON D. FORD
Attorney General
CHELSEA KALLAS (Bar No. 13902)
Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101-1068
P: (702) 486-5707
F: (702) 486-0660
CKallas@ag.nv.gov
Attorneys for the State of Nevada

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

MAR 26 2019

BY: 
APRIL WATKINS, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

ANTONIO LEE MIXON, ID #1968172

Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

C-17-327439-1
AINF
Amended Information
4825837



AMENDED INFORMATION

AARON D. FORD, Attorney General for the State of Nevada, complains and charges that:

The above-named defendant, ANTONIO LEE MIXON, has committed the crime of one (1) count of ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON, a category "C" felony in violation of NRS 212.185(c), NRS 193.330.

All of the acts alleged herein have been committed or completed on or about December 4, 2015, by the above-named defendant, within the County of Clark, State of Nevada, in the following manner:

COUNT I
ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON
Category "C" Felony - NRS 212.185(c), NRS 193.330

That the Defendant, ANTONIO LEE MIXON, on or about December 4, 2015, while incarcerated at High Desert State Prison, did attempt to possess or have in his custody or control any dirk, dagger, switchblade knife or sharp instrument to wit: the Defendant did attempt to possess or have in his custody or

1 control a sharp instrument commonly referred to as a "shank."

2 All of which is contrary to the form, force and effect of the statutes in such cases made and
3 provided, and against the peace and dignity of the state of Nevada.

4 DATED this 21 day of March, 2019.

5 SUBMITTED BY

6 AARON D. FORD
7 Attorney General

8 By: Chelsea Kallas
9 CHELSEA KALLAS (Bar No. 13902)
10 Deputy Attorney General
11 *Attorneys for the State of Nevada*
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



ORIGINAL

GPA

AARON D. FORD

Attorney General

CHELSEA KALLAS (Bar No. 13902)

Deputy Attorney General

Office of the Attorney General

555 E. Washington Ave., Ste. 3900

Las Vegas, Nevada 89101-1068

P: (702) 486-5707

F: (702) 486-0660

CKallas@ag.nv.gov

Attorneys for the State of Nevada

FILED IN OPEN COURT

STEVEN D. GRIERSON

CLERK OF THE COURT

MAR 26 2019

BY,

APRIL WATKINS, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

ANTONIO LEE MIXON, ID #1968172

Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

C-17-327439-1

GPA

Guilty Plea Agreement

4825638



GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON, a CATEGORY "C" Felony, in violation of NRS 212.185(c), NRS 193.330, 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:

1. The State and I agree to jointly recommend a sentence of 12 to 30 months of incarceration in the Nevada Department of Corrections, to run consecutive to any sentence that I am currently serving.

2. I agree to waive any defects or infirmities as to the form of the charging document attached as Exhibit "1."

Furthermore, I understand that, pursuant to NRS 176.015(3), victims so desiring will be allowed to make impact statements. I understand and agree that, if I fail to interview with the Department of Parole and Probation, fail to appear at any subsequent hearings in this case, or an independent judge or magistrate, by affidavit review or other satisfactory proof, confirms probable cause against me for new

1 criminal charges, including reckless driving or DUI, but excluding minor traffic violations, the State will
2 have the unqualified right to argue for any legal sentence and term of confinement allowable for the
3 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have to increase
4 my sentence as a habitual criminal to five (5) to twenty (20) years, life without the possibility of parole,
5 life with the possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the
6 possibility of parole after ten (10) years. Otherwise, I am entitled to receive the benefits of these
7 negotiations as stated in the plea agreement.

8 CONSEQUENCES OF THE PLEA

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

11 I understand that as a consequence of my plea of guilty the Court must sentence me to
12 imprisonment in the Nevada Department of Corrections for a minimum term of not less than one (1) year
13 and a maximum term of not more than five (5) years. The minimum term of imprisonment may not exceed
14 forty percent (40%) of the maximum term of imprisonment. I understand that I may also be fined up to
15 \$10,000.00. I understand the law requires me to pay an Administrative Assessment Fee.

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

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

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

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

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

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

2 I have not been promised or guaranteed any particular sentence by anyone. I know that my
3 sentence is to be determined by the Court within the limits prescribed by statute. I understand that if my
4 attorney or the State of Nevada or both recommend any specific punishment to the Court, the Court is not
5 obligated to accept the recommendation.

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

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

15 I understand that if I am not a United States citizen, this criminal conviction will likely result in
16 serious negative immigration consequences including but not limited to: removal from the United States
17 through deportation; an inability to reenter the United States; the inability to gain United States citizenship
18 or legal residency; an inability to renew and/or retain any legal residency status; and/or an indeterminate
19 term of confinement, with the United States Federal Government based on my conviction and immigration
20 status. Regardless of what I have been told by an attorney, no one can promise me that this conviction will
21 not result in negative immigration consequences and/or impact my ability to become a United States
22 citizen and/or legal resident.

23 **WAIVER OF RIGHTS**

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

26 1. The constitutional privilege against self-incrimination, including the right to refuse to
27 testify at trial, in which event the prosecution would not be allowed to comment to the jury about my
28 refusal to testify.

1 2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive
2 pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an
3 attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a
4 reasonable doubt each element of the offense charged.

5 3. The constitutional right to confront and cross-examine any witnesses who would testify
6 against me.

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

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

9 6. The right to appeal the conviction, with the assistance of an attorney, either appointed or
10 retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that
11 challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS
12 174.035.

13 **VOLUNTARINESS OF PLEA**

14 I have discussed the elements of all the original charges against me with my attorney and I
15 understand the nature of the charges against me.

16 I understand the State would have to prove each element of the charges against me at trial.

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

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

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

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

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

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

3 DATED this ^{26th} ~~25th~~ day of March, 2019.

5 
6 ANTONIO LEE MIXON, Defendant

8 AGREED TO BY:


9 
10 CHELSEA KALLAS (Bar No. 13902)
11 Deputy Attorney General
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

1 **AINF**
AARON D. FORD
2 Attorney General
CHELSEA KALLAS (Bar No. 13902)
3 Deputy Attorney General
Office of the Attorney General
4 555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101-1068
5 P: (702) 486-5707
F: (702) 486-0660
6 CKallas@ag.nv.gov
Attorneys for the State of Nevada

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

10 STATE OF NEVADA,
11 Plaintiff,

Case No.: C-17-327439-1

Dept. No.: 17

12 v.

13 ANTONIO LEE MIXON, ID #1968172
14 Defendant.

15
16 **AMENDED INFORMATION**

17 AARON D. FORD, Attorney General for the State of Nevada, complains and charges that:

18 The above-named defendant, ANTONIO LEE MIXON, has committed the crime of one (1) count
19 of ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN
20 INCARCERATED PERSON, a category "C" felony in violation of NRS 212.185(c), NRS 193.330.

21 All of the acts alleged herein have been committed or completed on or about December 4, 2015, by
22 the above-named defendant, within the County of Clark, State of Nevada, in the following manner:

23 **COUNT I**
24 **ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN**
25 **INCARCERATED PERSON**
Category "C" Felony - NRS 212.185(c), NRS 193.330

26 That the Defendant, ANTONIO LEE MIXON, on or about December 4, 2015, while incarcerated at
27 High Desert State Prison, did attempt to possess or have in his custody or control any dirk, dagger,
28 switchblade knife or sharp instrument to wit: the Defendant did attempt to possess or have in his custody or

1 control a sharp instrument commonly referred to as a "shank."

2 All of which is contrary to the form, force and effect of the statutes in such cases made and
3 provided, and against the peace and dignity of the state of Nevada.

4 DATED this 21 day of March, 2019.

5 SUBMITTED BY

6 AARON D. FORD
7 Attorney General

8 By: Chelsea Kallas
9 CHELSEA KALLAS (Bar No. 13902)
10 Deputy Attorney General
11 *Attorneys for the State of Nevada*
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 ANTONIO LEE MITON
2 PRO-SE
3 HDSP
4 P.O. BOX 650
5 INDIAN SPRINGS, WV 26070
6 "NO FAX", "NO EMAIL"
7 Attorney For Defendant

FILED
APR 05 2019
Clerk of Court

April 30 2019
8:30 AM

District Court
Clark County, WV

10 The STATE OF Nevada
11 Plaintiff
12 vs.
13 ANTONIO LEE MITON
14 Defendant

Case NO: C-17-327439-1
Dept. NO: 17

Defendant's Motion to Withdraw Guilty PLEA

17 comes now, Defendant, ANTONIO LEE MITON, herein above respectfully
18 moves this Honorable Court for an order granting ~~Defendant's~~ permitting
19 the Defendant to withdraw his Guilty PLEA.

21 This Motion is Made and based upon the accompanying
22 Memorandum of Points and Authorities.

DATED: This 01 day of ~~04~~ April, 2019

BY: ANTONIO LEE MITON JR

Gu. L. Miles Jr. 1968172
Defendant / Pro-se

RECEIVED
APR 05 2019
CLERK OF THE COURT

Memorandum of Points And Authorities
Argument - I.

The state was ordered by the court to prepare the change of custody of a weapon in the instant case from where it's held to the private investigator of the defendant and to prepare a stipulation order of this change of custody and send the stipulation to defendant to sign and file and return. The defendant's private investigator was to send the weapon to South Carolina to be fingerprinted. The weapon does not have the defendant's DNA on it. The expert witness (Forensic) was to prepare a report and make a general appearance on behalf of the defendant at trial. Instead of the state following through with the court's order state sent Defense a motion to increase bail. Trial to commence in days/weeks. Defendant called Ms. Kallus and asked about state's offer she never mentioned anything about the weapon's results in negotiations and in lieu of that evidence moved to increase bail. Ms. Kallus knew evidence was in defendant's favor but insisted this case be resolved in negotiations or trial without the defense having said evidence. Defendant forced to resolve case without the evidence. The evidence brings an affirmative defense to "Attempt" possession which supported the defense to Attempt, in that state would have failed to prove their case of "possession" beyond a reasonable doubt without the evidence and with the evidence may have failed to prove its case of attempt possession beyond a reasonable doubt and for the "Attempt" severity wouldn't be as severe to warrant punishment of anything other than Probation. The Sixth Amendment includes the rights necessary to a full ~~defense~~ defense because these rights are basic to our adversary system of criminal justice, they are a part of "due process of Law" that is guaranteed by the Fourteenth Amendment to defendants in the criminal courts of the states. The rights to compulsory process, notice, confrontation when taken together guarantee that a criminal charge may be answered in a manner now considered fundamental

1 to a fair ~~administration~~ administration of American justice through calling and
2 interrogation of favorable witnesses and the orderly INTRODUCTION OF EVIDENCE
3 In short, the ~~Fourth Amendment~~ ~~Fourth Amendment~~ Constitutionalizes the right
4 in an adversary criminal trial to make a defense as we know it see *Farewell v. State*
5 *California*, 422 U.S. 806, 818 (1975) see *California v. Green*, 399 U.S. 149, 176,
6 26 L. Ed. 2d 489, 90 S. Ct. 1930 (Harlan, J., concurring). The right to defend
7 see 422 U.S. 806, 819 (1975).

8 The right of an accused to have compulsory process for obtaining
9 witnesses. in his favor observes that "a person's right to offer expert testimony
10 describes what is regarded as the most basic ingredients of due process of
11 law which are basic in our system of jurisprudence see *Re Oliver*, 333 U.S. 257,
12 92 L. Ed. 682, 685, Ct. 499 (1948), 333 U.S. at 273, 92 L. Ed. at 694
13 see *Washington v. Texas*, 388 U.S. 14, 18 (1967).

14 Argument II.

15 The Guilty Plea is against the [Manifest Weight of the] evidence an evidentiary
16 standard permitting trial court after accepting a guilty plea to permit defendant
17 withdraw his guilty plea and order new trial where the guilty plea though
18 based on legally sufficient evidence, appears in the view of the trial court
19 judge to be unsupported by the substantial credible evidence. On such claim
20 it is the duty of the [trial judge] to set aside the guilty plea by permitting
21 defendant to withdraw and grant a new trial, if he is of the opinion
22 that the guilty plea is against the clear weight of the evidence, or
23 is based on evidence which is false or result in a miscarriage of Justice
24 Even though there may be substantial evidence which would prevent the
25 direction of the guilty plea and its acceptance by the court. *Gunning*
26 *v. Looley*, 201 U.S. 90, 50 S. Ct. 231, 74 L. Ed. 720. *Aetna Casualty and*
27 *Surety Co. v. Yatts*, 122 F.2d 350, 354 (1941).

Argument 11 Cont.

The Seventh Amendment which provides that no fact tried by a jury shall otherwise be re-examined in any court of the United States than according to the rules of the common law. More frequently the granting or refusing permitting defendant to withdraw his guilty plea and order a new trial is a matter within the discretion of the trial court. See AETNA Casualty ~~and~~ [&] Surety Co. v. YEATTS, 122 F.2d 350, 355 (1941) See Montgomery Ward ~~and~~ [&] Co. v. Duncan, Supra, 311 U.S. 243, 61 S. Ct 189, 85 L. Ed. 147 See Fairmont Glass Works v. Cub Fork Coal Co., Supra [287 U.S. 474, 53 S. Ct. 254, 77 L. Ed. 439].

I Declare Under penalty and perjury that to the best of my belief and knowledge the foregoing motion to withdraw Defendant's guilty plea is true and correct. NRS 53.045 EXECUTED on 04/01/2019

G. Z. Miron Jr.
Signature

CERTIFICATE OF SERVICE BY MAILING

I caused to be deposited Defendant's Motion to Withdraw guilty plea. First-class postage prepaid to the following addresses:

Chelsea N. Kalks, Deputy Attorney General
STATE OF NEVADA
OFFICE OF THE Attorney General
555 E. Washington Avenue, Suite 3400
Las Vegas, Nevada 89101-1068

STEVEN D. GRIERSON,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-1160

I certify that the Certificate of mailing Service by mailing is true and correct and I certify this Under penalty of perjury. NRS 53.045 EXECUTED on 04/01/2019

G. Z. Miron Jr.
Signature

NOTICE OF MOTION

The Defendant's Motion to withdraw guilty plea is sent to all concerned parties and placed on calendar soon as possible.

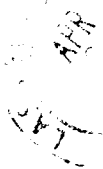
Conclusion
Defendant be permitted to withdraw guilty plea and court order new trial.

Antonio Lee Wilson Jr. #1019828

H.D.S.R.

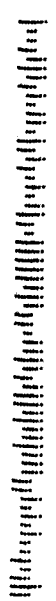
P.O. Box 650

Indian Springs, NV 89470



STEVEN D. GRIFFIN,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-1160

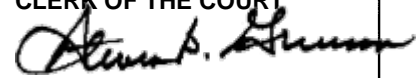
8910136301 0075



HIGH DESIGN

MAR 3 1 2015

UNIT 4A/B



1 **OPPM**
2 AARON D. FORD
3 Attorney General
4 CHELSEA KALLAS (Bar No. 13902)
5 Deputy Attorney General
6 Office of the Attorney General
7 555 E. Washington Ave., Ste. 3900
8 Las Vegas, Nevada 89101-1068
9 P: (702) 486-5707
10 F: (702) 486-0660
11 ckallas@ag.nv.gov
12 *Attorneys for the State of Nevada*

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

10 STATE OF NEVADA,

11 Plaintiff,

12 vs

13 ANTONIO LEE MIXON, ID #1968172,

14 Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

15
16 **OPPOSITION TO DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA**

17 AARON D. FORD, Attorney General for the State of Nevada, through his Deputy Attorney
18 General, CHELSEA KALLAS, hereby submits this Opposition to Defendant's Motion to Withdraw Guilty
19 Plea.

20 This opposition is made and based upon, the pleadings and papers on file, the following
21 memorandum of points and authorities, and any oral argument the Court may allow.

22 DATED this 25th day of April, 2019.

23
24 AARON D. FORD
25 Attorney General

26 By: /s/ Chelsea Kallas

27 CHELSEA KALLAS (Bar No. 13902)
28 Deputy Attorney General
Attorneys for the State of Nevada

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 On December 4, 2015, Antonio Lee Mixon (hereinafter “Defendant”), struck Senior Correctional
3 Officer D. Ontiveros in the abdomen with a rock, while Defendant was incarcerated at High Desert State
4 Prison. After being struck, Senior Correctional Officer Ontiveros approached Defendant, at which time
5 Defendant removed a prison made weapon, commonly referred to as a “shank” from his shoe. Senior
6 Correctional Officer Ontiveros removed his oleoresin capsicum spray and ordered Defendant to get on the
7 ground. Defendant dropped the weapon and was placed in restraints. Defendant later exclaimed “you’re
8 lucky you had that mace or I would have stuck your bitch ass.”

9 On October 25, 2017, Defendant was charged by way of Information with the following: Count 1 –
10 Battery By A Prisoner (Category B Felony – NRS 200.482(2)(f)); and Count 2 – Possession or Control of
11 Dangerous Weapon or Facsimile By An Incarcerated Person (Category B Felony – NRS 212.185(c)). On
12 November 1, 2017, Defendant pled not guilty to the charges contained in the Information. On January 2,
13 2018, Defendant’s trial commenced. On the same day, the Court declared a mistrial. On September 19,
14 2018, Defendant filed a Motion for Expert Witness, requesting a fingerprint expert. The State filed an
15 Opposition on September 26, 2018. On October, 11, 2018, the Court granted Defendant’s Motion. On
16 March 5, 2019, Defendant requested a trial continuance to have the shank tested for fingerprints. The
17 Court instructed the State to prepare a stipulation between Defendant and the State regarding chain of
18 custody for the shank. The Court also set the matter for a status check on April 4, 2019. On March 18,
19 2019, the State filed a Motion to Increase Bail. On March 26, 2019, prior to the status check, Defendant
20 pled guilty pursuant to a Guilty Plea Agreement (“GPA”) to an amended charge of Attempt Possession or
21 Control of Dangerous Weapon or Facsimile By An Incarcerated Person (Category C Felony – NRS
22 212.185(c), 193.330). Sentencing is set for May 21, 2019.

23 On April 5, 2019, Defendant filed a Motion to Withdraw Plea (hereinafter “Motion”). The State
24 responds as follows.

25 **ARGUMENT**

26 A guilty plea is presumptively valid. *Wynn v. State*, 96 Nev. 673, 675, 615 P.2d 946, 947 (1980).
27 Defendants have the burden of proving that they did not enter their pleas knowingly or voluntarily. *Bryant*
28 *v. State*, 102 Nev. 268, 271, 721 P.2d 364, 367 (1986) (superseded by statute, on other grounds, by

1 *Hart v. State*, 116 Nev. 558, 1 P.3d 969 (2000)); *see also Wynn*, 96 Nev. at 675. In determining whether a
2 guilty plea was knowingly and voluntarily entered, the Court reviews the totality of the circumstances
3 surrounding the plea. *Bryant* 102 Nev. at 271, superseded by statute. In addition, when a guilty plea is
4 accepted by the trial Court after proper canvassing as to whether the Defendant knowingly and
5 intelligently entered his plea, such plea will be deemed properly accepted. *Id.*

6 If a proper canvass is conducted, the record will reflect the following: “(1) the Defendant
7 knowingly waived his privilege against self-incrimination, the right to trial by jury, and the right to
8 confront his accusers; (2) the plea was voluntary, was not coerced, and was not the result of a promise of
9 leniency; (3) the defendant understood the consequences of this plea and the range of punishment; and (4)
10 the Defendant understood the nature of the charge, i.e. the elements of the crime.” *Wilson v. State*, 99 Nev.
11 362, 366, 664 P.2d 328, 330 (1983). However, the failure to conduct a ritualistic oral canvass does not
12 require that the plea be invalidated. *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). The
13 Court “has a duty to review the entire record to determine whether the plea was valid...[and] may not
14 simply review the plea canvass in a vacuum.” *Mitchell v. State*, 109 Nev. 137, 141, 848 P.2d 1060, 1062
15 (1993); *see also Bryant*, 102 Nev. at 271, 721 P.2d at 367 ((superseded by statute)(stating that, in
16 determining whether a guilty plea was knowingly and voluntarily entered, the Court reviews the totality of
17 the circumstances surrounding the plea).

18 “[A] Motion to withdraw a plea of guilty...may be made only before sentence is imposed or
19 imposition of sentence is suspended” unless it is necessary “to correct manifest injustice.” N.R.S. 176.164;
20 *Baal v. State*, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990). The District Court may grant a Motion made
21 prior to sentencing or adjudication of guilt for any substantial reason that is fair and just. *State v. District*
22 *Court*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). “The district court must consider the totality of the
23 circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair
24 and just.” *Stevenson v. State*, 131 Nev. Adv. Op. 61, 354 P.3d 1277, 1281 (2015).

25 Here, Defendant fails to demonstrate his plea was not made knowingly and voluntarily. By signing
26 his GPA, Defendant attested that his plea was voluntarily made and that he understood the rights he was
27 giving up. *See Exhibit 1, GPA* at 3-5. Additionally, the Court thoroughly canvassed Defendant regarding
28 the entry of his plea and Defendant acknowledged that he understood the nature of the charges against him

1 and was voluntarily pleading guilty. See *Exhibit 2, Reporter's Transcript, March 26, 2019*, at 3-5.

2 Defendant confirmed that he had read and understood the GPA and that he did not have any
3 questions. *Exhibit 2* at 3-5. Defendant also stated he was not coerced into making this decision and
4 understood the consequences of his plea. *Exhibit 2* at 3-4. Finally, Defendant acknowledged that he was
5 pleading guilty because in truth and in fact he had committed the crime charged. *Exhibit 2* at 4.

6 Defendant alleges the State did not comply with the Court's order to prepare a trial stipulation
7 regarding chain of custody for the shank. Rather, the State filed a Motion to Increase Bail and somehow
8 forced Defendant to resolve his case without fingerprint evidence. However, Defendant's claims are
9 without merit. First, Defendant fails to articulate how the State's filing of a Motion to Increase Bail
10 demonstrates the State did not intend to comply with the Court's order and somehow forced Defendant to
11 resolve his case, which is not surprising considering Defendant's claim is absolutely absurd. The State
12 fully intended to send Defendant a stipulation regarding chain of custody. However, Defendant reached
13 out to the State seeking an offer, which he concedes is his Motion, prior to the stipulation being sent to
14 Defendant. By Defendant seeking to negotiate his case and subsequently pleading guilty, the need for the
15 State to send Defendant a *trial* stipulation became moot.

16 Further, the shank had yet to be tested for fingerprint evidence. Thus, the State could not have
17 possibly withheld evidence from Defendant that the State never had. To the extent Defendant alleges he
18 was unable to present this evidence at trial, such claim is also without merit. Defendant had the
19 opportunity to have the shank tested for fingerprints and present such evidence a trial. However, by
20 pleading guilty he waived this right, which he specifically acknowledged he understood. *Exhibit 1* at 3-4.
21 Defendant had previously exercised his right to trial in the instant case. Thus, he was well aware how to
22 exercise this right if he wished to proceed to trial again.

23 Lastly, as to Defendant's assertion that the State insisted Defendant plead guilty, such claim is
24 belied by Defendant's own statement that he sought an offer from the State, as well as Defendant's GPA
25 and subsequent canvass. As discussed above, Defendant attested that he was not coerced into making this
26 decision and was pleading guilty because in truth and in fact he had committed the crime charged. *Exhibit*
27 *2* at 3-4. Because Defendant's plea was knowingly, voluntarily and intelligently entered, he cannot
28 demonstrate there is a substantial reason that is fair and just for his Motion to be granted. As such,

1 Defendant's Motion should be denied.

2 DATED this 25th day of April, 2019

3
4 AARON D. FORD
5 Attorney General

6 By: /s/ Chelsea Kallas
7 CHELSEA KALLAS (Bar No. 13902)
8 Deputy Attorney General
9 *Attorneys for the state of Nevada*
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on
3 April 25, 2019, I filed the foregoing OPPOSITION TO DEFENDANT’S MOTION TO WITHDRAW
4 GUILTY PLEA with the Court’s electronic filing system.

5 I certify that some of the participants in the case are not registered electronic filing system users. I
6 have mailed the foregoing document by First-Class Mail, postage prepaid, or via facsimile transmission or
7 e-mail; or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the
8 following unregistered participants:

9 Antonio Mixon, Inmate ID #1019828
10 High Desert State Prison
11 P.O. Box 650
Indian Springs, NV 89070

12 /s/ A. Reber
13 An employee of the Office of the Attorney General
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “1”

EXHIBIT “1”



ORIGINAL

1 GPA

2 AARON D. FORD

3 Attorney General

4 CHELSEA KALLAS (Bar No. 13902)

5 Deputy Attorney General

6 Office of the Attorney General

7 555 E. Washington Ave., Ste. 3900

8 Las Vegas, Nevada 89101-1068

9 P: (702) 486-5707

10 F: (702) 486-0660

11 CKallas@ag.nv.gov

12 Attorneys for the State of Nevada

FILED IN OPEN COURT

STEVEN D. GRIERSON

CLERK OF THE COURT

MAR 26 2019

BY, 

APRIL WATKINS, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Case No.: C-17-327439-1

Plaintiff,

Dept. No.: 17

v.

ANTONIO LEE MIXON, ID #1968172

C-17-327439-1
GPA
Guilty Plea Agreement
4826038



Defendant.

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON, a CATEGORY "C" Felony, in violation of NRS 212.185(c), NRS 193.330, 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:

1. The State and I agree to jointly recommend a sentence of 12 to 30 months of incarceration in the Nevada Department of Corrections, to run consecutive to any sentence that I am currently serving.

2. I agree to waive any defects or infirmities as to the form of the charging document attached as Exhibit "1."

Furthermore, I understand that, pursuant to NRS 176.015(3), victims so desiring will be allowed to make impact statements. I understand and agree that, if I fail to interview with the Department of Parole and Probation, fail to appear at any subsequent hearings in this case, or an independent judge or magistrate, by affidavit review or other satisfactory proof, confirms probable cause against me for new

1 criminal charges, including reckless driving or DUI, but excluding minor traffic violations, the State will
2 have the unqualified right to argue for any legal sentence and term of confinement allowable for the
3 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have to increase
4 my sentence as a habitual criminal to five (5) to twenty (20) years, life without the possibility of parole,
5 life with the possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the
6 possibility of parole after ten (10) years. Otherwise, I am entitled to receive the benefits of these
7 negotiations as stated in the plea agreement.

8 CONSEQUENCES OF THE PLEA

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

11 I understand that as a consequence of my plea of guilty the Court must sentence me to
12 imprisonment in the Nevada Department of Corrections for a minimum term of not less than one (1) year
13 and a maximum term of not more than five (5) years. The minimum term of imprisonment may not exceed
14 forty percent (40%) of the maximum term of imprisonment. I understand that I may also be fined up to
15 \$10,000.00. I understand the law requires me to pay an Administrative Assessment Fee.

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

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

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

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

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

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

2 I have not been promised or guaranteed any particular sentence by anyone. I know that my
3 sentence is to be determined by the Court within the limits prescribed by statute. I understand that if my
4 attorney or the State of Nevada or both recommend any specific punishment to the Court, the Court is not
5 obligated to accept the recommendation.

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

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

15 I understand that if I am not a United States citizen, this criminal conviction will likely result in
16 serious negative immigration consequences including but not limited to: removal from the United States
17 through deportation; an inability to reenter the United States; the inability to gain United States citizenship
18 or legal residency; an inability to renew and/or retain any legal residency status; and/or an indeterminate
19 term of confinement, with the United States Federal Government based on my conviction and immigration
20 status. Regardless of what I have been told by an attorney, no one can promise me that this conviction will
21 not result in negative immigration consequences and/or impact my ability to become a United States
22 citizen and/or legal resident.

23 WAIVER OF RIGHTS

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

26 1. The constitutional privilege against self-incrimination, including the right to refuse to
27 testify at trial, in which event the prosecution would not be allowed to comment to the jury about my
28 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 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 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 the original charges against me with my attorney and I understand the nature of the charges against me.

I understand the State would have to prove each element of the charges 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 its
2 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

3 DATED this ^{26th} ~~25th~~ day of March, 2019.

5 
6 ANTONIO LEE MIXON, Defendant

8 AGREED TO BY:


9 
10 CHELSEA KALLAS (Bar No. 13902)
11 Deputy Attorney General
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

1 AINF
AARON D. FORD
2 Attorney General
CHELSEA KALLAS (Bar No. 13902)
3 Deputy Attorney General
Office of the Attorney General
4 555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101-1068
5 P: (702) 486-5707
F: (702) 486-0660
6 CKallas@ag.nv.gov
Attorneys for the State of Nevada

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

10 STATE OF NEVADA,

11 Plaintiff,

12 v.

13 ANTONIO LEE MIXON, ID #1968172

14 Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

15
16 **AMENDED INFORMATION**

17 AARON D. FORD, Attorney General for the State of Nevada, complains and charges that:

18 The above-named defendant, ANTONIO LEE MIXON, has committed the crime of one (1) count
19 of ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN
20 INCARCERATED PERSON, a category "C" felony in violation of NRS 212.185(c), NRS 193.330.

21 All of the acts alleged herein have been committed or completed on or about December 4, 2015, by
22 the above-named defendant, within the County of Clark, State of Nevada, in the following manner:

23 **COUNT I**
24 **ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN**
25 **INCARCERATED PERSON**
Category "C" Felony - NRS 212.185(c), NRS 193.330

26 That the Defendant, ANTONIO LEE MIXON, on or about December 4, 2015, while incarcerated at
27 High Desert State Prison, did attempt to possess or have in his custody or control any dirk, dagger,
28 switchblade knife or sharp instrument to wit: the Defendant did attempt to possess or have in his custody or

1 control a sharp instrument commonly referred to as a "shank."

2 All of which is contrary to the form, force and effect of the statutes in such cases made and
3 provided, and against the peace and dignity of the state of Nevada.

4 DATED this 21 day of March, 2019.

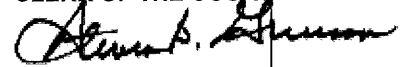
5 SUBMITTED BY

6 AARON D. FORD
7 Attorney General

8 By: Chelsea Kallas
9 CHELSEA KALLAS (Bar No. 13902)
10 Deputy Attorney General
11 *Attorneys for the State of Nevada*
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “2”

EXHIBIT “2”



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 ANTONIO LEE MIXON,

11 Defendant.

CASE: C-17-327439-1

DEPT. XVII

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 TUESDAY, MARCH 26, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATE'S MOTION TO INCREASE BAIL**

17
18
19 APPEARANCES:

20 For the State:

CHELSEA N. KALLAS, ESQ.
Deputy Attorney General

21
22 For the Defendant:

PRO SE

23
24 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
25

1 Las Vegas, Nevada, Tuesday, March 26, 2019
2 [Hearing begins at 8:56 a.m.]
3 THE MARSHAL: Page 25.
4 THE COURT: Antonio Mixon.
5 THE DEFENDANT: Good morning.
6 THE COURT: Good morning, sir.
7 MS. KALLAS: Good morning, Your Honor, Chelsea Kallas of
8 the Attorney Generals. If I may approach? I have a Guilty Plea
9 Agreement. This matter is negotiated.
10 THE COURT: All right.
11 [Colloquy]
12 THE COURT: And what are the negotiations?
13 MS. KALLAS: And, Your Honor, the Defendant will be
14 pleading guilty to one count of attempt possession or control of a
15 dangerous weapon by an incarcerated person, a category C felony. The
16 State and the Defendant would recommend a sentence of 12 to 30
17 months of incarceration and that will run consecutive to any sentence
18 he's currently serving.
19 THE COURT: Is that correct, Mr. Mixon?
20 THE DEFENDANT: Yes, Your Honor.
21 THE COURT: Okay. As you know, you went through a
22 Faretta canvass. You represent yourself. I just want to make sure that
23 you've had an opportunity to review the Guilty Plea Agreement and
24 you're in agreement with the negotiations and everything set forth in the
25 agreement; is that correct?

1 THE DEFENDANT: Correct.

2 THE COURT: All right.

3 For the record, what is your true name?

4 THE DEFENDANT: Antonio Lee Mixon, Junior.

5 THE COURT: How old are you?

6 THE DEFENDANT: 28.

7 THE COURT: How far did you go in school?

8 THE DEFENDANT: Community College of Southern Nevada

9 semester.

10 THE COURT: All right. Do you read, write, and understand

11 the English language?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And, sir, are you entering a guilty plea to the

14 charge of attempt possession or control of dangerous weapon or

15 facsimile by an incarcerated person?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Before I can accept your plea of guilty I must

18 make sure it's freely and voluntarily given. Is anyone forcing you to plead

19 guilty?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Has anyone threatened anyone closely

22 associated with you in order to get you to plead guilty?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Sir, do you understand that the potential

25 sentencing range of this charge is a maximum term of 5 years, a

1 minimum term of 1 year in the Nevada Department of Corrections and
2 you can also be fined to \$10,000.00?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that sentencing is strictly up
5 to the Court, no one can promise you probation, leniency, or any special
6 treatment?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now, you understand that there's an
9 agreement between you and the State that both of you are going to
10 recommend to me that you be sentenced to the minimums which is a
11 maximum term of 30 months, a minimum term of 12 months. Do you
12 understand that, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: However, the Court is free to sentence as it
15 sees fit. Do you understand that, sir?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Sir, is one of the reasons you're guilty –
18 pleading guilty to this charge is in truth and fact you are guilty of this
19 charge?

20 THE DEFENDANT: I'm guilty, Your Honor.

21 THE COURT: All right.

22 Sir, I have a copy of the Guilty Plea Agreement in front of me.
23 Is this your signature on page 5 of the agreement?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Did you read it and understand everything

1 contained within the agreement?

2 THE DEFENDANT: Everything.

3 THE COURT: All right. If you had any questions were they
4 answered – I know she's not your attorney, but did you ask the Deputy
5 Attorney General if you had any questions?

6 THE DEFENDANT: I don't have any questions.

7 THE COURT: All right. And, sir, are you a U.S. citizen?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Sir, did you on or about December 4th, 2015,
10 here in Clark County, Nevada, while incarcerated at High Desert State
11 Prison, did attempt to possess or have in your custody or control any
12 dirk, dagger, switchblade knife, or sharp instrument to wit: Defendant did
13 attempt to possess or have in his custody a – in your custody or control
14 a sharp instrument commonly referred to as a shank. Did you do those
15 things, sir?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Are you entering your plea freely and
18 voluntarily?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And I just want to – I'm going to ask you again,
21 sir, are you sure you want to go through with these negotiations?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right; Court finds the plea is freely and
24 voluntarily entered.

25 MS. KALLAS: And, Your Honor, I apologize, may I just note

1 one thing? On page 4 of the plea, it's kind of our standard language
2 regarding the voluntariness and I think you already kind of addressed it
3 that its says he's discussed this element – these elements with his
4 attorney, that he's waiving those because we've already had the Faretta
5 canvass and he's representing himself.

6 THE COURT: Right. Okay.

7 All right, I'm going to set the sentencing on the following day,
8 sir.

9 THE CLERK: Do you want a new PSI?

10 THE DEFENDANT: Tomorrow?

11 THE COURT: Sir, we have to have a Presentence
12 Investigation Report prepared. They will probably do this over the phone.
13 So someone –

14 THE DEFENDANT: Can I waive it?

15 THE COURT: -- from the Probation Department will interview
16 you.

17 THE DEFENDANT: Can I waive the Presentence
18 Investigation?

19 THE COURT: No. On a felony we have to have a
20 Presentence Report.

21 THE DEFENDANT: All right.

22 THE COURT: Okay?

23 THE CLERK: It's going to be May 21st, at 8:30.

24 And can we vacate the April 4th status check date?

25 THE COURT: The April 4th date is vacated. We'll see you

1 back on that day, sir.

2 THE DEFENDANT: Thank you, Your Honor.

3 MS. KALLAS: Thank you, Your Honor.

4 THE COURT: Thank you.

5 [Hearing concludes at 9:00 a.m.]

6 * * * * *

7

8

9

10

11

12

13

14

15

16

17

18

19

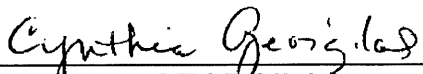
20

21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

23

24

25


CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII

ROPP

Antonio Nixon ID NO. 1019028

HIGH DESERT STATE PRISON
22010 COLD CREEK ROAD
P.O. BOX 650
INDIAN SPRINGS, NEVADA 89018

FILED

MAY 16 2019

Ann L. Sullivan
CLERK OF COURT

District Court

Clark County, Nevada.

The State of Nevada

Plaintiff

v.

Antonio Lee Nixon

Defendant

CASE NO.: 6-17-327439-1

DEPT. NO.: XVI1

DOCKET: _____

Defendant's Reply to state's Opposition to Defendant's motion
to Withdraw Guilty Plea.

COMES NOW, Defendant, Antonio Lee Nixon, herein above respectfully
moves this Honorable Court for an Order granting Defendant permission
to withdraw Defendant's guilty Plea.

This Motion is made and based upon the accompanying Memorandum of Points and
Authorities.

DATED: this 10th day of May, 2019

BY: Antonio Lee Nixon Jr.

A. L. Nixon Jr. #1019028
Defendant/In Proper Personam

CLERK OF THE COURT

RECEIVED
MAY 16 2019

MEMORANDUM OF POINTS AND AUTHORITIES

on December 4, 2015, Antonio Lee Dixon (herein Defendant) was accused of striking Senior Correctional officer D. Ontiveros in the abdomen with a rock, while Defendant was incarcerated at High Desert State Prison.

Defendant was also accused of removing a prison made weapon, commonly referred to as a "shank" from his shoe. Senior Correctional officer later exclaimed Defendant blurt "You're lucky my friends were here" see Exhibit "Y" page 22 lines 6-8 of Exhibit "Y", and Lines 19-25 of Ex. "Y".

On September 19, 2018, Defendant Filed a Motion For Expert Witness, requesting a Fingerprint expert, the court granted Defendant's motion on October 11, 2018. On March 5, 2019 The court instructed the state to prepare a stipulation between Defendant and the state to prepare the chain of custody for the weapon. The court advised Defendant that if he didn't sign and file with the court the stipulation the court wouldn't allow the introduction of evidence. The state never prepared the stipulation instead Filed a Motion to increase bail.

Defendant Forced out of trial and into an unknowingly, involuntarily, and unintelligently entered Guilty Plea agreement on March 26, 2019. Calendar call set For April 4, 2019. Court one dismissed.

On April 5, 2019, Defendant Filed a Motion to Withdraw Plea, The state responded, this brief follows.

Argument

A guilty plea is presumptively valid but court's give deference to the courts factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts see *Lader v. warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). On de novo the state has the burden of proving Defendant's entered their Plea

1 knowingly, Voluntarily, and intelligently see *Whitney v. State*, 122
2 Nev. 499, 502, 915 P.2d 881, 883 (1996). *Whitney v. State*, 122 Nev. 499, 502,
3 915 P.2d 881, 883 (1996). Because the state has the burden of proving
4 a defendant's guilt beyond a reasonable doubt / preponderance of evidence
5 see *Barron v. State*, 105 Nev. 767, 778, 783 P.2d 444, 451 (1989). It is
6 impermissible for the state to suggest to the Judge that it is the defendant's
7 burden see *Barron v. State*, 105 Nev. 767, 778, 783 P.2d 444, 451 (1989). In
8 determining whether a guilty plea was knowingly, voluntarily, and
9 intelligently entered, The court reviews the mental state of Defendant
10 in regards to the knowingly prong see *Morris Leland vs State of Oregon*,
11 343 US 790, 96 LEd 1302, 72 S Ct 1002 (1952); *TOT v. United States*,
12 319 US 463, 87 LEd 1519, 63 S Ct. 1241 (1943) Did the Defendant
13 have a guilty mind that coexisted with the doing of the prescribed act
14 which constitutes a criminal offense? (see *Morris Leland vs State of Oregon*,
15 343 US 790, 96 LEd 1302, 72 S Ct 1002 (1952); *TOT v. United*
16 *States*, 319 US 463, 87 LEd 1519, 63 S Ct. 1241 (1943)) at the time
17 Defendant pled guilty? In this instant case Defendant Mr. Milton had
18 Not Guilty Knowledge (innocence is established until sufficient evidence
19 is introduced to overcome the proof which law has created) at the time
20 Defendant pled guilty which the state hindered from being presented
21 to the court see *Roberts vs The Peoples*, 103 Colo. 250, 259; 87 P.2d
22 251, 256; 1938 Colo. Lexis 204 (1938) (quoting *Loffin v. United States*,
23 156 U.S. 432, 459 [39 Sup. Ct. 981, 493]. Nevada Supreme Court have
24 "consistently* held that the defense has the right to have the judge
25 instructed on what actually occurred as disclosed by the evidence
26 no matter how weak or incredible that evidence may be see *Crawford*
27 *v. State*, 121 Nev. 746, 751, 121 P. 3d 582, 586 (2005). In this instant case

1 Defendant was apprehended in the proximity of an abandoned weapon
2 that doesn't belong to him and that he didn't possess. The state's theory
3 of the case was along the lines of involuntary renunciation see *Rosky*
4 *V. State*, 121 Nev. 184, 199, 111 P.3d 690, 699-700 (2005). The second
5 prong the court reviews is the suggest advisability to enter a guilty
6 plea satisfy Both prongs of *Strickland V. Washington*, 466 U.S. 668
7 and *Id* at 688, in regards to whether plea was entered in to intelligent-
8 ly. Once the knowingly and intelligently entering of a guilty plea
9 are satisfied then the court can say the plea was entered into know-
10 ingly, voluntarily, and intelligently, in the instant case state can't prove
11 that. ~~However~~ In the Brady rule, the Nevada Supreme Court has reversed
12 a conviction where the prosecutor intentionally failed to disclose
13 [*17] a psychiatrist's report see *Wallace V. State*, 88 Nev. 549, 501 P.2d
14 1036 (1972). Moreover Nev. Rev. Stat. §175.291(2) provides in part that if,
15 subsequent to compliance with a discovery order and prior to or during trial,
16 a party discloses additional material previously requested or ordered that is
17 subject to discovery or instruction, she shall promptly notify the other parties
18 or attorneys of the existence of additional material. A true violation
19 occurs only when a court determines that the suppressed evidence
20 amounted to a violation of a right an accused shall enjoy in criminal
21 prosecutions see *Thomas V. Eighth Judicial Dist. Court*, 133 Nev., adv.
22 Op. 63, 402 P.3d 619, 628 N. 12 (2017). A reviewing court must look
23 beyond the plea canvass to the entire record to correct a manifest
24 injustice see *Rubio*, 124 at 1038-1039, 194 P.3d at 1228 (2008). Exhibit
25 "K" is the Exhibit that shows Counsel was to prepare stipulation and
26 change of custody of evidence. Counsel never prepared the stipulation
27 Defendant never received stipulation from Prosecutor.

1 Conclusion

2 The Defendant's Motion to Withdraw Guilty Plea be granted
3 and expedited in that Double jeopardy is not only a post-
4 verdict Constitutional finally but also a post verdict remedy upon
5 granting an appeal and/or reversal see U.S.C.A. V. Double
6 jeopardy clause.

7
8 I declare under penalty of perjury that the foregoing
9 facts and circumstances in this motion are true and correct
10 to the best of my belief and knowledge pursuant to NRS. 53.045.

11 EXECUTED on 05/10/2019 A. Z. Miron, Jr.
12 (Signature)

13
14 Furthermore, I certify that the Certificate of Service by mailing
15 is true and correct to the best of my belief and knowledge and
16 I certify this Under penalty of perjury pursuant to NRS. 53.045.

17 EXECUTED on 05/10/2019 A. Z. Miron Jr.
18 (Signature)

19 ***
20 Defense wants to note here we asked the state about any testing of
21 this weapon by them and Mr. Burrell stated there were no reports
22 of such in the state's possession. Defendant knows his DNA is not
23 on the weapon and coupled with what the state told Defense is the
24 reason why Defense ever moved for the said evidence to begin with.

CERTIFICATE OF SERVICE BY MAILING

I, Antonio L. Mixon, hereby certify, pursuant to NRCP 5(b), that on this 13th
day of May, 20 19, I mailed a true and correct copy of the foregoing, "Defendant's
Reply to State's Opposition to Defendant's Motion to Withdraw Guilty Plea"
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

Chelsea Kellars Bar No. 13702
Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101

STEVEN D. BRIDSON,
Clerk of the Court
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155-1160

CC:FILE

DATED: this 13th day of May, 20 19.

Antonio L. Mixon
A. L. Mixon, Jr. # 1019020
/In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Defendant's Reply

to state's opposition to Defendant's Motion to Withdraw Guilty Pkg
(Title of Document)

filed in District Court Case number 17-327439-1

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

-OR-

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

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

(State specific law)

-or-

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

G. G. Munn Jr.
Signature

05/13/2019
Date

Amiron, Antonio
Print Name

Defendant/pro-se
Title

8 of 15

EXHIBIT "Y"

EXHIBIT "Y"

4 of 15



1 RTRAN

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6
7 THE STATE OF NEVADA,
8 Plaintiff,

CASE NO.: C-17-327439-1

DEPT. XVII

9 vs.

10 ANTONIO LEE MIXON,
11 Defendant.
12

13 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT
14 JUDGE

TUESDAY, JANUARY 2, 2018

15 **RECORDER'S PARTIAL TRANSCRIPT OF HEARING**
16 **JURY TRIAL - DAY 1**

17 **[STATE'S OPENING; DIRECT AND CROSS-EXAMINATION OF DEAN**
18 **ONTIVEROS]**

19 **APPEARANCES:**

20 For the State:

JASON GUNNELL, ESQ.
Senior Deputy Attorney General
CHELSEA KALLAS, ESQ.
Deputy Attorney General

22 For the Defendant:

23 ASHLEY SISOLAK, ESQ.
24 TEGAN MACHNICH, ESQ.
Deputy Public Defenders

25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 A I couldn't even tell you.

2 UNKNOWN SPEAKER: 30?

3 BY MS. KALLAS:

4 Q About 30 feet?

5 A Maybe 25 yards.

6 Q And that -- and so as this was going on was the Defendant
7 saying anything to you?

8 A Once we put restraints on him and I stood up and the other
9 officers were holding him down, he said something to the point that
10 you're lucky my friends were here.

11 MS. SISOLAK: Objection, Your Honor.

12 THE COURT: He said what?

13 MS. SISOLAK: May we approach?

14 THE WITNESS: You're lucky my friends are here.

15 THE COURT: Approach.

16 [Bench conference begins]

17 MR. GUNNELL: [Indiscernible].

18 THE COURT: Who's going to argue? Come closer to the mic.

19 MS. MACHNICH: Okay, um, Your Honor, we're going to object as to
20 one discovery violation. This was not provided us. Something like this
21 was mentioned this morning in passing by the AG and actually a different
22 version of the statement was told to us right before they started their case
23 so we didn't know that this happened. All this threat-ish statement was
24 not in the officer's report and it was not provided to us as a statement of
25 the Defendant at any point and an incorrect version of it was provided to

EXHIBIT "Z"

EXHIBIT "Z"

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 05, 2019**

C-17-327439-1

State of Nevada

vs

Antonio Mixon

March 05, 2019**8:30 AM****All Pending Motions****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Olivia Black**RECORDER:** Cynthia Georgilas**REPORTER:****PARTIES****PRESENT:**

Kallas, Chelsea

Mixon, Antonio Lee

State of Nevada

Attorney

Defendant

Plaintiff

JOURNAL ENTRIES

- Mark Perch, Investigator also present on behalf of Defendant.

**MOTION TO DISMISS...STATE'S NOTICE OF MOTION AND MOTION TO PLACE ON
CALENDAR...CALENDAR CALL**

CONFERENCE AT BENCH. Upon Court's inquiry, Defendant stated he had nothing to add to his motion. Ms. Kallas submitted. COURT ORDERED, Motion DENIED as there was no legal bases set forth to dismiss the case. Court stated it had been advised Defendant had been sending the prosecutor love letters. Court ADMONISHED Defendant regarding sending inappropriate letters to counsel. Upon Ms. Kallas inquiry, Court stated it had not reviewed the State's motion but would review it before trial. Court noted there was a private investigator recently retained. Upon Court's inquiry, Defendant stated he just talked to him and requested a trial continuance to finger print the knife. Defendant requested a Court Order to allow the Nevada Department of Corrections to send

PRINT DATE: 05/06/2019

Page 48 of 53

Minutes Date: November 01, 2017

the investigator the knife to be tested. State had no objection to the continuance; however, Ms. Kallas requested a status check set. Upon Court's inquiry, Mr. Perch advised the lab was located out of state, Ron Smith and Associates. Mr. Perch further stated the cost was \$1600.00 and it would take eight hours to perform the test and two weeks to return. COURT FURTHER ORDERED, Oral Witness Motion GRANTED to pay for expert fees of \$1600.00. Court stated it would advised Drew Christensen's office and instructed Mr. Perch to contact his office to obtain the check. Court instructed counsel to prepare a stipulation that the knife would be retested and chain of custody. Court further instructed Defendant to sign the stipulation once received and send it back to counsel. COURT ORDERED, Trial date VACATED; Status Check SET to reset trial.

CUSTODY (COC-NDC)

04/04/19 8:30 AM STATUS CHECK: TRIAL SETTING

CLERK'S NOTE: The above minute order has been distributed to:

ANTONIO MIXON #1019828

HDSP

P O BOX 650

INDIAN SPRINGS, NV 89070//ob/03/06/19



Stratford Career Institute

Mailing/Shipping Address:
1 Champlain Commons, Unit 3, PO Box 1560
St. Albans, VT 05478-5560

Main Office:
8675 Darnley Road, Mount-Royal, QC H4T 1X2
1-800-435-5338

*****AUTO**MIXED AADC 054

Antonio Lee Mixon 9768 T3 935
1019828
High Desert State Prison
PO Box 650
Indian Springs NV 89070-0650

Student No.: **G225409**

Assignment No.: **BWC1A3**

Date Graded: May 2, 2019

Reference No.: LAC201905029

Overall Grade: 95%

Dear Antonio Lee Mixon,

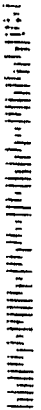
I have reviewed your work for: **Psychology/Social Work Exam 1 Module 1**

The following results outline your answers for each question.

<u>Question Number</u>	<u>Your Answer</u>	<u>Correct Answer</u>	<u>Reference</u>
1	B	B	Correct
2	C	C	Correct
3	A	A	Correct
4	D	D	Correct
5	D	D	Correct
6	A	A	Correct
7	B	B	Correct
8	C	C	Correct
9	A	A	Correct
10	C	(A)	See P. 4
11	B	B	Correct
12	D	D	Correct
13	B	B	Correct
14	C	C	Correct
15	A	A	Correct
16	A	A	Correct
17	C	C	Correct
18	B	B	Correct
19	D	D	Correct
20	B	B	Correct

Your superlative performance here indicates your dedication to your studies and your aptitude for them.

Your answers will be on file for 30 days. Notify us within 30 days if you have any question about your test score.



From: Antonio Nixon, Inmate # 1019820

High Desert State Prison

P.O. Box 650

Indian Springs, Nevada 89070

TO: STEVEN D. GRIFFIN, Clerk of the Court
800 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155-1160



ORIGINAL

Steven D. Grierson

1 **ORDR**

2 AARON D. FORD

3 Attorney General

4 CHELSEA KALLAS (Bar No. 13902)

5 Deputy Attorney General

6 Office of the Attorney General

7 555 E. Washington Ave., Ste. 3900

8 Las Vegas, Nevada 89101-1068

9 P: (702) 486-5707

10 F: (702) 486-0660

11 Ckallas@ag.nv.gov

12 Attorneys for the State of Nevada

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 STATE OF NEVADA,

16 Plaintiff,

17 v.

18 ANTONIO LEE MIXON, ID #1968172

19 Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

20 **ORDER AND DECISION ON DEFENDANT'S MOTION TO WITHDRAW PLEA**

21 The above-entitled matter having come on for hearing on the original Motion to Withdraw Plea filed,
22 by Defendant ANTONIO MIXON; and the Court having considered the responsive points and authorities
23 filed by the Office of the Attorney General represented by Deputy Attorney General, CHELSEA KALLAS;
24 the Court makes the following order:

25 Defendant's Motion to Withdraw Plea is DENIED.

26 IT IS SO ORDERED.

27 DATED this 6 day of June, 2019.

MICHAEL P. VILLANI

Michael P. Villani

DISTRICT COURT JUDGE *for Linda Bell*

28 Respectfully Submitted By:

AARON D. FORD

Attorney General

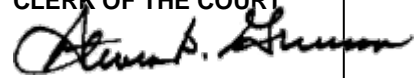
By: *Chelsea Kallas*

CHELSEA KALLAS

Deputy Attorney General

RECEIVED BY
DEPT 17 ON

JUN 04 2019



MOT

AARON D. FORD

Attorney General

CHELSEA KALLAS (Bar No. 13902)

Deputy Attorney General

Office of the Attorney General

555 E. Washington Ave., Ste. 3900

Las Vegas, Nevada 89101-1068

P: (702) 486-5707

F: (702) 486-2377

Ckallas@ag.nv.gov

Attorneys for the State of Nevada

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff,

v.

ANTONIO LEE MIXON, ID #1968172

Defendant.

Case No.: C-17-327439-1

Dept. No.: 17

HEARING REQUESTED

MOTION FOR AN EXTENSION OF TIME

Comes now the STATE OF NEVADA by and through AARON D. FORD, Attorney General and his Deputy Attorney General, CHELSEA KALLAS, hereby moves this Court for an extension of time in this matter.

This motion is made and based upon the pleadings and papers on file, the following memorandum of points and authorities, and any oral argument the Court may allow.

DATED this 16th day of April, 2019.

SUBMITTED BY:

AARON D. FORD

Attorney General

By: /s/ Chelsea Kallas

CHELSEA KALLAS (Bar No. 13902)

Deputy Attorney General

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the forgoing MOTION FOR EXTENSION OF TIME on for a hearing in Department 17 of the 8th Judicial District Court (RJC), State of Nevada, on the 23rd day of April, 2019, at 8:30 am or as soon thereafter as counsel may be heard.

SUBMITTED BY:

By: /s/ Chelsea Kallas
CHELSEA KALLAS (Bar No. 13902)
Deputy Attorney General

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **FACTS AND RELEVANT PROCEDURAL HISTORY**

3 On October 25, 2017, Antonio Lee Mixon (hereinafter “Defendant”) was charged by way of
4 Information with the following: Count 1 – Battery By A Prisoner (Category B Felony – NRS
5 200.482(2)(f)); and Count 2 – Possession or Control of Dangerous Weapon or Facsimile By An
6 Incarcerated Person (Category B Felony – NRS 212.185(c)). On March 26, 2019, Defendant pled guilty
7 pursuant to a Guilty Plea Agreement. Sentencing is set for May 21, 2019.

8 On April 5, 2019, Defendant filed a Motion to Withdraw Plea (hereinafter “Motion”). Arguments
9 on this Motion are set to be heard by the Court on April 30, 2019.

10 **ARGUMENT**

11 On April 5, 2019, Defendant filed Motion to Withdraw Plea arguing that he was forced to resolve
12 the instant case without “the evidence.” Motion at 2. The State has ordered transcripts from Defendant’s
13 entry of plea in order to properly respond to Defendant’s arguments. However, as of this date, the
14 transcripts have not been filed. Thus, the State is requesting an extension of time to respond to
15 Defendant’s Motion. The State requests an extension of seven (7) days from the date the transcripts are
16 filed.

17 **CONCLUSION**

18 Based on the foregoing, the State respectfully requests that the Court grant the State an extension of
19 time to respond to Defendant’s Motion.

20 DATED this 16th day of April, 2019.

21
22 SUBMITTED BY:

23 AARON D. FORD
24 Attorney General

25 By: /s/ Chelsea Kallas
26 CHELSEA KALLAS (Bar No. 13902)
27 Deputy Attorney General
28

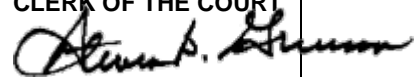
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or via facsimile transmission or e-mail; or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following unregistered participants:

/s/ A. Reber
An employee of the Office of the Attorney General

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
4/16/2019 10:07 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Antonio Mixon

Case No.: C-17-327439-1

Department 17

NOTICE OF HEARING

Please be advised that the State's Motion For An Extension of Time in the above-entitled matter is set for hearing as follows:

Date: April 30, 2019

Time: 8:30 AM

Location: RJC Courtroom 11A
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

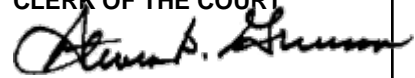
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Miriam Vazquez
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Miriam Vazquez
Deputy Clerk of the Court



NOAS

DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR No. 5674
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-17-327439-1
)	
v.)	DEPT. NO. XVII
)	
ANTONIO MIXON,)	
)	
Defendant.)	
)	<u>NOTICE OF APPEAL</u>

TO: THE STATE OF NEVADA

STEVEN WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY, NEVADA
and DEPARTMENT NO. XVII OF THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF
CLARK.

NOTICE is hereby given that Defendant, Antonio Mixon,
presently incarcerated in the Nevada State Prison, appeals to the
Supreme Court of the State of Nevada from the judgment entered
against said Defendant on the 21 day of May, 2019 whereby he was
convicted of Attempt Possession or Control of Dangerous Weapon or
Facsimile by an Incarcerated Person and sentenced to \$25 Admin.

1 Fee; \$3 DNA collection fee; 12-30 months in NDC, consecutive to
2 C277977 with 0 days CTS. DNA fee and testing waived.

3 DATED this 23 day of May, 2019.

4 DARIN F. IMLAY
5 CLARK COUNTY PUBLIC DEFENDER

6
7 By: /s/ Howard S. Brooks
8 HOWARD S. BROOKS, #3374
9 Deputy Public Defender
309 S. Third Street, Ste. 226
Las Vegas, Nevada 89155
(702) 455-4685

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF MAILING

Carrie Connolly, an employee with the Clark County Public Defender's Office, hereby declares that she is, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that on the 23 day of May, 2019, declarant deposited in the United States mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the case of the State of Nevada v. Antonio Mixon, Case No. C-17-327439-1, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to Antonio Mixon, c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. That there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 23 day of May, 2019.

/s/ Carrie M. Connolly
An employee of the Clark County
Public Defender's Office

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing
was made this 23 day of May, 2019, by Electronic Filing to:

District Attorneys Office
E-Mail Address:

PDMotions@clarkcountynyda.com

Jennifer.Garcia@clarkcountynyda.com

Eileen.Davis@clarkcountynyda.com

ckallas@ag.nv.gov

/s/ Carrie M. Connolly
Secretary for the
Public Defender's Office

Steven D. Grierson

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ANTONIO LEE MIXON
#1968172

Defendant.

CASE NO: C-17-327439-1

DEPT NO: XVII

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 ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON (Category C Felony) in violation of NRS 212.185(d), 193.330; thereafter, on the 21st day of May, 2019, the Defendant Pro Se was present in court for sentencing, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to \$25.00 Administrative Assessment Fee plus \$3.00 DNA Collection Fee, the Defendant is sentenced to a MAXIMUM of THIRTY (30) MONTHS and a MINIMUM of TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to C277977; with ZERO (0) 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 22 day of May, 2019.

Linda Bell *for*
DISTRICT COURT JUDGE *DB*

<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	

RECEIVED BY
DEPT 17 ON
MAY 23 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 01, 2017

C-17-327439-1 State of Nevada
vs
Antonio Mixon

November 01, 2017 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kimberly Estala/ke
Lauren Kidd

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Kallas, Chelsea	Attorney for State
	Mixon, Antonio Lee	Defendant
	Sisolak, Ashley L.	Attorney for Deft.
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. MIXON ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. Ms. Sisolak advised for the record there will not be any transcripts.

CUSTODY (COC-NDC)

12/12/17 8:30 AM CALENDAR CALL (DEPT 17)

01/02/18 JURY TRIAL (DEPT 17)

PRINT DATE: 11/02/2017

Page 1 of 1

Minutes Date: November 01, 2017

Felony/Gross Misdemeanor

COURT MINUTES

December 05, 2017

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

December 05, 2017 08:30 AM Defendant's Motion to Compel Production of Discovery & Brady Material

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Chelsea Kallas Attorney for Plaintiff

Ashley L. Sisolak Attorney for Defendant

Antonio Lee Mixon Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

Court noted this was Defendant's Motion for Discovery and inquired as to Ms. Sisolak request for items 43-49 regarding electronic devices. Ms. Sisolak noted that was an error. COURT ORDERED, Request 43-49 DENIED. Court stated if Ms. Sisolak learn those items existed to re-file the matter. Ms. Kallas advised it was her understanding there were none used. Ms. Sisolak noted the Attorney General turned over a disk of documents as well as her office picked up documents, this was their standard motion. Court stated it prepared a minute order entry and the Court would forward to counsel this afternoon. Ms. Sisolak was to prepare a formal Order with the Court's decision and submit to opposing counsel to sign off as to form and content.

NIC (COC-NDC)

CLERK'S NOTE: Subsequent to Court, via e-mail the Department XVII Law Clerk forwarded the minute order entry to Ms. Kallas and Ms. Sisolak.//ob/12/6/17.

Felony/Gross Misdemeanor

COURT MINUTES

December 12, 2017

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

December 12, 2017 08:30 AM Calendar Call

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon	Defendant
Ashley L. Sisolak	Attorney for Defendant
Chelsea Kallas	Attorney for Plaintiff
State of Nevada	Plaintiff

JOURNAL ENTRIES

Ms. Sisolak advised she was prepared to announce ready; however, Ms. Sisolak further advised she received a letter from Defendant requesting her to file a motion based on the denial of his ability to represent himself. Ms. Sisolak noted in Justice Court Judge Bennett conducted a Faretta Canvas and determined Defendant could not represent himself thereafter the Public Defender's Office was appointed. Ms. Sisolak advised Defendant stated he would like to represent himself. Ms. Kallas announced ready for trial. Court noted Defendant had a trial date set for January 2nd and inquired as to Defendant being ready for trial if he represented himself. Defendant stated he would not be ready for trial. Further statements by Defendant. Upon Court's inquiry, Ms. Sisolak advised Defendant had not requested to represent himself since arriving in District Court. Ms. Sisolak further advised she received a letter from Defendant yesterday stating he was entitled to represent himself based on the denial from Justice Court. Court stated based upon counsel's representation and Defendant stating he would not be ready to go forward, COURT ORDERED, Defendant's request DENIED as that would cause his trial to be continued; Trial date STANDS. Counsel estimated 2 to 3 witnesses and 1 day for trial.

NIC (COC-NDC)

Felony/Gross Misdemeanor

COURT MINUTES

January 02, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

January 02, 2018 08:30 AM Motion to Withdraw and Allow Defendant to Represent Himself
Pursuant to Faretta v. California with Exhibits

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Garcia, Louisa; Natali, Andrea

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Ashley L. Sisolak Attorney for Defendant, Plaintiff

JOURNAL ENTRIES

Deft. present in custody on other charges. Attorney General not present. Upon Court's inquiry, Deft. stated he wanted Ms. Sisolak to continue representing him on this matter. COURT SO ACKNOWLEDGE and ADVISED the Jury Trial currently set today at 10:30 AM stands.

NIC (COC-NDC)

1/2/18 - 10:30 AM - JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

January 02, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

January 02, 2018 10:30 AM Jury Trial

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Garcia, Louisa

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon	Defendant
Ashley L. Sisolak	Attorney for Defendant, Plaintiff
Chelsea Kallas	Attorney for Plaintiff
Jason Gunnell	Attorney for Plaintiff
State of Nevada	Plaintiff
Tegan Machnich	Attorney for Defendant

JOURNAL ENTRIES

PROSPECTIVE JURY PANEL PRESENT: Role Call. Voir Dire Oath administered. Introduction by the Court and counsel. CONFERENCE AT THE BENCH. General Voir Dire conducted. Jurors excused. Voir Dire Continued.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Ms. Machnich stated she made a timely objection with regards to the jury poll, and argued as to the systematic exclusion of African Americans and requested an evidentiary hearing with the Jury Commissioner regarding the process. If not, they would make an offer. Upon Court's inquiry, counsel stated her information was based upon prior trials and testimony. Ms. Kallis objected as they have already heard from the Commissioner and the answer is going to be same. Counsel requested the Court take judicial notice of her testimony from within that transcript to show there is no systematic exclusion with the jury. Court stated its findings and ORDERED, Motion for Evidentiary Hearing DENIED.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire Continued. CONFERENCE AT THE BENCH. Additional Panel Members excused for cause and for Peremptory Challenges during discussions at the Bench. Twelve jurors and one alternate selected and sworn. Jury list FILED IN OPEN COURT. Clerk read the Information to the jury and stated the defendant's plea thereto. Court instructed the jury.

OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Ms. Machnich stated depending on what comes out on State's opening, they may reserve. State objected to Defense providing a proffer, in camera. Statement by the Court. Exclusionary Rule INVOKED. COURT ORDERED, hearing sealed. Hearing conducted and outside the presence of the Attorney General. JAVS FILE SEALED from 3:40:11 to 3:53:14. Following closed hearing, Court advised State he met with defense in a closed hearing, and the transcript of the hearing was going to be sealed. At this time, Defense reserved their opening. Colloquy regarding jury instructions. Based upon stipulation Defense had no objection to reading the instruction to the jury relating to Defendant's custody status.

INSIDE THE PRESENCE OF THE JURY: Opening Statement by Mr. Gunnell. Testimony and Exhibits.

CONFERENCES AT THE BENCH. Court advised the jury a legal issue has arisen in this case which is requiring the Court to declare a Mistrial. Court thanked and EXCUSED the Jury.

Ms. Sisolak requested the Court issue a mistrial with prejudice based on the fact there was a statement on a C-1 form, that was filled out by Officer Ontiveros, that should have been turned over in discovery. Ms. Kallis objected as the first time they heard about a worker's comp claim was when Officer Ontiveros testified on the stand today. They reached out to the Inspector General's office and were informed they had everything. Officer Ontiveros never discussed injuries; therefore, they did not have any reason to believe he would have to make worker's comp claim. Ms. Kallis stated it was not exculpatory, nor a Brady violation, and thinks a curative instructive could cure any type of prejudice. COURT ADVISED it does not find any egregious conduct or recklessness on behalf of the State. Court stated the C-I form was strictly a worker's comp form and has to be filed anytime someone is injured. It was not part of the investigation file, more administrative. However, the Court did order that all statements by the witnesses be turned over. Court does not believe the State was aware that there was C-I form; therefore, Court is not dismissing the case with prejudice. Court advised if counsel has any evidence this was intentional or a gross negligence act they can file the appropriate motion. COURT ORDERED, matter SET for status check.

CUSTODY

1/4/18 8:30 AM STATUS CHECK: RESET TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

January 04, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

January 04, 2018 08:30 AM STATUS CHECK: RESET TRIAL

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Ashley L. Sisolak Attorney for Defendant, Plaintiff

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Ms. Sisolak noted she did received the C1 form on a disk. Ms. Sisolak further noted the State had offered Defendant negotiations; however, Defendant was not inclined to accept the negotiations. Ms. Sisolak placed the offer on the record. Defendant concurred. Following representations by Ms. Sisolak, COURT ORDERED, matter SET for trial.

CUSTODY (COC-NDC)

03/20/18 8:30 AM CALENDAR CALL

03/26/18 9:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

February 08, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

February 08, 2018 08:30 AM Status Check: Pre-Trial Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Alissa Engler Attorney for Plaintiff

Antonio Lee Mixon Defendant

Ashley L. Sisolak Attorney for Defendant, Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

CONFERENCE AT BENCH. Court noted the Defendant's upcoming trial date. Upon Court's inquiry, Ms. Sisolak confirmed she had received the C1 form and noted her upcoming motion practice. COURT SO NOTED.

NIC (COC-NDC)

Felony/Gross Misdemeanor

COURT MINUTES

March 15, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

March 15, 2018 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia; Medina, Vanessa

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Ashley L. Sisolak Attorney for Defendant, Plaintiff

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

DEFENDANT'S MOTION TO DISMISS WITH PREJUDICE

Arguments by counsel regarding the merit of the motion. COURT stated its FINDINGS and ORDERED, Motion DENIED.

DEFENDANT'S MOTION TO DISQUALIFY THE ATTORNEY GENERAL'S OFFICE

Arguments by counsel regarding the merit of the motion. COURT stated its FINDINGS and ORDERED, Motion DENIED.

DEFENDANT'S MOTION TO DISMISS BASE UPON VINDICTIVE PROSECUTION

Arguments by counsel regarding the merit of the motion. Statement by Defendant. Court instructed Defendant several times to be quiet as counsel were arguing the motions. Defendant escorted out of the courtroom. COURT ORDERED, Motion CONTINUED; Trial date VACATED and Status Check SET for resetting the trial.

NIC (COC-NDC)

03/29/18 8:30 AM - DEFENDANT'S MOTION TO DISMISS BASE UPON VINDICTIVE PROSECUTION...STATUS CHECK: RESET TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

March 29, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

March 29, 2018 08:30 AM All Pending Motions

HEARD BY: Becker, Nancy COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia; Medina, Vanessa

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon	Defendant
Ashley L. Sisolak	Attorney for Defendant, Plaintiff
Chelsea Kallas	Attorney for Plaintiff
State of Nevada	Plaintiff
Tegan Machnich	Attorney for Defendant

JOURNAL ENTRIES

STATUS CHECK: TRIAL SETTING...DEFENDANT'S MOTION TO DISMISS BASED UPON VINDICTIVE PROSECUTION

Ms. Kallas stated there was a tortured history with this case and noted during the trial the Defense gave an in-camera review where they gave a proffer of their defense and there was a mistrial for an unrelated issue. Ms. Kallas further noted after the mistrial the Court instructed the defense to file this motion and requested a continuance for the sitting Judge to hear the motion. COURT ORDERED, matters CONTINUED.

CUSTODY (COC-NDC)

CONTINUED TO: 04/05/18 8:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

April 05, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

April 05, 2018 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

STATUS CHECK: TRIAL SETTING...DEFENDANT'S MOTION TO DISMISS BASED UPON VINDICTIVE PROSECUTION...DEFENDANT'S PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD, REQUEST TO OBTAIN COPY OF DEFENDANT'S FILE, AND REQUEST FOR SELF-REPRESENTATION

Ms. Sisolak gave a background of the previous hearing and noted at the last hearing Judge Becker was not willing to make a ruling and continued the matter. Ms. Sisolak further noted since then Defendant filed a Motion to Withdraw counsel and represent himself. Ms. Kallas concurred. Upon Court's inquiry, Defendant stated he could not afford to hire his own attorney. Ms. Sisolak advised Defendant just wanted to represent himself and didn't believe he had an issue with her personally. COURT ORDERED, matters CONTINUED; Faretta Canvass SET. COURT FURTHER ORDERED, Defendant's Pro Per Motion for Withdrawal of Attorney of Record ADVANCED and CONTINUED.

04/06/18 9:00 AM FARETTA CANVASS...DEFENDANT'S MOTION TO DISMISS BASED UPON VINDICTIVE PROSECUTION...DEFENDANT'S PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD, REQUEST TO OBTAIN COPY OF DEFENDANT'S FILE, AND REQUEST FOR SELF-REPRESENTATION...STATUS CHECK: TRIAL SETTING

Felony/Gross Misdemeanor

COURT MINUTES

April 06, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

April 06, 2018 09:00 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Kidd, Lauren

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Ashley L. Sisolak Attorney for Defendant, Plaintiff

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Upon Court's inquiry, Defendant advised he wanted to withdraw his attorney from representation and proceed pro se. Court provided notice to the Defendant of constitutional right of self-representation and advised of the risks involved in self-representation. Court inquired as to the reason Defendant did not want Ms. Sisolak to remain as his counsel. Defendant stated Ms. Sisolak did not file his motion to dispute the Court's jurisdiction in this matter. Ms. Sisolak stated she reviewed Defendant's motion, saw no basis for Defendant's argument and decided not to file the frivolous motion. Court advised Defendant that in the past, similar motions had been filed and the Court had denied those motions. FARETTA CANVAS was Administered by the Court. CONFERENCE AT BENCH. Colloquy regarding trial dates. COURT FURTHER ORDERED, matter SET for JURY TRIAL.

AS TO DEFENDANT'S PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD, REQUEST TO OBTAIN COPY OF DEFENDANT'S FILE, AND REQUEST FOR SELF-REPRESENTATION, COURT ORDERED, Motion GRANTED; Ms. Sisolak to forward a copy of discovery to Defendant.

AS TO DEFENDANT'S MOTION TO DISMISS BASED UPON VINDICTIVE PROSECUTION, COURT ORDERED, motion CONTINUED.

CUSTODY (COC-NDC)

8/21/18 8:30 AM CALENDAR CALL...DEFENDANT'S MOTION TO DISMISS BASED UPON VINDICTIVE PROSECUTION

8/27/18 9:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

June 05, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

June 05, 2018 08:30 AM Defendant's Motion for Expert Witnesses/Transport Order

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon

Defendant

Jason Gunnell

Attorney for Plaintiff

State of Nevada

Plaintiff

JOURNAL ENTRIES

Martin Hart, Esq. also present.

Upon Court's inquiry, Defendant requested a private investigator and paralegal. Defendant stated he did not have an investigator in mind. Court noted it could not pick an investigator for Defendant. Mr. Hart noted Mark Prusch from Global Reliance for a private investigator was who Drew Christensen used for Pro Se Defendants. COURT ORDERED, Motion for Private Investigator GRANTED. Defendant inquired as to a paralegal. Court noted Defendant was representing himself. Defendant stated he has been denied access to the law library. Court instructed the State to follow up with the prison system and inquiry why Defendant has been denied. COURT FURTHER ORDERED, Status Check SET as to Defendant's library privilege.

CUSTODY (COC-NDC)

06/19/18 8:30 AM STATUS CHECK: DEFENDANT'S LIBRARY PRIVILEGE

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

June 19, 2018 08:30 AM Status Check: Library Privilege

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Jason Gunnell Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Court noted at the previous hearing there was an issue with Defendant's library privilege as well as an investigator. Mr. Gunell advised he contacted the High Desert Prison law library supervisor and they stated Defendant was in housing where he couldn't go to the library they brought the documents to Defendant. Mr. Gunell further advised the law library gave Defendant a number of documents but the Defendant refused the documents. Defendant stated he received the documents but it wasn't complete so he refused to sign it and there was no where to note that on the documents. Court suggested putting in a requesting advising the law library it was incomplete. Court stated it was not going to order special transport and the issue was resolved. As to the investigator, Court stated it would resend the minutes from the previous hearing with the investigator name. Defendant requested an Order to allow the investigator to visit. Mr. Gunnell noted the investigator was allowed to visit. At the request of Defendant COURT ORDERED, Trial dates VACATED and RESET.

CUSTODY (COC-NDC)

10/23/18 8:30 AM CALENDAR CALL

10/29/18 9:00 AM JURY TRIAL

CLERK'S NOTE: The above minute order has been distributed to:

ANTONIO MIXON #1019828
PO Box 650
Indian Springs, NV 89070 //ob/06/20/18

Felony/Gross Misdemeanor

COURT MINUTES

August 30, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

August 30, 2018 08:30 AM Defendant's Pro Per Motion for Status Check; Trial Readiness;
Discovery Issue; Transportation Order; Oral Agreement
Requested

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Pannullo, Haly

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon

Defendant

Jason Gunnell

Attorney for Plaintiff

State of Nevada

Plaintiff

JOURNAL ENTRIES

Colloquy regarding Motions. At request for Defendant, COURT ORDERED, Motion GRANTED; 09/18/18 Motion VACATED; trial dates VACATED and RESET. State noted a Transport Order will be prepared.

CUSTODY (NDC)

01/03/19 8:30 CALENDAR CALL

01/07/19 9:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

October 11, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

October 11, 2018 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Pannullo, Haly

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Jason Gunnell Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIESDEFENDANT'S PRO PER MOTION TO SUPPRESS AND OR PURSUANT TO NRS 47.090 ...
DEFENDANT'S PRO PER MOTION FOR EXPERT WITNESS

At request of the Defendant, COURT ORDERED, Motion for Expert Witness GRANTED. Court inquired as to what expert witness the Defendant is wanting to retain. Defendant advised he is in communication with his private investigator with regards to who to retain. Court directed the Defendant to submit the appropriate Order. As to the Motion to Suppress, Defendant submitted. Mr. Gunnell argued in regards to the Motion to Suppress. COURT ORDERED, Motion to Suppress DENIED; State to prepare Order. Upon Court's inquiry, Defendant announced not ready and will file a Motion for an Extension of Time. Court stated that Motion will be dealt with in due course.

CUSTODY (COC-NDC)

Felony/Gross Misdemeanor

COURT MINUTES

October 25, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

October 25, 2018 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Pannullo, Haly

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

DEFENDANT'S PRO PER MOTION FOR LEAVE TO FILE AN AMENDED MOTION TO SUPPORT AND
MOTION FOR EXPERT WITNESSES ... DEFENDANT'S MOTION FOR EXTENSION OF TIME ...
MOTION FOR EXTENSION OF TIME

COURT ORDERED, Motion for Expert Witness MOOT as it was previously granted; Motion to File an
Amended Motion to Suppress DENIED; Motion for Extension of Time DENIED. Court directed the
Defendant to be prepared for trial as trial is not going to be continued; trial is going forward.

CUSTODY (COC)

Felony/Gross Misdemeanor

COURT MINUTES

November 20, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

November 20, 2018 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Jacobson, Alice

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

DEFT'S MOTION FOR EXTENSION OF TIME

DEFT'S NOTICE OF MOTION

Defendant argued to continue the trial for a private investigator and forensic expert to testify that his prints were not on the shank. State advised it was not going to bring in the finger prints as there was a witness to the incident. Defendant disputed that he ever had the shank. Colloquy regarding trial. Court advised the Defendant that the Jury Instructions and Voir Dire will be dealt with at the start of trial. Trial date RESET.

CUSTODY (NDC)

3/5/19 8:30AM CALENDAR CALL

3/11/19 9:00AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 11, 2018

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

**December 11, 2018 8:30 AM Motion for Stay of Trial Setting and or Motion for
Time Extension**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Haly Pannullo
April Watkins / aw

RECORDER: Cynthia Georgilas

PARTIES

PRESENT:	Kallas, Chelsea	Attorney General for Pltf.
	Mixon, Antonio Lee	Defendant – Pro Se
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Kallas advised extended to March and believes issue is with handwriting expert. Deft. stated he has had no success with investigator. Colloquy. Ms. Kallas further stated she believes Deft. is requesting to take classes to become educated in finger prints. COURT ORDERED, request DENIED as to taking classes and motion DENIED. Trial date STANDS.

CUSTODY (COC-NDC)

Felony/Gross Misdemeanor

COURT MINUTES

January 08, 2019

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

January 08, 2019 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia; Pannullo, Haly

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Jason Gunnell Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

MOTION FOR LEAVE TO AMEND ... MOTION TO CONTINUE TRIAL

Upon Court's inquiry, Defendant noted he is missing 37 articles and/or documents. Colloquy regarding discovery. Mr. Gunnell advised a complete copy of what the State has can be provided to the Defendant's investigator. COURT SO NOTED. Court suggested the State complete an index of everything that is being provided to the Defendant. Colloquy regarding the Defendant serving subpoenas. Court directed the Defendant to utilize the court appointed investigator to serve subpoenas. COURT FURTHER ORDERED, Motion to Continue Trial DENIED; Motion for Leave to Amend DENIED; Motion to Place on Calendar set for 01/10/19 VACATED. Colloquy regarding Motion to Dismiss that is being heard on 03/05/19. COURT ORDERED, Hearing for Motion to Dismiss STANDS; Defendant is to file supplemental briefs he believes it to be appropriate and the State is to respond.

CUSTODY (COC)

Felony/Gross Misdemeanor

COURT MINUTES

March 05, 2019

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

March 05, 2019 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Georgilas, Cynthia

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Mark Perch, Investigator also present on behalf of Defendant.

MOTION TO DISMISS...STATE'S NOTICE OF MOTION AND MOTION TO PLACE ON
CALENDAR...CALENDAR CALL

CONFERENCE AT BENCH. Upon Court's inquiry, Defendant stated he had nothing to add to his motion. Ms. Kallas submitted. COURT ORDERED, Motion DENIED as there was no legal bases set forth to dismiss the case. Court stated it had been advised Defendant had been sending the prosecutor love letters. Court ADMONISHED Defendant regarding sending inappropriate letters to counsel. Upon Ms. Kallas inquiry, Court stated it had not reviewed the State's motion but would review it before trial. Court noted there was a private investigator recently retained. Upon Court's inquiry, Defendant stated he just talked to him and requested a trial continuance to finger print the knife. Defendant requested a Court Order to allow the Nevada Department of Corrections to send the investigator the knife to be tested. State had no objection to the continuance; however, Ms. Kallas requested a status check set. Upon Court's inquiry, Mr. Perch advised the lab was located out of state, Ron Smith and Associates. Mr. Perch further stated the cost was \$1600.00 and it would take eight hours to perform the test and two weeks to return. COURT FURTHER ORDERED, Oral Witness Motion GRANTED to pay for expert fees of \$1600.00. Court stated it would advised Drew Christensen's office and instructed Mr. Perch to contact his office to obtain the check. Court instructed counsel to prepare a stipulation that the knife would be retested and chain of custody. Court further instructed Defendant to sign the stipulation once received and send it back to counsel. COURT ORDERED, Trial date VACATED; Status Check SET to reset trial.

CUSTODY (COC-NDC)

04/04/19 8:30 AM STATUS CHECK: TRIAL SETTING

CLERK'S NOTE: The above minute order has been distributed to:

ANTONIO MIXON #1019828
HDSP
P O BOX 650

INDIAN SPRINGS, NV 89070//ob/03/06/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 26, 2019

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

March 26, 2019 8:30 AM State's Motion to Increase Bail

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: April Watkins

RECORDER: Cynthia Georgilas

PARTIES

PRESENT:	Kallas, Chelsea	Attorney General for Pltf.
	Mixon, Antonio Lee	Defendant – Pro Per
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Amended Information FILED IN OPEN COURT...NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT

DEFT. MIXON ARRAIGNED AND PLED GUILTY to ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing. FURTHER ORDERED, State's Motion OFF CALENDAR and status check set for April 4, 2019, VACATED.

CUSTODY (COC-NDC)

5/21/19 8:30 AM SENTENCING

Felony/Gross Misdemeanor

COURT MINUTES

April 30, 2019

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

April 30, 2019 08:30 AM All Pending Motions

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Pruchnic, Sandra

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

STATE'S MOTION FOR AN EXTENSION OF TIME...MOTION TO WITHDRAW GUILTY PLEA

Ms. Kallas advised Defendant didn't received the opposition which was filed on Thursday. Upon Court's inquiry, Defendant confirmed he wanted an opportunity to reply. COURT ORDERED, matter CONTINUED.

CUSTODY (COC-NDC)

CONTINUED TO: 05/21/19 8:30 AM

CLERK'S NOTE: The above minute order has been distributed to:

ANTONIO MIXON #1968172
330 S. CASINO CENTER BLVD
LAS VEGAS, NV 89101//ob/05/01/19

Felony/Gross Misdemeanor

COURT MINUTES

May 21, 2019

C-17-327439-1 State of Nevada
 vs
 Antonio Mixon

May 21, 2019 08:30 AM All Pending Motions

HEARD BY: Bell, Linda Marie COURTROOM: RJC Courtroom 11A

COURT CLERK: Black, Olivia

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Antonio Lee Mixon Defendant

Chelsea Kallas Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

MOTION TO WITHDRAW GUILTY PLEA...SENTENCING

Arguments by parties regarding the merit of the motion. Court stated it appeared the plea was knowingly and voluntarily entered. Court further stated Defendant was aware of the evidence prior to entering the plea. COURT ORDERED, Motion DENIED; State to prepare the Order.

Upon Court's inquiry, Defendant confirmed he was ready to be sentenced today. Ms. Kallas advised Defendant never received the Pre- Sentence Investigation (PSI) report. Upon Court's further inquiry, Defendant confirmed he went over the PSI today and wished to go forward today. Defendant requested appellate counsel regarding the matter. DEFT MIXON ADJUDGED GUILTY of ATTEMPT POSSESSION OR CONTROL OF DANGEROUS WEAPON OR FACSIMILE BY AN INCARCERATED PERSON (F). State submitted. Statement by Defendant. Pursuant to NRS 176.063, COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and \$3.00 DNA Collection fee, Deft. SENTENCED to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY (30) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE TO C277977 with ZERO (0) credit for time served. COURT FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted. COURT ORDERED, Public Defender's Office APPOINTED for Defendant's appeal.

NDC



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	CASE#: C-17-327439-1
Plaintiff,)	DEPT. XVII
vs.)	Heard In Lower
ANTONIO MIXON,)	Level Arraignment
Defendant.)	

BEFORE THE HONORABLE MELISA DE LA GARZA, DISTRICT COURT
JUDGE

WEDNESDAY, NOVEMBER 1, 2017

**RECORDER'S TRANSCRIPT OF HEARING:
INITIAL ARRAIGNMENT**

APPEARANCES:

For the State: CHELSEA KALLAS, ESQ.
Deputy Attorney General

For the Defendant: ASHLEY L. SISOLAK, ESQ.
Deputy Public Defender

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Wednesday, November 1, 2017

[Hearing began at 10:05 a.m.]

THE COURT: All right. Page 21, State of Nevada versus Antonio Mixon, C327439. He is present, in custody. Ms. Sisolak is here on his behalf. And for the State?

MS. KALLAS: Chelsea Kallas from the Attorney General's Office, Your Honor.

THE COURT: All right. Sir, did you receive a copy of the Information stating the charges against you?

THE DEFENDANT: Yes, Your Honor.

THE COURT: I'm sorry?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you understand the charges?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you want to waive a formal reading of the charges?

THE DEFENDANT: Yes, Your Honor.

THE COURT: How do you plead?

THE DEFENDANT: Not guilty.

THE COURT: You do have a right to a trial within 60 days; do you want to waive or invoke that right?

THE DEFENDANT: Invoke my right.

THE COURT: Speedy trial.

THE CLERK: Ms. A.G., can I have your bar number?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. KALLAS: 13902.

THE CLERK: Thank you. You have a calendar call date of December 12th, 8:30 a.m.; jury trial, January 2nd, 9 a.m.; Department 17.

THE COURT: Counsel, pursuant to statute, you have 21 days from today for the filing of any writs. If the transcript has not been filed as of today, you have 21 days from the filing. Thank you.

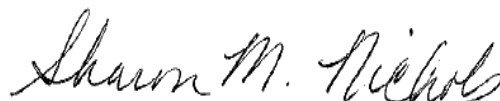
MS. SISOLAK: And, Your Honor, just for the record, there will not be a transcript. We waived [indiscernible] preliminary hearing.

THE COURT: Okay. Thank you.

[Hearing concluded at 10:06 a.m.]

* * * * *

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



Court Recorder/Transcriber



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 ANTONIO LEE MIXON,

11 Defendant.

CASE: C-17-327439-1

DEPT. XVII

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 TUESDAY, DECEMBER 5, 2017

15 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
16 **DEFENDANT'S MOTION TO COMPEL PRODUCTION OF**
17 **DISCOVERY & BRADY MATERIAL**

18
19 APPEARANCES:

20 For the State:

CHELSEA N. KALLAS, ESQ.
Deputy Attorney General

22 For the Defendant:

ASHLEY SISOLAK, ESQ.
Deputy Public Defender

24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, December 5, 2017

2 [Hearing begins at 8:41 a.m.]

3 MS. SISOLAK: Good morning, Your Honor. I am ready to go. I
4 have Mr. Mixon on page 7, bottom.

5 THE COURT: All right; this is your motion for discovery.

6 MS. KALLAS: Good morning, Your Honor, Chelsea Kallas for
7 the Attorney General's Office.

8 MS. SISOLAK: Good morning, Your Honor, Ashley Sisolak
9 present on behalf of Mr. Mixon. He is present and in custody at this time.

10 THE COURT: And, Ms. Sisolak, on your request number 43
11 through 49 talks about electronic control devices, was there any – do
12 you have any information like GPS that you're looking for?

13 MS. SISOLAK: I don't believe so, Your Honor. That may have
14 been entered in error. I apologize.

15 THE COURT: Okay. I'm going to deny requests 43 through
16 49, and if you learn, Ms. Sisolak, that those items do exist, then please
17 refile –

18 MS. KALLAS: And for the record, Your Honor, it's my
19 understanding in talking to the correctional officers that there was none
20 used.

21 THE COURT: All right.

22 MS. SISOLAK: With that being said, Your Honor, Ms. -- the
23 Attorney General did turn over to me today another disc of documents
24 as well as my office picked up stuff last week. I believe I have
25 everything. This was just our standard [indiscernible].

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Can you just – have one moment?

[Colloquy between Court and Law Clerk]

THE COURT: All right, Counsel, what I've been doing on these motions for discovery of Brady material, I have been preparing, I don't want to say it's a formal decision, but it's more of a minute entry and we will forward that on to both of you this afternoon.

And then, Ms. Sisolak, if you can just prepare a – for your protection and your client, prepare a formal order –

MS. SISOLAK: Absolutely, Your Honor.

THE COURT: -- with my decisions and have Counsel sign off approved as to form and content.

MS. KALLAS: I will, Your Honor. Thank you.

THE COURT: All right?

MS. SISOLAK: Thank you, Your Honor.


THE COURT: Thank you.

MS. KALLAS: Thank you, Your Honor.

[Hearing concludes at 8:43 a.m.]

* * * * *

ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.


CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 ANTONIO LEE MIXON,

11 Defendant.

CASE: C-17-327439-1

DEPT. XVII

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 TUESDAY, DECEMBER 12, 2017

15 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
16 **CALENDAR CALL**

17
18 APPEARANCES:

19
20 For the State:

CHELSEA N. KALLAS, ESQ.
Deputy Attorney General

21
22 For the Defendant:

ASHLEY SISOLAK, ESQ.
Deputy Public Defender

23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Tuesday, December 12, 2017

[Hearing begins at 8:43 a.m.]

MS. SISOLAK: Your Honor, the Attorney General is present
now.

THE COURT: I'm sorry, which page, which case?

MS. SISOLAK: Mr. Mixon for calendar call.

THE COURT: Is this matter resolved?

MS. SISOLAK: It is not, Your Honor. We do have a small
hiccup. I was prepared to announce ready today. I received a letter from
my client asking me to file a motion based on the denial of his ability to
represent himself. In Justice Court, Judge Bennett had told him he – did
a Faretta canvass basically and told him he could not represent himself
and appointed the Public Defender instead. We have moved forward
from there. I did provide him with a copy of Faretta today. I can't file a
motion based on a denial that never occurred, so at this time I was
prepared to announce ready but I believe Mr. Mixon would like to
represent himself on this matter.

MS. KALLAS: And good morning, Your Honor Chelsea Kallas
–

THE COURT: Answer –

MS. KALLAS: -- Chelsea Kallas for the Attorney General's
Office. We are prepared to answer ready as well.

THE COURT: Sir, we have a trial set for January 2nd. If I let
you represent yourself, will you be ready to go forward?

THE DEFENDANT: And, Your Honor, --

1 THE COURT: Listen to me. It's a very simple question.
2 THE DEFENDANT: I know but [indiscernible] --
3 THE COURT: Will you be --
4 THE DEFENDANT: -- [indiscernible] --
5 THE COURT: Will you be ready to go forward January, is it
6 2nd?
7 THE DEFENDANT: [Indiscernible].
8 THE COURT: I couldn't hear you.
9 THE DEFENDANT: [Indiscernible].
10 THE COURT: I'm sorry?
11 THE DEFENDANT: [Indiscernible] if I'll be ready or not.
12 THE COURT: Its one of the most important questions.
13 THE DEFENDANT: I know you want me to say yes or no but
14 can I speak so I can --
15 THE COURT: After you -- because, sir, if you're late request
16 is going to cause the case to be continued --
17 THE DEFENDANT: [Indiscernible] --
18 THE COURT: -- that --
19 THE DEFENDANT: -- I'm not gonna be ready.
20 THE COURT: Sir, -- okay.
21 THE DEFENDANT: I'm gonna need some time. And I'm
22 gonna need some time to prepare for your canvass also.
23 THE COURT: Marshal, we need the microphone.
24 THE RECORDER: Yeah, I can't understand --
25 THE COURT: Go ahead, sir.

1 THE DEFENDANT: Did you get – did I answer your question?

2 [Colloquy]

3 MS. SISOLAK: Is that better, Your Honor?

4 THE COURT: Yes.

5 THE DEFENDANT: Did I answer the question whether or not

6 I was gonna be ready on January 2nd for trial?

7 THE COURT: Correct, and your answer –

8 THE DEFENDANT: I answered that for you?

9 THE COURT: And your answer is what?

10 THE DEFENDANT: I'm not gonna be ready. I'm gonna need
11 some time to prepare for your canvass, for one. And I did send her a
12 letter, you know what I'm saying, in regards to putting it – not just a
13 motion for denial of self-representation, but also for a motion that my
14 Fourth Amendment right to due process was violated in that the Nevada
15 Department of Corrections let me know through a memorandum,
16 through a memo they went – go to the Attorney General Office for a
17 referral for criminal prosecution. That's what I actually put a motion in.
18 Since she don't want to put that motion in for either one of those issues I
19 feel she's not in my best interest so I want to represent myself and I'm
20 not gonna be ready January 2nd for trial.

21 MS. SISOLAK: Your Honor, if I may?

22 THE DEFENDANT: I need to prepare for your canvass also.

23 MS. SISOLAK: Your Honor, if I may? As Your Honor knows, I
24 have a duty to file motions appropriate with the Court. Unfortunately,
25 there's no legal basis for me to file a motion.

1 THE COURT: When is the first time he's asked you that he –
2 or he advised you that he wishes to represent himself?

3 MS. SISOLAK: Your Honor, he attempted a Faretta canvass in
4 Judge Bennett Haron's department at the justice court date at which
5 point she declined his request and appointed my office. I explained to
6 Mr. Mixon that we were basically stuck with each other and that, you
7 know, I was going to do my best for him and I would be up to the prison
8 to talk to him and that we would get rolling on this case. I thought we
9 were on fairly good terms. I still believe we are on fairly good terms. I
10 think Mr. Mixon doesn't like the answer that I have no legal basis to file
11 the motion he wants filed. But in addition to that, I can't file a motion
12 based on a denial of his right to represent himself if he was never
13 denied.

14 THE DEFENDANT: Not the only motion.

15 THE COURT: Sir, hang on.

16 Since arriving in district court, has he requested you to file a
17 motion to allow him to represent himself?

18 MS. SISOLAK: He has not. He requested that I file a motion
19 that he is entitled to represent himself based on the denial from justice
20 court.

21 THE COURT: When did he ask you to file that motion?

22 MS. SISOLAK: I received the letter requesting that yesterday,
23 Your Honor.

24 THE COURT: Okay. All right, based upon that
25 representation, and that the Defendant will not be ready to go forward,

1 that is, I am going to deny his request because that would cause this trial
2 to be continued. And so, we will – is this my only calendar call? We have
3 another calendar call – is this an invoked or waived case?

4 MS. KALLAS: It's invoked, Your Honor.

5 THE COURT: Mr. Green, is your case going forward because
6 that's my other calendar call today?

7 [Colloquy between Court and Counsel on another case]

8 THE COURT: All right, then that's my only other calendar call,
9 and so we'll go forward on the Mixon matter January 2nd and we'll start
10 at 10:30.

11 THE DEFENDANT: I can't put in a motion to withdraw
12 counsel, that's what you're saying?

13 THE COURT: You can file whatever motion you want, sir.
14 Right now before me is calendar call. You were only – you only
15 requested it in district court yesterday and you're saying you're not going
16 to be ready and I'm not going to continue –

17 THE DEFENDANT: So, you're –

18 THE COURT: -- the trial.

19 THE DEFENDANT: -- denying me my self-representation
20 when I got a right, –

21 THE COURT: I just set forth --

22 THE DEFENDANT: -- Title 28, --

23 THE COURT: -- the basis for --

24 THE DEFENDANT: -- United States code, --

25 THE COURT: -- that, sir.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE DEFENDANT: -- section 1654?

MS. SISOLAK: Thank you, Your Honor.

THE COURT: All right, thank you.

MS. KALLAS: Thank you, Your Honor.

THE COURT: Oh, how many days will this trial take?

MS. SISOLAK: One.

MS. KALLAS: Probably – it depends how long jury selection
take, but we only have 2 - 3 witnesses that aren't going to take very long
at all.

THE COURT: All right, thank you.

MS. SISOLAK: I don't anticipate anything for my – for the
Defense, Your Honor.


THE COURT: All right, thank you.

MS. KALLAS: Thank you, Your Honor.

[Hearing concludes at 8:48 a.m.]

* * * * *

ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate
Procedure, I acknowledge that this is a rough draft transcript, expeditiously
prepared, not proofread, corrected, or certified to be an accurate transcript.


CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 ANTONIO LEE MIXON,

11 Defendant.

CASE: C-17-327439-1

DEPT. XVII

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 TUESDAY, JANUARY 2, 2018

15 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
16 **DEFENDANT'S MOTION TO WITHDRAW AND ALLOW DEFENDANT**
17 **TO REPRESENT HIMSELF PURSUANT TO FARETTA V.**
18 **CALIFORNIA WITH EXHIBITS**

19 APPEARANCES:

20 For the State:

KENNETH N. PORTZ, ESQ.
Deputy District Attorney

22 For the Defendant:

ASHLEY SISOLAK, ESQ.
Deputy Public Defender

24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Tuesday, January 2, 2018

[Hearing begins at 10:04 a.m.]

THE COURT: Bottom of 12, Antonio Mixon.

MS. SISOLAK: Good morning, Your Honor. The Attorney General was here. Is this the motion, Your Honor?

THE COURT: Yes.

MS. SISOLAK: I believe Mr. Mixon wants to withdraw the motion.

THE DEFENDANT: Correct.

MS. SISOLAK: Do you want to withdraw the motion?

THE DEFENDANT: Correct. Yup.

THE COURT: I'm sorry, sir?

THE DEFENDANT: Yes.

THE COURT: Okay, so you want –

THE DEFENDANT: Correct.

THE COURT: -- Ms. Sisolak to continue to represent you?

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right. We're set for –

MS. SISOLAK: Thank you.

/////

/////

/////

/////

/////

/////

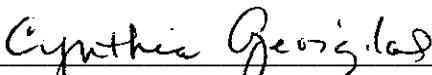
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: -- 10:30 this morning. All right, we'll see everybody at that time.

[Hearing concludes at 10:04 a.m.]

* * * * *

ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.


CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7
8 Plaintiff,

9 vs.

10 ANTONIO LEE MIXON,

11 Defendant.

CASE: C-17-327439-1

DEPT. XVII

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 TUESDAY, JANUARY 2, 2018

15 **RECORDER'S ROUGH DRAFT PARTIAL TRANSCRIPT:**
16 **JURY TRIAL – DAY 1**
17 **[VOIR DIRE & JURY SELECTION]**

18 APPEARANCES:

19 For the State:

JASON GUNNELL, ESQ.
Senior Deputy Attorney General
CHELSEA N. KALLAS, ESQ.
Deputy Attorney General

22 For the Defendant:

23 ASHLEY SISOLAK, ESQ.
24 TEGAN MACHNICH, ESQ.
Deputy Public Defenders

25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Tuesday, January 2, 2018

[Hearing begins at 11:25 a.m.]

[Inside the presence of jury venire]

THE CLERK: Okay, I'm going to call roll. Just – I may mispronounce the names so just bear with me.

[Roll call of the jury venire]

THE MARSHAL: All the jury is accounted for. Please be seated.

[Pause in proceedings]

THE MARSHAL: All rise, the Honorable Michael Villani presiding. Department 17 is now in session. Please be seated and come to order.

THE COURT: Good morning, Ladies and gentlemen, and hope you had a good holiday season. And I'm sure all of you were looking forward to jury duty after the holidays, right? Okay, good.

Ladies and gentlemen, on behalf of my courtroom, Department 17, I am Judge Michael Villani, the presiding judge here and the attorneys in our court today, we appreciate your honoring your jury summons and coming down. All of us realize that jury service may not be the most convenient thing for you to perform. But please understand that our system of justice does not work unless we have individuals such as yourself willing to serve. In other countries they have government officials who make the decisions on civil and criminal cases. We don't have a perfect system but it is the best in the world. Its best that we have a cross-section of our community to make the tough decisions, again,

1 whether it's a civil or criminal case. I handle both civil and criminal
2 cases. I am scheduled this week to handle a criminal case, so if you are
3 selected you'll be hearing a criminal case here in my courtroom.

4 Ladies and gentlemen, the process we're going to go through
5 today is I'm going to ask some questions, general background questions
6 of all of you and after I complete my general questions I'm going to open
7 up the questioning by the attorneys so they can just get a little bit more
8 information on your background to make sure you're the type of person
9 that would be fair to both sides in this case. And I want to emphasize
10 that, in all trials, jurors need to be fair to both sides. Listen to the
11 evidence, follow the law, and apply the law to the facts as you find them
12 and make the decision. So, that's what we're looking for. We do this
13 process under oath. We assume all [indiscernible] will tell the truth,
14 however, we are required to place you under oath to make sure that all
15 of your answers are truthful. So at this time, if everyone could please
16 stand, the Clerk will swear in – swear all of you in to make sure that you
17 will give honest answers.

18 [Jury venire sworn in]

19 THE COURT: All right, have a seat. Thank you.

20 Ladies and gentlemen, --

21 MS. MACHNICH: And, Your Honor, may we approach just
22 briefly?

23 THE COURT: All right.

24 MS. MACHNICH: Thank you.

25 THE COURT: Counsel, approach, please.

1 **[Bench conference begins – transcribed as follows:]**

2 MS. MACHNICH: [Indiscernible] challenge the venire at this
3 time. We can do it outside the presence later, but just in short so we can
4 make a permanent decision if Your Honor is willing to do that, there's a
5 [indiscernible] one person who's [indiscernible] who's African American
6 on this jury.

7 UNKNOWN SPEAKER: [Indiscernible].

8 MS. MACHNICH: [Indiscernible] is 45. That's 2 percent. The
9 representative population in the community is approximately 11.5
10 percent [indiscernible], 2013 census. We're outside the 13 percent
11 variance on that as well set out by the Nevada Supreme Court and
12 therefore, we'd be –

13 MS. SISOLAK: It's a Batson.

14 MS. MACHNICH: -- asking that the venire be struck and
15 [indiscernible] be brought up at this time in front of them and to do that
16 we would have to be requesting an evidentiary hearing at the
17 [indiscernible] Your Honor, in this case to mark [indiscernible].

18 THE COURT: Okay. Will you ask that at one of our breaks,
19 our next break; okay?

20 MS. SISOLAK: Thank you, Your Honor.

21 MS. MACHNICH: Thank you.

22 **[Bench conference ends]**

23 THE COURT: Ladies and gentlemen, one of the most
24 important portions of our Constitution is trial by jury, whether civil or
25 criminal. It's something that our forefathers fought for and part of our

1 United States Constitution, also the Constitution of the State of Nevada,
2 and so all of – the attorneys as well as myself take that very seriously
3 and hope all of you do as well because it is essential that we uphold that
4 right of all individuals, whether civil or criminal case.

5 Ladies and gentlemen, the oath you took is just to make sure
6 that all of your answers will be honest. The only wrong answer you can
7 give is one that is not truthful. So there – that's the only wrong answer
8 you can give is one that's not truthful. We're just asking you for your
9 personal opinions. Everyone here has different backgrounds, life
10 experiences because you're different ages, different education levels,
11 different parents, different socio-economic status, different – you know,
12 your own education, your life experiences, so we realize that and that's
13 probably why our jury system is the best because we have a good cross-
14 section of our community to try these particular cases.

15 All of you received one of these jury summons in the mail and
16 you have it – you fold back the little corner and you're wearing that
17 badge. This jury summons has my name on it. Actually, I have three. I
18 was lucky enough to get three. One is from 2008, 2012, and 2017. Some
19 of you may think, well, you had a jury summons but you didn't have to
20 serve. I was a sitting judge in 2008. I received my jury summons. I went
21 down to the 3rd floor like all of you did. Actually, I had to wait all morning.
22 They told me to come back at 1:30 and at 1:30 my number was called
23 off. I was marched to a courtroom just like all of you this morning and I
24 was – even though I was a sitting judge, I was selected as a juror in a
25 civil case and I sat for two and a half weeks being a juror in a civil case.

1 One of our Nevada Supreme Court Justices, two years ago,
2 received a jury summons up, I think it was Washoe County or perhaps –
3 I think it was Washoe County in a criminal case. And one of our
4 Supreme Court Justices was selected as a juror in a criminal case. And
5 we have another judge down here about 8 years ago or so received a
6 jury summons and was a juror in a civil case. So, we receive jury
7 summons and we are ready, willing, and able to serve and I hope all of
8 you are willing to serve as well.

9 Ladies and gentlemen, before we go any further, I'm going to
10 ask the attorneys from both sides – one of the attorneys for each side to
11 introduce themselves, their co-counsel and a representative of the State in
12 front of me to my right, and advise you of the nature of the charges and
13 any potential witnesses that may be called, so the nature of the charges,
14 any relevant dates, locations, and any potential witnesses.

15 Please listen to these names very carefully because some of
16 these individuals may be friends, neighbors, or co-workers of yours and
17 we need to know if you're familiar with these individuals. Then I'll turn to
18 the Defense Counsel and ask the same question. I'll let them introduce
19 themselves, their client, and any potential witnesses that they may call.

20 State.

21 MR. GUNNELL: Good morning, ladies and gentlemen, my
22 name is Jason Gunnell. I'm with Chelsea Kallas. We represent the State.
23 We're both Deputy Attorney Generals with the Office of the Attorney
24 General's Office here in Las Vegas. Just to let you know what the
25 general allegations of this case are, on or about December 4, 2015, the

1 Defendant, at or near High Desert State Prison, committed a battery on
2 a corrections officer by throwing a rock at him. And then there's also the
3 Defendant is charged with having in his possession a sharp instrument,
4 commonly referred to as a shank, at that time and that was on or about
5 December 4, 2015 while in custody of NDOC.

6 And as to the witnesses we anticipate calling at this trial, we
7 anticipate calling three witnesses. I'll just give you their names. First of
8 all, one – our first witness is going to be Dean Ontiveros. He's a
9 correction officer with the Nevada Department of Corrections. Our
10 second witness is going to be Tyler Mcaninch. And I apologize; I
11 slaughter names all the time. He actually is a former corrections officer
12 out there at High Desert State Prison. And our third witness is going to
13 be Dustin Mumpower. He actually works for the taxicab authority now
14 but he was actually a sergeant out there at Nevada Department of
15 Corrections. And that's [indiscernible].

16 THE COURT: Thank you, Counsel.

17 Is anyone familiar with either the two Counsel from the
18 Attorney General's Office or any of the potential witnesses that they may
19 call in this matter, please raise your hand? No hands. Anyone familiar
20 with the alleged incident in this matter? Okay, no hands are being
21 raised. Thank you.

22 We'll turn to the Defense Counsel table.

23 MS. SISOLAK: Thank you, Your Honor.

24 Good morning. Thank you, guys, for being here. My name is
25 Ashley Sisolak along with Tegan Machnich. We represent Mr. Mixon in

1 this matter. We may potentially be calling Bryan Wong, Toni Worthman,
2 Jay Barth, Eric Romero, Victor Daniels, Keith Mckeehan, Brian Williams,
3 Jerry Howell, Jennifer Nash, and Perry Russell.

4 Thank you.

5 THE COURT: Thank you, Counsel.

6 Anyone familiar with the Defense Counsel, the Defendant, or
7 any of their potential witnesses that may be called in this matter? All
8 right; no hands being raised. Thank you.

9 Ladies and gentlemen, before we go any further there's a
10 certain qualification questions I have to ask you. One is, is anyone here
11 not a U.S. citizen -- not a U.S. citizen [emphasis added]? No hands
12 being raised. Anyone here have a felony conviction? No hands being
13 raised. Anyone here have any difficulty understanding the English
14 language? All right, Marshal, if you can – the lady in the middle row with
15 the red coat. And if you are called upon, please give us your name and
16 the last three numbers on your badge. You can have a seat, ma'am. You
17 can sit down. Your name, ma'am, and your last three numbers on your
18 badge?

19 JUROR NO. 143: My name is Yu, Iorio, last badge number is
20 0143.

21 THE COURT: And, ma'am, did you understand the oath when
22 everyone stood up and swore to tell the truth? Did you understand that?

23 JUROR NO. 143: A little bit.

24 THE COURT: Okay. What is your native language?

25 JUROR NO. 143: Korean.

1 THE COURT: All right. How long have you been in the United
2 States?

3 JUROR NO. 143: Twenty some year.

4 THE COURT: Okay. Are you employed, ma'am?

5 JUROR NO. 143: Yes.

6 THE COURT: Okay. And what type of work do you do?

7 JUROR NO. 143: I'm working casino dealer.

8 THE COURT: I'm sorry?

9 JUROR NO. 143. Dealer, 21 dealer.

10 THE COURT: Oh, 21 dealer, okay. And you did not
11 understand the oath that we gave? I just want to make sure.

12 JUROR NO. 143: That's [indiscernible] barely needed too
13 much English.

14 THE COURT: Okay. Well, its essential that all jurors
15 understand the English language so we can make sure that you
16 understand all the testimony and hear the arguments of the attorneys.
17 Any objection by either side to release?

18 MS. SISOLAK: No objection at this time, Your Honor.

19 MS. KALLAS: No objection, Your Honor.

20 THE COURT: All right. Ma'am, you're going to be released. In
21 the future we can maybe have a court interpreter for you so you can
22 serve; all right? But at this time we're going to excuse you.

23 JUROR NO. 143. Thank you.

24 THE COURT: Okay? Thank you. And just turn your badge in
25 to the Marshal and we're going to call the next juror.

1 THE CLERK: Maria Theresa Nava.

2 THE COURT: Ms. Nava, if you can just come on up and take
3 the chair.

4 And we had another hand in the front row; Mr. Marshal, right
5 here, a gentleman here, the fourth one.

6 Yes, sir, your name and badge number?

7 JUROR NO. 173: My name is Georgios Kotzageorgis and my
8 job – my badge number –

9 THE COURT: Can you help him, Marshal?

10 JUROR NO. 173: 173.

11 THE COURT: Sir, did you understand the oath that my clerk
12 gave everybody when she had everyone stand up?

13 JUROR NO. 173: Yeah. I – yeah –

14 THE COURT: Did you understand it?

15 JUROR NO. 173: No, no really very well. I speak but not very
16 well. I don't understand very well.

17 THE COURT: All right. What is your native language, sir?

18 JUROR NO. 173: Greek.

19 THE COURT: All right. And how long have you been in the
20 United States?

21 JUROR NO. 173: 1997.

22 THE COURT: Okay, and are you employed, sir?

23 JUROR NO. 173: Yes, sir.

24 THE COURT: And what type of work do you do?

25 JUROR NO. 173: Baggage handler.

1 THE COURT: Baggage handler in one of the hotels?
2 JUROR NO. 173: No, airport.
3 THE COURT: At the airport, okay. And I just want to make
4 sure that you did – did you understand the oath when my clerk had
5 everyone raise their right hand and swear to tell the truth?
6 JUROR NO. 173: I listen to it too.
7 THE COURT: No, did you understand what she said?
8 JUROR NO. 173: You?
9 THE COURT: No, my clerk.
10 JUROR NO. 173: No really. No very well.
11 THE COURT: All right, State, any objection to releasing?
12 MS. KALLAS: No, Your Honor.
13 THE COURT: Defense?
14 MS. SISOLAK: No, Your Honor.
15 THE COURT: All right, sir, we're going to release you
16 because we have to make sure that everyone that potentially will serve
17 understands 100 percent of the English language; okay? And so, you
18 are excused, and in the future we'll advise the Court – the jury
19 commissioner maybe we can get a court interpreter for you. All right;
20 thank you, sir.
21 All right, and anyone else in the jury box area? How about –
22 there was someone's hand in the gallery, Marshal?
23 Ma'am, your name?
24 JUROR NO. Ana Maria Rodriguez.
25 THE COURT: And is your badge number 231?

1 JUROR NO. 231: 010231.

2 THE COURT: And, ma'am, what is your native language? Is it
3 Spanish?

4 JUROR NO. 231: Ah-ha, Espanola.

5 THE COURT: Okay. Ma'am, did you understand the oath?

6 JUROR NO. 231: No.

7 THE COURT: State, any objection to releasing her?

8 MS. KALLAS: No objection, Your Honor.

9 THE COURT: Defense?

10 MS. SISOLAK: No objection, Your Honor.

11 THE COURT: All right, Ms. Rodriguez you are released and
12 in the future we may be able to get a court interpreter so you can serve.
13 Anyone else in the gallery has any language issues? All right, no other
14 hands being raised.

15 All right, now actually we need to call another juror, the next
16 up in line.

17 THE CLERK: Badge number 210, Sylviya Doneva.

18 THE COURT: Ladies and gentlemen, as I had mentioned
19 before, this is a criminal case. And two things you must keep in mind for
20 a criminal case, the first is our two prosecutors here bear the burden to
21 prove this case beyond a reasonable doubt. They bear the sole burden
22 of – the Defense does not have to prove anything; okay? The State must
23 prove the case beyond a reasonable doubt. Secondly, the Defense does
24 not have to call any witnesses. They do not have to present any
25 evidence. The reason for that rule is the first rule, the State bears 100

1 percent burden to prove the case beyond a reasonable doubt. If they fail
2 to prove the case beyond a reasonable doubt, it will be your duty to vote
3 not guilty in this case. If the State proves the case beyond a reasonable
4 doubt, then you would vote guilty. It's that simple.

5 The evidence in this case will come from witnesses who will
6 be called to the witness stand to my right. They'll be sworn, give
7 testimony in front of you. Any documents or tangible items admitted into
8 evidence as exhibits and any stipulations by the parties that they agree
9 on particular facts, that will be the evidence in the case, again,
10 testimony, any documents or tangible things or any stipulations by the
11 attorneys; that's the evidence in the case.

12 Ladies and gentlemen, if I sent you to the jury room right now,
13 what would your verdict have to be? Anyone want to volunteer for that
14 answer?

15 Sir; Mr. Marshal, the gentleman in the front row, far right.
16 Again, name and badge number, please.

17 JUROR NO. 162: Badge number 162, and you have to make
18 him innocent 'cause they haven't proved anything yet.

19 THE COURT: That's right. That is an easy question. It wasn't
20 a trick question, everybody. The State has not proved anything, have
21 they? They haven't called a single witness. There hasn't been a single
22 stipulation. There hasn't been a single exhibit admitted into evidence.
23 There is no evidence. The State has not met, as of this moment, -- and
24 we don't know, its up to all of you to decide -- they have not met their
25 burden to prove the case beyond a reasonable doubt and it would be

1 your duty to vote not guilty. Its just – it's a very important theory – issue,
2 but its very simple and its very important. They meet the burden then
3 you would vote guilty. If they fail to meet that burden, its your duty to
4 vote not guilty.

5 Thank you, sir, for volunteering.

6 Ladies and gentlemen, as I had mentioned before about bias
7 and prejudice and we talked about everyone has different backgrounds,
8 family lives, you know, values that our parents teach us, and I hope
9 there isn't any history teachers here or history professors because I
10 hope my story is accurate. In 1770, during the Revolutionary War or
11 before the Revolutionary War there was the Boston Massacre. Its
12 alleged that some British soldiers shot into a crowd of colonists and
13 killed various people. Unusual for the time was that those British soldiers
14 were charged with murder and various offenses and they went to trial.
15 Now, you can imagine at that time that the feelings of the community
16 were quite high as far as either supporting the British soldiers or against
17 the British soldiers because we were just in the middle of the
18 Revolutionary War. They went to trial. Some of them were found guilty
19 and some of them were found not guilty. And they were tried by a jury.
20 And the reason why I tell you that story is because you can imagine the
21 bias and prejudice at the time. Those jurors in that case were able to
22 listen to the evidence, follow the law, and make a decision not based on
23 bias and prejudice, but based upon the facts of the particular case.
24 And some of you may know from your history, the Defense attorney for
25 the British officers was our second president, John Adams, defended the

1 British soldiers; okay?

2 So, when I talk about bias or prejudice or the attorneys if they
3 follow up on the issue of bias and prejudice that you may or may not
4 have, the question that we have for all of you is if – we all have bias and
5 prejudice, can you put those aside and base whatever decision you may
6 make in this case from the evidence that's been presented and the law
7 that I will give you? Okay, so hopefully all of you can do that.

8 Now, ladies and gentlemen, at any given time in this
9 courthouse there are construction defect cases going on. Some of you
10 may read about those in the newspaper where they say there's a
11 housing development and all the roofs have issues or there – I think one
12 2 years ago there's a issue with all the plumbing fixtures in a large
13 development. City Center had the Harmon Tower. There was a
14 construction defect case on that particular matter. The average
15 construction defect trial lasts 6 months, okay? You did not get that trial;
16 okay? All right? The average jury trial is 6 judicial days. You did not get
17 that type of trial. I met with the attorneys earlier this morning and they
18 feel that this case will either be completed on – tomorrow or the next day
19 thereafter. So, it would be two and a half days; okay? Our trial schedule
20 typically is around the noon hour we take a lunch break, mid-afternoon
21 around 3:00 or so we take an afternoon break and we endeavor to
22 adjourn promptly at 5:00 o'clock. On Wednesday, tomorrow, if you are
23 selected you would start at 9:30. Same schedule, you take a lunch break
24 around the noon hour, 3:30 or so mid-afternoon, 5:00 o'clock adjourn,
25 and then Thursday the trial should be completed. I will – after all the

1 evidence has been presented, I will read to you jury instructions and
2 then you'll hear arguments of the attorneys and then you'll deliberate the
3 case. So, that's our schedule. It's about a two and a half day trial. Again,
4 the normal trial is 6 days and on any given day we have construction
5 defect cases which is average 6 months long. The Harmon case that
6 was scheduled to go forward was scheduled to take 13 months and so I
7 don't think any of you received that jury summons for that case. But they
8 were able to pick a jury who could sit for 13 months. We're not going to
9 ask you to do that for this particular case. This case is just as important
10 as any other case. It doesn't matter about the length of the trial. Every
11 case is very important.

12 Is there anyone here with our trial schedule I just gave you
13 would have an extreme hardship to serve just two and a half days?

14 Okay, Mr. Marshal, we have a hand in the back row.

15 THE MARSHAL: Who's first, Judge?

16 THE COURT: The back row is the lady, she's behind you
17 there.

18 THE COURT: Name and badge number, ma'am, just the last
19 three numbers?

20 JUROR NO. 125: The last three is 125. My name is Mary
21 Sneddon.

22 THE COURT: And your hardship?

23 JUROR NO. 125: I have two little kids and I actually have my
24 boss watching my oldest right now while she's on winter break.

25 THE COURT: Okay. Is there – when you say little, what's the

1 age of the children?

2 JUROR NO. 125: 6 and 2.

3 THE COURT: Okay.

4 JUROR NO. 125: The 6 year old is recovering from
5 pneumonia and the 2 year old is recovering from the flu --

6 THE COURT: Okay.

7 JUROR NO. 125 – and I had to shove her in daycare.

8 THE COURT: If you are selected, is there like another family
9 member or friend that can watch the kids for the next – if you were
10 selected?

11 JUROR NO. 125: Yeah. I have my mother but she is getting
12 sick from my daughters right now so she's not really the happiest
13 person.

14 THE COURT: Is there anyone else that could watch them if
15 you were selected?

16 JUROR NO. 125: No. I just have my – I'm a single mom so I
17 don't have anyone else out here.

18 THE COURT: Okay. And do you work, ma'am?

19 JUROR NO. 125: Yes, I do.

20 THE COURT: Okay. Who watches the kids when you're at
21 work?

22 JUROR NO. 125: Normally they go – its winter break so my
23 oldest, she's in first grade so she goes to the before care in that school
24 and my work schedule I don't work until 8:00 to 4:30 so I can get to
25 them, drop them off on time, pick them up on time, so.

1 THE COURT: All right. All right, thank you, ma'am.

2 JUROR NO. 125: Thank you.

3 THE COURT: Anyone else in the back row, extreme
4 hardship? How about the middle row? All the way to the end, back row.

5 JUROR NO. 119: Cheryl Basques, 119.

6 THE COURT: Yes, ma'am?

7 JUROR NO. 119: I don't get paid for sitting here at the –

8 THE COURT: I'm sorry?

9 JUROR NO. 119: I don't get paid while I'm sitting here at jury
10 duty.

11 THE COURT: Okay.

12 JUROR NO. 119: My company does not pay.

13 THE COURT: All right. The jury commissioner provides a fee,
14 not a lot, but they do provide a fee for the next – like if you were selected
15 for the – but I understand that's financial issues; okay? Thank you. Any
16 other part of the – any other hardship, ma'am?

17 JUROR NO. 119: No, that's it.

18 THE COURT: Okay, no? All right, if you hand the – anyone in
19 the second row? A couple of hands in the second row.

20 JUROR NO. 137: Elaine Chester, 137.

21 THE COURT: Yes?

22 JUROR NO. 137: My – it's a financial hardship for me as well.
23 I'm a single parent and if I'm not working I'm not getting paid.

24 THE COURT: And did you check with your employer because
25 most employers do pay at least for –

1 JUROR NO. 137: I did. It's –

2 THE COURT: -- a couple of days.

3 JUROR NO. 137: I did and they said no.

4 THE COURT: Okay. All right, thank you. And if you can hand
5 it to your right, the gentleman in the strip shirt.

6 JUROR NO. 140: Jonathan Birds, badge number 140.

7 THE COURT: Yes, sir?

8 JUROR NO. 140: I just started a new job. I've only been there
9 two weeks. I'm still in my probationary period. This week we're supposed
10 to be assigning projects to work on so I'll be missing an important week
11 at a new job, and like is said, I'm still in my probationary period there.

12 THE COURT: And does your employer know that you have a
13 jury summons?

14 JUROR NO. 140: They do.

15 THE COURT: Okay. All right, thank you, sir. Anyone else in
16 the middle row? Can you just hand it to your right.

17 JUROR NO. 209: Nava, 148, juror.

18 THE COURT: All right.

19 JUROR NO. 209: Same thing, I have a financial hardship. I
20 work –

21 THE COURT: I'm sorry?

22 JUROR NO. 209: Financial hardship.

23 THE COURT: Okay.

24 JUROR NO. 209: I work two part time jobs and I just recently
25 started on the second part time so I'm still on probation.

1 THE COURT: I'm sorry, your number is 140?

2 THE RECORDER: It's not, Judge. It's 209.

3 THE COURT: 209.

4 JUROR NO. 209: 209. I'm sorry, badge number 209.

5 THE COURT: And I'm sorry, are you working, ma'am?

6 JUROR NO. 209: Yes, two part time jobs and I just recently
7 started the second part time job and I'm still on probation.

8 THE COURT: All right, thank you, ma'am. Anyone else in the
9 middle row, extreme hardship? Okay, how about the front row here?

10 JUROR NO. 172: I'm juror 172.

11 THE COURT: Yes, sir?

12 JUROR NO. 172: I work for tips and I only have like 10 days
13 to get my mortgage and I need to make money to be able to do that. I
14 had surgery two months ago and I still have an infection from it so I'm
15 very uncomfortable as well.

16 THE COURT: Do you work in one of the casinos, sir? When
17 you say tips usually it's a casino worker or –

18 JUROR NO. 172: No, I work in – at a club.

19 THE COURT: Okay. And did you check with your employer?

20 JUROR NO. 172: Excuse me?

21 THE COURT: Did you check with your employer because like
22 I said most employers will pay 2 or 3 days worth of salary if you are
23 selected as a juror?

24 JUROR NO. 172: Yes, sir. I make ten bucks an hour but I
25 make my money on tips.

1 THE COURT: All right, thank you, sir. Anyone else in the front
2 row? Sir, if you can just hand it to your right?
3 JUROR NO. 184: Its also financial for me.
4 THE COURT: Your name and badge number, sir?
5 JUROR NO. 184. My number is 184.
6 THE COURT: Yes, sir?
7 JUROR NO. 184: Its financial problem. I don't get paid if I
8 didn't work and I work –
9 THE COURT: And what type of work do you do now, sir?
10 JUROR NO. 184: I work as a pharmacist for CVS.
11 THE COURT: Okay. I believe we've had other CVS
12 pharmacists as jurors before and at least –
13 JUROR NO. 184: No, we don't – we don't get paid.
14 THE COURT: Because I thought they paid for, I think its 3
15 days.
16 JUROR NO. 184: No.
17 THE COURT: Did you check with your employer?
18 JUROR NO. 184: Yup.
19 THE COURT: And are you a pharmacist or a pharmacist
20 tech?
21 JUROR NO. 184: Pharmacist.
22 THE COURT: All right. All right, thank you. Anyone else in the
23 front row? How about the gallery, for the front row of the gallery? Sir --
24 Marshal, the front row. We had a hand in the front row.
25 JUROR NO. 233: Allison Agnew, my number is 233 and I am

1 in the process of trying to change jobs and actually have a series of job
2 interviews set up tomorrow through Sunday of this week.

3 THE COURT: All right, thank you, ma'am. Anyone else in the
4 front row of the gallery? How about the middle row of the gallery?

5 JUROR NO. 246: Hello, I'm Tamara Gallagher, number 246
6 and I am a stay at home mom and I don't have daycare.

7 THE COURT: And who is watching the children today?

8 JUROR NO. 246: Shortly she'll be home alone, but my
9 husband is there until he goes to work.

10 THE COURT: Okay, and what are his hours?

11 JUROR NO. 246: He goes in at 1:30.

12 THE COURT: Okay. Is there any other family, friends,
13 neighbors, or – that can assist –

14 JUROR NO. 246: No, 'cause I –

15 THE COURT: -- if you were selected?

16 JUROR NO. 246: No. I also home school her so it makes it
17 difficult. She does a charter school but its online so we go in once a
18 week so I help with that, otherwise it wouldn't be as big of an issue, but.

19 THE COURT: All right, thank you, ma'am. Anyone else in the
20 middle row? We'll go to the back row of the gallery.

21 JUROR NO. 287: Hi, Your Honor, my name is Maria Pitcher
22 and my number is 287.

23 THE COURT: Yes?

24 JUROR NO. 287: I am a caregiver to my husband. He's a
25 disabled Veteran. He's 100 percent disabled. Tomorrow he has 3

1 appointments that are related to his disability and I have to drive him. I
2 drive him everywhere. He doesn't drive, so. I would love to stay here all
3 day. I love Judge Judy.

4 THE COURT: How about Judge Mike?

5 JUROR NO. 287: Yes.

6 THE COURT: All right, thank you. All right, all right, thank
7 you ma'am. All right, and we'll address those issues in just a –
8 throughout today. Thank you.

9 All right, ladies and gentlemen, what I'm going to do is I'm
10 going to direct my next set of questions to the individuals in the jury box
11 and in front of the box. And then later, we'll address the same questions
12 with those of you in the gallery. Please – those of you in the gallery,
13 please listen to those questions because you're going to get the exact
14 same questions, so you can think about your answer and we can speed
15 up the process when you are called to answer the questions; okay? So,
16 please don't tune us out. Please listen very carefully.

17 Again, for just those individuals in the box and in front of the
18 box, either yourself, a family member, or anyone closely associated with
19 you involved in law enforcement? It can be a police officer, a highway
20 patrol officer, correction officer, maybe a security guard, military police,
21 anything involved with law enforcement? No hands in the back row.
22 We'll go to the second row, and always name and badge number.

23 JUROR NO. 137: 137.

24 THE COURT: Yes, ma'am?

25 JUROR NO. 137: My brother is a correction officer.

1 THE COURT: Here in Clark County?

2 JUROR NO. 137: California.

3 THE COURT: Okay. Do you know how long he's held that
4 position?

5 JUROR NO. 137: Almost 20 years.

6 THE COURT: All right. And how often do you speak with him?

7 JUROR NO. 137: Once or twice a month.

8 THE COURT: Okay, and do you talk to him about his work?

9 JUROR NO. 137: Yes.

10 THE COURT: Okay. All right, thank you, ma'am. Now,
11 ma'am, its alleged that there's a – one of the counts, battery by a
12 prisoner, okay, your brother – you said brother or brother-in-law, I'm
13 sorry?

14 JUROR NO. 137: Brother.

15 THE COURT: Okay. Its alleged that there was a battery by a
16 prisoner; okay? And I'm very careful to use the word alleged, because
17 as I mentioned before there's no evidence in this case; okay? Its just an
18 allegation and the State – our two prosecutors here have to prove this
19 case beyond a reasonable doubt and it would be your duty if you were
20 selected to vote not guilty if the State failed to prove the case beyond a
21 reasonable doubt, the fact that your brother is a correction officer in
22 California would that cause you to have a bias or prejudice that would
23 prevent you from being fair to both sides in this case?

24 JUROR NO. 137: No. I don't think so.

25 THE COURT: Will you hold – if you are selected, will you hold

1 the State to their burden of beyond a reasonable doubt?

2 JUROR NO. 137: Yes.

3 THE COURT: All right, thank you, ma'am. If you can hand it
4 to your right I think there's another person who raised their hand.

5 JUROR NO. 140: Jonathan Birds, badge 140. I'm currently
6 finishing my Ph.d in public affairs, specializing in the criminal justice at
7 UNLV. I've worked with law enforcement, gone to school with law
8 enforcement for about the last 7 or 8 years. I also teach a policing class
9 at UNLV for the last 4 years so I – countless friends and people I work
10 with are law enforcement officers.

11 THE COURT: Okay. Same question to you sir, we have an
12 allegation here. We may have some correction officers testifying in this
13 particular case. Based upon your employment and your experience – or
14 your interaction with some officers, do you feel that that would cause you
15 to have a bias or prejudice that would prevent you from being fair to both
16 sides in this case?

17 JUROR NO. 140: I don't believe so.

18 THE COURT: If you were selected, sir, will you hold the State
19 to their burden of beyond a reasonable doubt?

20 JUROR NO. 140: I will.

21 THE COURT: All right, thank you, sir. Anyone else in the
22 middle row? If you can just hand it to your right.

23 JUROR NO. 141: Courtney Northington, badge number 141.

24 THE COURT: Yes, ma'am?

25 JUROR NO. 141: My dad, my brother, my ex-husband, and

1 my cousin are all in law enforcement.

2 THE COURT: Okay, specifically what type?

3 JUROR NO. 141: My cousin is a corrections officer in Utah,
4 and my dad and brother are both highway patrol and so is my ex-
5 husband.

6 THE COURT: I'm sorry, [indiscernible] dad and brother
7 highway patrol here in Nevada?

8 JUROR NO. 141: My dad in California and my brother in
9 Nevada.

10 THE COURT: Okay. And was there a fourth one?

11 JUROR NO. 141: My ex-husband.

12 THE COURT: Okay.

13 JUROR NO. 141: And my cousin.

14 THE COURT: Okay. All right, how about your husband, what
15 —

16 JUROR NO. 141: He was California Highway Patrol.

17 THE COURT: Okay. And your ex-husband?

18 JUROR NO. 141: Oh, I'm sorry. My ex-husband is California
19 Highway Patrol. My cousin is corrections in Utah.

20 THE COURT: Okay, I thought you said — and a husband, a
21 present husband?

22 JUROR NO. 141: No, no present husband.

23 THE COURT: Oh, okay. I'm sorry. All right, and same
24 question to you, ma'am, as I had mentioned to the two other jurors to
25 your left there, we may have some correction officers testifying in this

1 case. You have some family members that have been or presently
2 involved in law enforcement. Will that cause you to have any bias or
3 prejudice which would prevent you from being a fair juror to both sides in
4 this case?

5 JUROR NO. 141: I'd certainly try my best not to have any
6 bias.

7 THE COURT: Well, [indiscernible] want, we need a
8 commitment from you because –

9 JUROR NO. 141: Oh.

10 THE COURT: -- like I said, the bottom line is the State has to
11 call witnesses to the witness box; okay? They have to – and if they're
12 going to admit any exhibits, you know, documents or tangible items and
13 any stipulations that they may – the parties may enter into, will you hold
14 the State to their burden of beyond a reasonable doubt?

15 JUROR NO. 141: Yes.

16 THE COURT: Because you have so many family members
17 involved in law enforcement, would you feel any pressure whatsoever to
18 favor one side or the other?

19 JUROR NO. 141: Honestly, I feel like the corrections officers
20 would – testimony would have more weight.

21 THE COURT: Okay. If – one of the jobs – and this would
22 apply to everybody, one of the jobs of the jurors – and there will be a jury
23 instruction to this – is that the jurors make the decision on credibility of
24 the witnesses. I think we would all agree that there are some good
25 attorneys, some bad attorneys, some good judges and bad judges, and

1 some good individuals involved in law enforcement and some bad
2 individuals or individuals that aren't as good as with their job in law
3 enforcement. If you were selected, would you – a part of the job of all
4 jurors would be to make a determination of the credibility of the
5 witnesses. Would you – is that something you would be able to do,
6 ma'am?

7 JUROR NO. 141: Yes.

8 THE COURT: I understand that because of – you have family
9 members in law enforcement that you may have a certain feeling
10 towards them, but if you were selected we would want you to make a
11 credibility call on every witness any of the parties may or may not call;
12 do you understand that?

13 JUROR NO. 141: Yes.

14 THE COURT: And is that something that you would be able to
15 do in this case if you were selected?

16 JUROR NO. 141: Yes.

17 THE COURT: And even though you have some people --
18 some family members involved in law enforcement, you understand you
19 would still need to hold the State for their burden beyond a reasonable
20 doubt?

21 JUROR NO. 141: Yes.

22 THE COURT: Thank you, ma'am. Anyone else in the middle
23 row, law enforcement? How about the front row, law enforcement? We
24 have one hand here, a gentleman. Yes, sir?

25 JUROR NO. 197: Jonathan Ullion, number 197. My sister-in-

1 law is a CO as well as her husband at Clark County Detention Center.
2 My girlfriend's uncle was ex- Metro and a friend is Henderson police.

3 THE COURT: All right, same question to you, sir. You have –
4 obviously, you have family members involved in law enforcement. We
5 may have some law enforcement officers testifying in this case. The fact
6 that you have members of your family involved in law enforcement,
7 would that prevent you from being a fair juror in this case?

8 JUROR NO. 197: No.

9 THE COURT: Okay. Would you – so, you would be able to
10 put aside any bias and prejudice you may have and hold the State to
11 their burden of beyond a reasonable doubt?

12 JUROR NO. 197: Yeah, I would.

13 THE COURT: Sir, would you feel any pressure from your
14 family members to vote a certain way in this matter because they are
15 involved in law enforcement?

16 JUROR NO. 197: Not unless they knew I was here.

17 THE COURT: Okay. Well, one of the things I will tell all the
18 jurors is that when we go through this process and you're officially
19 selected as a juror, you're under a strict admonishment that you cannot
20 discuss the case with anybody until the case is over. All you're allowed
21 to tell anybody if they ask you, you can say I am a juror in a criminal
22 case. That's all you can tell them – or if it's a civil case. If it's a civil case
23 I would tell you the same thing. You can tell them I am a juror in a civil
24 case. And that is it because you can't talk to them about the facts of the
25 case because the only – any decision you may make in a particular case

1 has to be based upon the evidence in the courtroom. Do you understand
2 that, sir?

3 JUROR NO. 197: Yeah.

4 THE COURT: Okay. Anyone else in the jury box area
5 regarding law enforcement that we haven't already talked to? All right,
6 no other hands; thank you.

7 Anyone in the area here ever been a victim of a crime,
8 yourself, a family member, or anyone closely associated with you?
9 Okay, we'll go to the back row.

10 JUROR NO. 119: Cheryl Basques, 119.

11 THE COURT: Yes, ma'am?

12 JUROR NO. 119: A number of years ago, probably 15 or 20
13 in that vicinity, my brother broke into my house, stole a bunch of
14 personal items, whatever he could pawn, and left my house wide open
15 for anybody to walk into.

16 THE COURT: Okay. And you said about 20 years ago?

17 JUROR NO. 119: It was 15, maybe 18, somewhere in that
18 vicinity.

19 THE COURT: Was law enforcement called out to that?

20 JUROR NO. 119: Yes.

21 THE COURT: Okay. And based upon the facts and
22 circumstances of that situation, were you satisfied with law
23 enforcement's services?

24 JUROR NO. 119: Nothing was ever found or really done
25 about it.

1 THE COURT: When you – I just want to know, were you
2 satisfied –

3 JUROR NO. 119: No, not –

4 THE COURT: -- dissatisfied?

5 JUROR NO. 119: -- really. No.

6 THE COURT: You were not satisfied?

7 JUROR NO. 119: No.

8 THE COURT: Okay. We – as you heard from one of our
9 Attorney Generals here that we may have some law enforcement
10 officers testifying in this case. The fact that you were dissatisfied with the
11 investigation in your case, is that something you're going to hold against
12 any officers who may testify here?

13 JUROR NO. 119: No. No.

14 THE COURT: Okay. The fact that you've been a victim of a
15 crime in the past, you said about 18, 20 years ago, do you feel that that
16 will cause you to have any bias or prejudice for or against either side in
17 this case?

18 JUROR NO. 119: No.

19 THE COURT: Okay. There's a hand to your right I believe,
20 the lady to your right.

21 JUROR NO. 120: Heather Booker, 120.

22 THE COURT: Yes?

23 JUROR NO. 120: My sister was killed by a serial killer.

24 THE COURT: And how long ago was that?

25 JUROR NO. 120: 26 years ago.

1 THE COURT: Was that here in Clark County, Nevada?

2 JUROR NO. 120: No, California.

3 THE COURT: I'm assuming law enforcement was called out
4 in that situation?

5 JUROR NO. 120: Yes.

6 THE COURT: Okay.

7 JUROR NO. 120: I dealt with the detectives and all that.

8 THE COURT: Based upon the facts and circumstances of
9 that situation, were you satisfied with the services of law enforcement?

10 JUROR NO. 120: I wasn't satisfied with the detectives.

11 THE COURT: Okay. How about the law enforcement in
12 general for the case?

13 JUROR NO. 120: The law enforcement in general in the case
14 and everything, yes.

15 THE COURT: Okay. And as you heard, we may have some
16 law enforcement officers testifying in this case. The fact that you were at
17 least dissatisfied with one or maybe more law enforcement officers from
18 about 26 years ago or so, will that come into play in your ability to be a
19 fair juror in this case?

20 JUROR NO. 120: No, it wouldn't come in to play.

21 THE COURT: And will you – if you are selected, will you hold
22 the State to their burden of beyond a reasonable doubt?

23 JUROR NO. 120: Yes, I would.

24 THE COURT: All right, thank you. Anyone else in the back
25 row? Can you just hand it to your right?

1 JUROR NO. 121: My name is Anna Campbell and my
2 number I think is 121.

3 THE COURT: Yes?

4 JUROR NO. 121: About 15 years ago my brother-in-law was
5 caught with drugs.

6 THE COURT: All right, we'll get back to that because actually
7 the next question is accused of crime, either yourself or –

8 JUROR NO. 121: Accused of a crime.

9 THE COURT: -- family member. So, let's get back to you in
10 just – or actually, we'll just deal with it now. So, your brother-in-law was
11 accused of crime. Was that here in Clark County?

12 JUROR NO. 121: No, it was in Arizona.

13 THE COURT: Okay. Do you know if formal charges were ever
14 filed against him?

15 JUROR NO. 121: I don't know but he served – he served
16 here actually, Nellis, for 4 years I think.

17 THE COURT: Okay. That may have been a federal charge,
18 do --

19 JUROR NO. 121: I think it –

20 THE COURT: -- you know?

21 JUROR NO. 121: -- was, yeah.

22 THE COURT: Okay. In that case there would have been
23 prosecutors. They would have been U.S. Attorneys who prosecuted the
24 case. We have two prosecutors in our case. The fact that your brother-
25 in-law was prosecuted is that going to prevent you from being a fair juror

1 in this case?

2 JUROR NO. 121: No.

3 THE COURT: All right. Will you hold the State to their burden
4 of beyond a reasonable doubt?

5 JUROR NO. 121: Yes.

6 THE COURT: All right, thank you, ma'am. Anyone else in the
7 back row, victim of a crime? How about the middle row, victim of a
8 crime? No hands. How about the front row? We have a couple of
9 hands.

10 And ladies and gentlemen, you may hear you know similar
11 questions that I ask of various jurors; okay? And I do that because I –
12 one, it is essential that I ask each and every one of you if you have any
13 of these issues that we're talking about here that you know if there's any
14 bias or prejudice, if there's – you can still hold the State to their burden
15 of beyond reasonable doubt and those types of questions, so it may
16 sound monotonous like a broken record but it is essential and I want all
17 jurors to think when I ask you these questions. You know think them out
18 and you give us your best answer. So, thank you, ma'am, go ahead.

19 JUROR NO. 168: My husband is an optometrist.

20 THE COURT: Name and badge number.

21 JUROR NO. 168: Oh, Suzanne Anderson, 168.

22 THE COURT: All right. Yes, ma'am?

23 JUROR NO. 168: My husband is an optometrist and we own
24 a private practice and we've been broken into 6 times.

25 THE COURT: You have a practice here in Clark County,

1 Nevada?

2 JUROR NO. 168: Yes.

3 THE COURT: Okay. Was law enforcement called out to those
4 situations?

5 JUROR NO. 168: Yes.

6 THE COURT: Okay. And based upon all the facts and
7 circumstances of those situations, were you satisfied with the services of
8 law enforcement?

9 JUROR NO. 168: Yes.

10 THE COURT: Okay. Do you know if they ever caught the
11 perpetrators in --

12 JUROR NO. 168: No.

13 THE COURT: Okay – in those situations, okay. The fact that
14 your husband's office has been burglarized I think you said 6 times,
15 would that prevent you from being a fair juror in this case?

16 JUROR NO. 168: No.

17 THE COURT: Okay. And if you are selected, will you hold the
18 State to their burden of beyond a reasonable doubt?

19 JUROR NO. 168: Yes.

20 THE COURT: All right; thank you, ma'am. Any other hands in
21 the front row? If you can just hand it to your right?

22 JUROR NO. 172: James Duchene, 172.

23 THE COURT: Yes, sir?

24 JUROR NO. 172: My son just got out of Indian Springs Prison
25 and a few instances I don't think he was treated too fair in there and he

1 also got jumped in there so we're going to be filing a case for it. This one
2 is in Nevada, Reno prison when they transferred him there then back to
3 Indian Springs.

4 THE COURT: All right, sir, -- and as you heard earlier that we
5 may have some correction officers testifying in this case and you said
6 your son was in the prison system but he's since been released; is that
7 correct, sir?

8 JUROR NO. 172: Yes, sir.

9 THE COURT: Okay.

10 JUROR NO. 172: Two weeks ago.

11 THE COURT: Okay. And this goes to what we talked about
12 bias and prejudice, sir. Do you feel that you have any bias or prejudice,
13 sir, that would prevent you from being fair to both sides in this case or
14 either side -- I should say either side?

15 JUROR NO. 172: I've been dealing with the correction
16 officers and I really don't -- and my son. I really don't like them too much.
17 I don't think they're too fair.

18 THE COURT: Okay.

19 JUROR NO. 172: I know their jobs hard but I don't like how
20 they treated my son for sure.

21 THE COURT: Okay. Now, you're not familiar with the names
22 that have been identified in this case; correct?

23 JUROR NO. 172: No. I didn't know anyone in the prison.

24 THE COURT: Okay. And so --

25 JUROR NO. 172: And I'm not sure about the guards unless I

1 saw them.

2 THE COURT: Okay. So just so I'm clear, sir, that the – you're
3 not familiar with the names involved in your son's case but you may
4 recognize their faces; is that correct?

5 JUROR NO. 172: Yes.

6 THE COURT: Okay. And you wouldn't know if any –

7 JUROR NO. 172: On visitations and stuff like that.

8 THE COURT: I'm sorry?

9 JUROR NO. 172: Visiting there over the last 2 years.

10 THE COURT: And you wouldn't know in this case whether or
11 not you're familiar with any officers because – until you saw their face
12 because you're just not familiar with the names; is that correct?

13 JUROR NO. 172: Yes, sir.

14 THE COURT: Okay. All right; thank you, sir. Anyone else in
15 the front row? If you can just hand it to your right.

16 JUROR NO. 197: Jonathan Ullion, 197. I had my house
17 broken into and burglarized around '09 I believe.

18 THE COURT: Is that here in Clark County?

19 JUROR NO. 197: Yes.

20 THE COURT: Was law enforcement called out?

21 JUROR NO. 197: Yup.

22 THE COURT: Okay. Based upon all the facts and
23 circumstances of your case, were you satisfied with their services?

24 JUROR NO. 197: Not completely. I mean I would have liked
25 my stuff back and [indiscernible] you know.

1 THE COURT: Okay. And as you heard, we may have some
2 law enforcement officers testifying in this case. The fact that you were a
3 victim of a burglary, was it about 8 years – 8, 9 years ago and you
4 weren't satisfied with all the officers involved, would that cause you to
5 have any bias or prejudices against the officers who may testify in this
6 case?

7 JUROR NO. 197: No.

8 THE COURT: Okay. If you were selected, sir, will you hold
9 the State to their burden of beyond a reasonable doubt?

10 JUROR NO. 197: Yup.

11 THE COURT: All right. Thank you, sir. Anyone else in the
12 jury box area? No other hands. Thank you.

13 And we'll go to the question that we followed up with the one
14 of the other lady here, ever been accused of a crime, yourself, a close
15 family member, or anyone closely associated with you? We're talking
16 about more than a traffic offense. Anyone in the back row? Anyone in
17 the middle row? Oh, we have a hand in the back row.

18 JUROR NO. 120: The same sister that got killed, she was
19 accused of federal forging check and was put in federal prison and she
20 served 5 years there.

21 THE COURT: And this is Ms. Booker; right?

22 JUROR NO. 120: Yeah, 120; I'm sorry.

23 THE COURT: 120. Okay, the fact that you have a family
24 member accused of a crime, do you think that would prevent you from
25 being a fair juror in this case?

1 JUROR NO. 120: Yes.

2 THE COURT: It would prevent you? And why would that –

3 JUROR NO. 120: No, no, I'm sorry. I would be fair.

4 THE COURT: Okay.

5 JUROR NO. 120: I'm sorry.

6 THE COURT: All right; thank you, ma'am. Anyone else in the

7 back row accused of a crime? How about the middle row? How about

8 the front row? All right, we do have a hand here; either yourself, a family

9 member, or anyone closely associated with you.

10 JUROR NO. 197: Jonathan Ullon, 197. I had a DUI.

11 THE COURT: Okay, and how long ago was that, sir?

12 JUROR NO. 197: It's um, oh, 3 I believe.

13 THE COURT: Was that here in Clark County, Nevada?

14 JUROR NO. 197: Yeah.

15 THE COURT: Okay.

16 JUROR NO. 197: It was '04 actually.

17 THE COURT: All right. And I'm assuming there would have

18 been either highway patrol or Metro or one of the other –

19 JUROR NO. 197: Yeah, Metro.

20 THE COURT: Okay, and they're a police officer or someone

21 involved in law enforcement. And you heard we may have some law

22 enforcement officers testifying in this case. The fact that you had an

23 officer involved in '04 about what 13 years ago or so, 14 years ago,

24 would that prevent you from being a fair juror in this case?

25 JUROR NO. 197: No.

1 THE COURT: Sir, do you know if that case was handled city
2 court or in justice court?

3 JUROR NO. 197: City court.

4 THE COURT: Okay. And, similarly, there would have been a
5 City Attorney, a prosecutor involved. We have two prosecutors here
6 today. The fact that you had prosecutors filed a case against 13, 14
7 years ago, and we have prosecutors here – these aren't the same ones
8 because they're in a different office, does that cause you to have any
9 bias or prejudice for or against either side in this case?

10 JUROR NO. 197: No.

11 THE COURT: All right; thank you, sir.

12 Anyone else in the jury box area? No other hands being
13 raised.

14 Besides the ones that have already brought this up, is there
15 anyone in the jury box have a particular positive or negative experience
16 with law enforcement, besides the people we've already talked to or
17 those situations, anyone?

18 JUROR NO. 120: I have a –

19 THE COURT: Sure. Let's – we'll get the –

20 JUROR NO. 120: My positive is when I was --

21 THE COURT: Name and badge number.

22 JUROR NO. 120: Oh.

23 THE COURT: I know we just spoke to you but as you can see
24 we don't –

25 JUROR NO. 120: Sorry.

1 THE COURT: -- ladies and gentlemen, we don't have a court
2 reporter, you know a --

3 JUROR NO. 120: Sorry.

4 THE COURT: -- stenographer. And everything in this
5 courtroom is audio recorded; okay? So, the audio recording won't
6 identify who is speaking so that's why we need your name and badge
7 number.

8 JUROR NO. 120: Okay; Heather Booker, badge 120.

9 THE COURT: Yes, ma'am?

10 JUROR NO. 120: When I was in my teens the bus service
11 stopped running and the only other -- 'cause my parents didn't have a
12 telephone, the only other alternative was to call the police department. I
13 was with my niece. They came out. They picked me up and they took
14 me home with my niece and made us safe.

15 THE COURT: Do you feel that that experience from when you
16 were -- you said a teenager?

17 JUROR NO. 120: Yes.

18 THE COURT: Okay, is -- would come into play if you were
19 selected as a juror in this case?

20 JUROR NO. 120: Not -- I just -- I don't know. I can be biased
21 [indiscernible].

22 THE COURT: I'm sorry, you could be biased?

23 JUROR NO. 120: I could be biased until the all the facts are,
24 um --

25 THE COURT: Assuming that the officers that may or may not

1 testify in this case were not involved in your situation, --

2 JUROR NO. 120: Yes.

3 THE COURT: -- okay, assuming that's accurate, would you
4 have any bias or prejudice because of your situation in that --

5 JUROR NO. 120: No.

6 THE COURT: Okay. But if they were the same officers you
7 would have an issue with them?

8 JUROR NO. 120: Probably so.

9 THE COURT: Okay. All right, thank you, ma'am. Anyone else
10 that we haven't already spoke to? Okay.

11 Ladies and gentlemen, at the end of the trial I will read to you
12 the jury instructions. The jury instructions are the laws that apply to this
13 particular case. If you've been a juror in a civil case in the past or one in
14 -- or a criminal case in the past, no matter what State you are in, more
15 than likely the judge at the end of the trial read to you the jury
16 instructions. They are the laws that apply to the case. I assure you they
17 will be our statutory laws, the laws of the United States Constitution or
18 the Nevada Constitution; okay? Its my job to give you those laws that
19 apply to this particular case.

20 We do not give you the jury instructions at the beginning of the
21 trial because we haven't heard any evidence. We don't know what
22 applies yet. Like I said, we've heard nothing, okay, because no one has
23 called -- has been called to testify. And I understand that you don't have
24 those in front of you, the jury instructions, but is there anyone here feel
25 that they could not follow the law that I give you? Again, I assure you it

1 will be the law of Nevada and the United States. Anyone here feel they
2 could not follow the law? No hands being raised.

3 Some people may disagree with – you may think a particular
4 street should be a 45 mile an hour zone and its only a 35 mile zone; you
5 got a ticket. You probably think, well, it's a construction zone so maybe it
6 should have been 45, but you still need to follow the law. Does anyone
7 feel – that's an example I just give. And a lot of people don't like to pay
8 their taxes April 15th. Well, it's a law that we may not like but we know
9 we have to follow that. So, I that's why I just want you to think about any
10 bias or prejudices but there is no – I just want to double check. Even if
11 you disagree with the law, it would be your duty to follow the law that I
12 give you. Anyone feels they could not follow the law? No hands being
13 raised. Thank you.

14 Ladies and gentlemen, we're going to give the microphone to
15 Ms. Basques; okay? And, ladies and gentlemen, we're going to go
16 through this process – I'm going to ask you a question on background.
17 Its going to be the exact same question for all of you, the exact same
18 question for the people in the gallery when we get to you, okay, so
19 please listen to this. It has a couple of subparts, ma'am. Let me just go
20 through the subparts first, all right, and then we'll have you answer.

21 JUROR NO. 119: Okay.

22 THE COURT: And I'll probably – I'll have to – I'm probably
23 going to remind you a second time as well.

24 Okay, the question is – let me go through them first before you
25 answer and I'll call your names off so you don't need to list your name or

1 your badge number; okay? The question is what do you do for a living; if
2 you are unemployed or retired, what do normally do; if you have a
3 spouse or a significant other, what do they do for a living; if they're
4 unemployed or retired, what do they normally do for a living; if you have
5 any children, give us their names – I mean not the names, give us their
6 ages; if they are of working age, tell us what they do for a living. You
7 have a 28 year old who, let's say is – you know is – works on the Strip.
8 You would tell us what they do. If you have a 14 year you would say
9 they're in school; okay? So, let me just recap: what do you do for a
10 living; if you're unemployed or retired, what do you normally do; spouse
11 or significant other same question, what do they do for a living; if they're
12 unemployed or retired, what do they normally do; give us the ages of
13 your children and if they are of working age, tell us what they do for a
14 living. Okay, so Ms. Basques, go ahead.

15 JUROR NO. 119: Accounting and my husband is a
16 warehouse manager. I have no children.

17 THE COURT: All right. We'll just go – thank you. Let's go to
18 Ms. Booker.

19 JUROR NO. 120: Reservations. My husband is retired and I
20 have no children.

21 THE COURT: What is your husband retired from?

22 JUROR NO. 120: From the airlines.

23 THE COURT: Okay. What did he do for the airlines?

24 JUROR NO. 120: He was a head fueller.

25 THE COURT: Okay, thank you. We'll go to Ms. Campbell.

1 JUROR NO. 121: I work in – as a banquet server. My
2 husband works as a banquet server. I have two children. They are both
3 – one has graduated from school and lives in Arizona, the other one in
4 California. And we also have a 19 year old in spring break right – not
5 spring break, excuse me, Christmas break.

6 THE COURT: The first two children you mentioned, are they
7 employed at this time?

8 JUROR NO. 121: They both are employed, yes.

9 THE COURT: What type of work do they do?

10 JUROR NO. 121: My daughter works as an esthetician and
11 my son works in the – for a show in the back, like administrative stuff for
12 a show in California.

13 THE COURT: Like behind a stage?

14 JUROR NO. 121: Behind stage, yes, like administrative.

15 THE COURT: Stage work?

16 JUROR NO. 121: Yes.

17 THE COURT: Okay. All right; thank you.

18 Ms. Dennis?

19 JUROR NO. 122: I'm a special education teacher. I have one
20 son. He's 9.

21 THE COURT: All right, thank you.

22 Ms. Warner.

23 JUROR NO. 123: I am retired and my husband is retired. And
24 I have two children, 35 and 37. My son is an executive chef in
25 Pensacola, Florida, and my daughter is an executive at the

1 Cosmopolitan.

2 THE COURT: And what are you retired from, what type of
3 work?

4 JUROR NO. 123: I worked for oil industry and my husband
5 worked for the federal government and I did too but the state
6 government and federal government for a little bit.

7 THE COURT: Okay. Thank you.

8 Ms. – was it Sneddon?

9 JUROR NO. 125: Yes. I'm a sales rep for a construction
10 company and I'm a single mom to a 6 year old and a 2 year old.

11 THE COURT: All right, thank you.

12 Ms. Stahl.

13 JUROR NO. 126: Yes. I worked at a – or as a veterinary
14 assistant for five years. I stopped doing that two years ago when I
15 married my husband who is a real estate broker and so I'm a stay at
16 home wife with him.

17 THE COURT: Any children?

18 JUROR NO. 126: No children.

19 THE COURT: All right, thank you.

20 Ms. Crayton.

21 JUROR NO. 127: Yes. I'm sorry, my voice is –

22 THE COURT: That's okay. All right.

23 JUROR NO. 127: [indiscernible]. I'm separated. I work for
24 MGM as a [indiscernible]. I have no kids.

25 THE COURT: Okay. All right; thank you.

1 Marshal, pick that up and hand it to – we'll go to the middle
2 row and that's Ms. Chester; is that correct?

3 JUROR NO. 137: I'm in social work. I'm a case manager. I
4 have three boys, two are students and my 18 year old is a full time
5 college student and works at Costco.

6 THE COURT: All right, thank you.

7 Ms. Gonzalez-Quinonez.

8 JUROR NO. 138: Yes. My name is Ana Gonzalez-Quinonez
9 and I work in the Westgate Casino, Las Vegas --

10 THE COURT: Okay.

11 JUROR NO. 138: -- for 27 years and two daughters, one 31
12 years and 21 the next.

13 THE COURT: And what does your two children do for a
14 living? Are they working?

15 JUROR NO. 138: Yeah.

16 THE COURT: And what do they do?

17 JUROR NO. 138: In Las Vegas – in the hotel, Westgate
18 Casino.

19 THE COURT: Okay.

20 JUROR NO. 138: -- before its Las Vegas Hotel.

21 THE COURT: All right, and that's for the two children?

22 JUROR NO. 138: Yeah.

23 THE COURT: Okay. All right; thank you. Oh, did you – do you
24 have a spouse or a significant other? Do you have husband or a
25 significant other?

1 JUROR NO. 138: No. I don't know [indiscernible] husband
2 [indiscernible] divorce in '95, divorce, yeah. I don't know [indiscernible]
3 my husband.

4 THE COURT: Okay. All right; thank you.

5 Mr. Birds.

6 JUROR NO. 140: I'm an analyst at a consulting firm and I'm
7 finishing my doctorate in public affairs with a criminal justice
8 specialization. My wife is a NICU nurse. She's an RN. And we have a
9 son that's 6 months old.

10 THE COURT: All right, thank you.

11 Ms. Northington.

12 JUROR NO. 141: I do web design and I am a substitute
13 teacher.

14 THE COURT: Any children?

15 JUROR NO. 141: No children.

16 THE COURT: Or a spouse or significant other?

17 JUROR NO. 141: No.

18 THE COURT: All right, thank you.

19 JUROR NO. 209: I do part –

20 THE COURT: Oh, hang on, this is – Ms. Nava; okay.

21 JUROR NO. 209: I do part time ultrasound and I have a
22 husband who does a part time casino dealer at Caesars and we have
23 three children, grade 6, grade 7 and a 4 year old.

24 THE COURT: All right, thank you.

25 Ms. Leavitt.

1 JUROR NO. 147: I'm retired from construction work. My
2 husband is a 100 percent disabled Veteran. I have a daughter 43 who's
3 a substitute teacher; a daughter 41 who is a pharmacist; a son, 39, who
4 is a mechanic; a son 37 who works for Station Casinos; and a daughter
5 29 who is a stay at home mom.

6 THE COURT: All right, thank you.

7 Mr., was it, Dowty?

8 JUROR NO. 157: Yes. A pharmacist, retired, and single and
9 no children.

10 THE COURT: All right, thank you.

11 We'll come around to the front row; Mr. Nix.

12 JUROR NO. 162: I'm single, I work in the gaming industry,
13 and I have no children.

14 THE COURT: All right, thank you, sir.

15 Ms. Anderson.

16 JUROR NO. 168: My husband is an optometrist. I work in his
17 office. We have three kids: 22, 25, 29. Two are college students; one
18 performs lithotripsy in hospitals in Utah.

19 THE COURT: All right, thank you.

20 Was it Mr. Duchene?

21 JUROR NO. 172: I'm married. My wife's currently
22 unemployed. My 26 year old, he's the one that just got out of jail on July
23 – I mean December 26. And I have another son who is a valet like me.
24 He's 24.

25 THE COURT: All right; thank you, sir.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Colloquy between Court and Recorder]

THE COURT: All right, and next up is Ms., was it, Doneva?

JUROR NO. 210: Doneva.

THE COURT: Doneva; okay.

JUROR NO. 210: I'm a software engineer. Husband is a driver. Two kids, 10 and 3.

THE COURT: All right, thank you.

Mr., is it –

JUROR NO. 184: Elsaker, Fouad.

THE COURT: Yes.

JUROR NO. 184: Yeah, I'm a pharmacist and I have two children; dentist, 34 years in Texas and my daughter is 29. She is a wife and she goes to school.

THE COURT: All right – and I'm sorry, did you say – do you have a spouse or a significant other?

JUROR NO. 184: Oh, my spouse doesn't work.

THE COURT: Okay.

JUROR NO. 184: [indiscernible].

THE COURT: All right, thank you.

Mr., is it, Ullon?

JUROR NO. 197: Ullon.

THE COURT: Ullon.

JUROR NO. 197: I'm a stage technician for live shows. My girlfriend is a waitress. And I don't have any kids.

THE COURT: All right, thank you.

1 Mr. Burgess.

2 JUROR NO. 201: I am single and I am a writer for the City.

3 THE COURT: Okay. All right. No children?

4 JUROR NO. 201: Nope, no children.

5 THE COURT: Okay, thank you.

6 And, Ms., is it Dufrene?

7 JUROR NO. 204: I am a elementary school office manager.

8 My husband owns a plumbing company. And I have two kids, 7 and 5.

9 THE COURT: All right, thank you.

10 Ladies and gentlemen, did the jury commissioner have you

11 come down to the courthouse at 8:00 this morning?

12 THE JURY VENIRE: Yes.

13 THE COURT: Okay. We only needed you at 10:30 and there

14 was some delay here. The reason why the jury commissioner had you

15 come down so early, and I'm assuming the jury room was full this

16 morning, okay, the jury commissioner has to process three to four

17 hundred people this morning for the various courtrooms who are

18 conducting trials this week. And it's a big process to check everybody in,

19 get them assigned to the courtrooms, and then wait for the courtrooms

20 to be ready, and then to have you here. So, I apologize for having you

21 come down so early but I hope you understand why they have you come

22 down so early. It's just a big task for our jury commissioner. She works

23 very hard and we apologize for any inconvenience, but it's just essential

24 that we go through this process. And I know you've been here for quite

25 some time -- and Ladies and gentlemen, what we're going to do is we're

1 going to take a lunch break.

2 Now, there's a couple of things during the lunch break you
3 have to be aware of. One is if you see any of the attorneys, my staff, or
4 even myself during the lunch break we are all under strict orders not to
5 have any communications with you. It is just common practice, you see
6 someone that you just met to say hello, how is it going, nice weather,
7 something along those lines. All of us will not even acknowledge your
8 comment. The reason why we do that is because we're under strict rules
9 of ethics not to have any communications with you because it might
10 appear that we're discussing the case. And I'm sure all of you would
11 understand how inappropriate that would be for us – for any of the staff
12 members or the attorneys to talk to you about the case. So as to
13 alleviate any concern about that, we won't even acknowledge you. So
14 we're not being rude or antisocial. It's just that we're under strict rules
15 not to have any communications with you. The only person you would
16 communicate with would be the marshal and that would be in the
17 hallway; okay?

18 Now, ladies and gentlemen, downstairs in this building there is
19 a sandwich shop. Across the street from the main steps when you come
20 into the courthouse there is 4 or 5 eating establishments and on most of
21 the floors there are vending machines. I am not endorsing any of these
22 locations for your lunch. I'm just telling where they're located; okay? I
23 bring my lunch every day, okay, but I'm just telling you where they're
24 located. It's strictly up to you; okay?

25 And so, we're going to take a one hour break. Now, we need

1 you to come back and take the exact same seat that you have now.
2 Now, understand that you are under a court order to return at 1:30. Now,
3 I have conducted over 100 trials and on one occasion about 18 months
4 ago a person did not return; okay? And that person was held in
5 contempt of court and did some jail time. I did not like to do that. I
6 shouldn't have had to do it. Just don't make me do it again, okay,
7 because I hope all of you just return. We're going to get through the
8 process today. The jury will be selected today, all right, so we're going to
9 know who is going to be on this jury panel and who is going to be
10 excused, so just bear with us. We do need you to come back. Please be
11 prompt. Wait outside this courtroom until the marshal escorts you back
12 in. Another thing is look to your right, look to your left, help that person
13 find their seat when you come back; okay?

14 Now, ladies and gentlemen, each and every time we take a
15 break I must read to you the following admonishment so when we come
16 back and we take a mid-afternoon break around 3:00 o'clock or so or
17 3:30, I'm going to read you the same admonishment, and at the end of
18 the day I'll read you the same – every time we take a break I'm going to
19 read this to you because I'm required by law and you're required to
20 follow it, so please listen very carefully.

21 During this lunch recess, it is your duty not to converse among
22 yourselves or with anyone else on any subject connected with the trial,
23 or to read, watch, or listen to any report of or comment during trial by
24 any person connected to the trial, or by any medium of information,
25 including without limitation newspaper, television, radio, or the internet.

1 You are not to form or express an opinion on any subject connected with
2 this case until this matter is submitted to you, and that's, again, if you are
3 selected when you go to deliberate this case with your fellow jurors. So,
4 ladies and gentlemen, have a good lunch. We'll see you back promptly
5 at 1:30. Please wait outside the courtroom until the marshal escorts you
6 in.

7 THE MARSHAL: All rise for the exit of the jury.

8 [Outside the presence of the jury venire]

9 THE COURT: All right, Counsel, we had a couple of jurors
10 with hardships and then also we had an issue that we needed to
11 address by the – the Defense had requested that we have a new jury
12 panel. I want to take – resolve those matters when we – let's have
13 Counsel come back at 1:20; okay?

14 MS. SISOLAK: Okay.

15 MS. MACHICH: Okay.

16 THE COURT: We'll resolve those matters. If there's any
17 agreement on hardships perhaps you can discuss those during the
18 break.

19 MS. SISOLAK: I'll text you.

20 MS. KALLAS: Okay.

21 THE COURT: But otherwise, I'll see you at 1:20. The jury will
22 be back at 1:30 so we do need the Defendant back here at 1:20.

23 MS. KALLAS: Thank you, Your Honor.

24 MS. MACHNICH: Thank you, Your Honor.

25 THE MARSHAL: All rise Department 17 is in recess.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Court in recess at 12:38 p.m.]

[Trial resumes at 1:25 p.m.]

[Outside the presence of the jury venire]

THE COURT: All right, on the issue of the venire panel, Defense?

MS. MACHNICH: Yes, Your Honor. So the motion that we made, Your Honor, was prior to the questioning of the jury, in the start of the venire process which was a timely objection in our opinion. And as stated up at the bench, and I'm not sure how much of our bench conferences, if any, are recorded, I want to make clear that we did make this objection at that time.

The record I would like to make is as follows. Upon receiving he packet of potential jurors in this case, the venire provided by the jury commissioner, I went through and looked at the reported race listed thereon as is relevant for the composition of the make-up of the jury. Looking through here, there were 45 jurors listed and there was only one person who reported as African American. There were also 6 people who reported as Other, or did not report. However, upon viewing the jury pool, there was not anyone else who was apparently of African American race. I – to somewhat – to some extent we are limited by what they do self-report, but we did try to do that to see if there was a possibility there were more that we didn't see. Given that there was one, I calculated that to be 2 percent of the jury venire. And according to the 2013 census numbers for Clark County, there's an 11.5 percent African American population in Clark County. I believe that has actually gone up,

1 but those are the latest numbers that I can report in good faith to the
2 Court. So, at 11.5 percent, we are grossly under the representative
3 amount of African Americans in the Clark County.

4 Now, Your Honor, in this case, African Americans are a
5 distinctive group in the community as they are measured by a census.
6 And specifically, when relating to Williams and Batson issues, it does
7 become an issue in this case. Additionally, some of the case law that
8 applies is Duran v. Mississippi, a US Supreme Court case, Castaneda v.
9 Partida, a US Supreme Court case, Williams v. State which is a Nevada
10 Supreme Court case, and Evans v. State, which is also a Nevada
11 Supreme Court case. I – personally, I’m most familiar with Williams
12 having cited it before.

13 Now, therein, the Nevada Supreme Court considered the fact
14 that there were only two sources for the jury pool. I realize now our
15 understanding is that there is a third source. However, we don’t have the
16 details of how that has been effectuated by the jury commissioner. I
17 know personally, while I have tried cases with this issue, I have not had
18 a chance to question the jury commissioner since the enlargement, or
19 apparent enlargement of the jury pool by that third source.

20 But the issue that we have here today is the Williams case
21 pointed out if its – if there’s more than a 50 percent error range, and I
22 don’t think I’m articulating that correctly, but if we’re looking at – if there’s
23 11.5 percent – if you want to round that to 11 percent we can round it
24 down, that would be a 5.5 percent sort of room for error and I believe
25 that was the amount that was listed in Williams as what would be

1 understandable based upon the process. However, in this case, we are
2 even below a 5.5 percent which means that we are significantly outside
3 that range.

4 Because of that, Your Honor, we believe that this venire is not
5 an accurate cross-section and we would affirmatively request a hearing
6 with the jury commissioner to go through the process in front of Your
7 Honor about how the cross-section of the community is accumulated,
8 how it is brought, and eventually brought up before Your Honor's court.
9 And if Your Honor will not allow us to have that evidentiary hearing at
10 this point, we would request to make an offer of proof.

11 THE COURT: Do you have any information or evidence that
12 there was a systematic exclusion of African Americans from the jury
13 panel for my courtroom?

14 MS. MACHNICH: Your Honor, all of my information is
15 anecdotal based upon prior trials, prior testimony of the jury
16 commissioner generally. I can't speak to you this specific pool as it was
17 obviously created by the jury commissioner, that information would be
18 something that I would have to glean from the jury commissioner herself
19 who we would request to have testify so that we can make that
20 argument.

21 THE COURT: All right.

22 Let me hear from the State.

23 MS. KALLAS: And, Your Honor, I would object to having any
24 type of evidentiary hearing or having the commissioner come in. It's –
25 my understanding, and, Your Honor, correct me if I'm wrong, that there –

1 she has already testified before and that those transcripts have been
2 passed out to the judges within this courthouse. I'm not sure if you have
3 or have not, but I would –

4 THE COURT: That was my transcript –

5 MS. KALLAS: That was your –

6 THE COURT: -- so I'm very –

7 MS. KALLAS: -- transcript? All right.

8 THE COURT: -- familiar with it.

9 MS. KALLAS: And so, I would be objecting it on the basis that
10 we've already heard from the commissioner. The answer is going to be
11 the same. So I would just ask that you take judicial notice of her – of, is it
12 his or hers testimony within that transcript to show that there isn't any
13 systematic exclusion from the jury – or with the jury, I apologize.

14 THE COURT: All right, thank you.

15 This exact issue was brought up in Battle versus State of
16 Nevada, there's an order of affirmance by the Nevada Supreme Court,
17 August 10, 2016 where the Supreme Court said: Regardless of whether
18 distinctive groups were under represented on the jury, Battle must first –
19 must also demonstrate systematic exclusion as long as the jury selection
20 process is designed to select jurors from a fair cross-section of the
21 community, then random variations that produce venires without a
22 specific class of persons or with an abundance of that class are
23 permissible. And then they go on to state: The district court provided the
24 parties with transcript from a hearing in a different case – which was my
25 case which is State of Nevada versus Christian Williams where I did

1 have the jury commissioner testify as to the process of assigning
2 individuals to courtrooms as well as sending out jury summons.

3 AB207 from the 2017 Nevada Legislature included the people
4 that are covered under the Employment Security Division and the
5 Department of Employment, Training and Rehabilitation I think is for
6 unemployment and mail, so it would include welfare but I know it
7 definitely includes people on the unemployment rolls.

8 And so, it is clear to me that there is no systematic exclusion
9 nor is there any specific allegation in this particular case. And the
10 Supreme Court has stated that just because in a particular panel we
11 don't have a specific percentage of a particular race does not make --
12 does not establish any systematic exclusion nor is there any evidence
13 here. If I could have one of the Counsel approach, here's a copy of
14 AB207, the Battle's case and the transcript of the hearing that Battle's
15 references.

16 So, the motion for an evidentiary hearing is denied.

17 MS. MACHNICH: Your Honor, may I be heard just slightly
18 further on this --

19 THE COURT: Sure.

20 MS. MACHNICH: -- to finish off the record? I respect your
21 ruling.

22 I would note that the Battle case is one that I tried and made a
23 similar record. As to this one, although the exclusion wasn't quite as
24 complete as this with only 2 percent, I believe we had closer to 4 or 5
25 percent in Battle, but also, Your Honor, I will note in the Battle case they

1 did include the hearing from Your Honor's case. They did not allow us to
2 question the jury commissioner at that time and both in this case and in
3 that case had we had the opportunity to question the jury commissioner I
4 would have asked her specifically about her knowledge of – when the
5 rolls are created from Nevada Power, speaking specifically to duplicative
6 entries, how are knowledge of how Nevada Power accumulates those
7 numbers based upon -- what's the best way to this -- people who have
8 their name on a power bill necessarily have a residence that's under
9 their name. And –

10 THE COURT: Or an apartment or condo.

11 MS. MACHNICH: Often, Your Honor, multi-family dwellings,
12 such as apartment or condo, the landlord will have it under their name in
13 many circumstances. Additionally, people who are lower income tend to
14 have more individuals living in a household therefore there is, again,
15 only one under that household. Also we have another issue of exclusion
16 of what tend to be lower income individuals. I know that this was in
17 theory partially remedied by the assembly bill that Your Honor just
18 mentioned. However, we have not had a chance to speak with the jury
19 commissioner since that bill and what its implementation has looked like
20 in Clark County, also have they had a chance to speak – or if we would
21 have a chance to speak with the jury commissioner in this case we
22 would re-inquire about how the ID's versus DMV, are we talking about
23 licenses, are we talking about ID, are we talking about car registrations
24 because once you start getting into duplicative entries for people who
25 have car registrations and people who have driver licenses you're

1 starting to get into situations where you're disproportionately excluding
2 people of lower income so we have some of that issue as well.

3 Additionally, I believe the jury commissioner has previously
4 testified – I don't know if this is still currently the case, that when the
5 summons' go out they go out to all of the zip codes proportionally in the
6 city and in the county. The problem with that, Your Honor, is that low
7 income and often African American individuals are clustered more tightly
8 together in certain zip codes within Clark County so I would want to
9 question the jury commissioner specifically about how she takes into
10 account the fact that some of the zip codes primarily the lower income
11 zip codes and those of higher minority representation how that is
12 justified and how that is wed with the idea that summons' are sent out
13 equally pursuant to zip codes so the same zip code in Summerlin that
14 has – and I don't know the numbers, Your Honor, but a thousand
15 residents might – a similar zip code in North Las Vegas might have ten
16 thousand residents. And so, we have that issue when you're sending
17 three there and three there. You're necessarily under representing
18 people of color and people of lower income.

19 So, those are just some of the things that we would have
20 asked the jury commissioner had Your Honor allowed us to question her
21 in this case. And I will note that things have changed a little bit
22 theoretically for the better but we don't know what the actual
23 implementation has been in effect since the last time the jury
24 commissioner was questioned and Battle was a couple of years ago and
25 I know that Your Honor's case was prior to that.

1 Thank you.

2 THE COURT: All right, thank you.

3 Have the parties had an opportunity to talk about the hardship

4 issues? This would only be if there's an agreement because if either side

5 wishes to question them further then that's fine.

6 MS. SISOLAK: We did come to an agreement on several

7 jurors, Your Honor.

8 THE COURT: Okay, sure.

9 MS. SISOLAK: We would like to thank and excuse juror

10 number 125, juror number 137, juror number 184, juror number 209, --

11 THE COURT: Wait, wait, wait, so you have 137; what's next?

12 MS. SISOLAK: 184, --

13 THE COURT: Okay.

14 MS. SISOLAK: -- 209, 233, --

15 THE COURT: Okay.

16 MS. SISOLAK: -- 246 and 287.

17 THE COURT: State, do you agree with those?

18 MS. KALLAS: Yes, Your Honor.

19 THE COURT: Okay, let's write this down, Ms. Clerk.

20 Marshal, we're going to give you the numbers and names of

21 these individuals; okay? Call them off out there to tell them they're way

22 off to the side; --

23 THE MARSHAL: Okay.

24 THE COURT: -- okay? And then we'll bring the others in; --

25 THE MARSHAL: Okay.

1 THE COURT: -- all right? And after we get all situated then
2 you can tell them they're excused, but just right now just call these
3 names and numbers off and tell them to stand off to the side.

4 THE MARSHAL: [Indiscernible] outside?

5 THE COURT: Right.

6 THE MARSHAL: Okay.

7 THE COURT: Hang on. Let's get it --

8 MS. KALLAS: And, Your Honor, we do have a motion for
9 cause for one of the jurors if you want us to make that now or later?

10 THE COURT: At any time someone gives an answer, please
11 just have a motion to make and I'll make note of it.

12 MS. MACHNICH: I think there are two that we did not agree
13 upon, one for the State and one for the Defense, so.

14 THE COURT: On hardship?

15 MS. MACHNICH: Um, --

16 MS. KALLAS: Not on --

17 MS. SISOLAK: Well, --

18 MS. KALLAS: Not on hardship, no.

19 MS. SISOLAK: -- not on hardship.

20 MS. MACHNICH: For cause.

21 THE COURT: Okay -- I mean let's get the hardship going here.
22 So, double check your notes because I don't want to release someone
23 that's not appropriate: 125, Ms. Sneddon; correct?

24 MS. KALLAS: Correct.

25 THE COURT: 137, Ms. Chester.

1 MS. SISOLAK: Correct.
2 THE COURT: 184, Mr. Elsagr, E-L-S-A-K-R.
3 MS. SISOLAK: Correct.
4 THE COURT: 209, Ms. Nava.
5 MS. SISOALAK: Correct.
6 THE COURT: 233, Ms. Agnew.
7 MS. SISOLAK: Correct.
8 THE COURT: 246, Ms. Gallagher.
9 MS. SISOLAK: Correct.
10 THE COURT: And 287, Ms. Pitcher.
11 MS. SISOLAK: Correct.
12 THE COURT: Okay, so let's give that list to the Marshal and
13 the Marshal will tell them to stand off to the side.
14 THE MARSHAL: So I have –
15 THE COURT: No, she's going to write it down for you. Did you
16 write those down?
17 THE CLERK: Yeah. I just [indiscernible].
18 THE COURT: Put it on a post-it or a piece of paper. Unless
19 you have – do you have it, Marshal?
20 THE MARSHAL: Yes, I have 125, 137, 184, 209, 233, 246,
21 and 287.
22 THE COURT: Yes.
23 And someone had a motion on some of our jurors?
24 MS. KALLAS: Oh, yes, Your Honor. I'd like to make a motion
25 for cause on juror badge number 172, Mr. Duchene. He stated that he is

1 currently suing the Nevada Department of Corrections. That's essentially
2 our victim in this case. Our officer works for the Nevada Department of
3 Corrections. So, I think based on his statements I don't think he can be
4 fair and impartial.

5 MS. SISOLAK: Your Honor, if I may?

6 THE COURT: If you -- right at this point since no one is
7 questioned him further unless you agree, I'll make a note. Okay, so --

8 MS. KALLAS: Thank you.

9 THE COURT: -- when you question them if you want to focus
10 in on him a little bit, then that's fine and I'll let the Defense --

11 MS. KALLAS: I probably don't want to bring --

12 THE COURT: -- do the same.

13 MS. KALLAS: -- to light too many issues he had with the
14 Nevada --

15 THE COURT: Okay.

16 MS. KALLAS: -- Department of Corrections, but I understand,
17 --

18 THE COURT: All right, is there any others?

19 MS. KALLAS: -- Your Honor.

20 THE COURT: Any others?

21 MS. SISOLAK: Your Honor, we would be --

22 THE COURT: Wait; any others by the State? Any others by
23 the State?

24 MS. KALLAS: No, Your Honor, not at this time.

25 THE COURT: How about the Defense?

1 MS. SISOLAK: Your Honor, we do have one motion. It would
2 be on juror badge number 140. He stated repeatedly he's teaching
3 policing at UNLV. He has an unlimited number of law enforcement
4 contacts.

5 THE COURT: That's fine. I mean unless the State is
6 agreeing, I'll allow the State, just as I'm going to allow you on the other –

7 MS. SISOLAK: Understood, Your Honor.

8 THE COURT: -- person to question him further, so you
9 understood that 140 they're going to seek to have him removed for
10 cause, so --

11 MS. KALLAS: Yes, Your Honor.

12 THE COURT: -- take note of it. And for the Defense, take
13 note that the State is seeking to get rid of – to remove Mr. Duchene.

14 MS. MACHNICH: And, Your Honor, we have one further
15 issue, and it may require or at least our request to be – to handle it
16 outside the presence. Ms. Booker, juror number 120, her sister was
17 killed by a serial killer so obviously she's a victim of a homicide. If our
18 client elects to testify in this case, and we don't know if whether he will
19 be making that election or not at this time, his prior that would come it
20 would be for I believe voluntary manslaughter with use of a deadly
21 weapon, so its unfortunately someone deceased. Obviously, there were
22 circumstances surrounding it that lead to it being reduced to what it was,
23 but we would have some concerns, without having to get into that
24 specifically in front of the entire jury about whether she could be fair and
25 impartial knowing that her sister was the victim and my client was the

1 Defendant --

2 MS. SISOLAK: Charged.

3 MS. MACHNICH: -- in a murder case basically, and I think
4 most people would be able to deduce that. Even if they were instructed
5 not to consider that, its going to be in the back of her mind specifically
6 because of the situation and so I don't know if we should question her
7 further or if we can make the motion for cause now but what we don't
8 want to do is taint the entire jury pool with that.

9 THE COURT: Well, what I -- at this point, unless the State
10 agrees which I don't think --

11 MS. KALLAS: We do not, Your Honor.

12 THE COURT: -- okay, then either side's free to question her
13 further and see what bias she may or may not have. I know you have to
14 walk a tight -- you know a tightrope because you don't want to divulge
15 right now --

16 MS. SISOLAK: Understood, Your Honor.

17 THE COURT: -- as far as your client's background.

18 MS. SISOLAK: That being said, would Your Honor be willing
19 to allow us to do that outside the presence of the rest of the panel?

20 THE COURT: I would. Okay.

21 MS. MACHNICH: Thank you.

22 MS. SISOLAK: Thank you, Your Honor.

23 THE COURT: All right, let's bring the jury panel in now.

24 [Colloquy between Court and Clerk]

25 THE MARSHAL: Ones -- 138 is not back yet.

1 THE COURT: All right, well let's bring them in and then
2 hopefully she'll show up in just a minute.

3 [Colloquy]

4 [In the presence of the jury venire]

5 THE MARSHAL: All rise for the entry of the jury.

6 THE COURT: All right, welcome back, ladies and gentlemen.
7 Is Ms. Gonzalez here? Hopefully she'll show up in just a moment. We
8 need to fill the spot of seat number 6. Next in order, please?

9 THE CLERK: Badge number 232, Gaspar Pineda.

10 [Colloquy between Court and Marshal]

11 THE COURT: Good afternoon, Mr. Pineda. Did you hear the
12 previous question I asked people in the jury box?

13 JUROR NO. 232: I have.

14 THE COURT: Okay, I'm going to go over those with you at
15 this time, sir, okay so – Counsel, then – after – let me fill in the spots and
16 then we'll open it up for the attorneys.

17 MS. SISOLAK: Thank you, Your Honor.

18 THE COURT: So, I'm going to go over those questions with
19 you again, sir. As far as the law enforcement, would you be answering
20 yes to any of those questions, sir?

21 JUROR NO. 232: Yes, I have.

22 THE COURT: Okay. And who is involved in law enforcement?

23 JUROR NO. 232: Sorry?

24 THE COURT: Who – you said –

25 JUROR NO. 232: Oh, I'm so sorry. I made a mistake

1 [indiscernible].

2 THE COURT: Okay, so the answer is no?

3 JUROR NO. 232: I don't have any relatives in law
4 enforcement.

5 THE COURT: Or yourself or your family members?

6 JUROR NO. 232: None.

7 THE COURT: Okay. All right, the same question regarding
8 either a victim of a crime; okay? I just want to recap right – anyone in the
9 gallery who will be called up to fill the spots and for you, Mr. Pineda,
10 when I ask these questions it will be either yourself, a close family
11 member, anyone closely associated with you. So the next question – we
12 had law enforcement; you said no, correct?

13 JUROR NO. 232: Yes, sir.

14 THE COURT: Make sure you use the microphone; okay?

15 JUROR NO. 232: Yes, sir.

16 THE COURT: All right.

17 JUROR NO. 232. Yes, Your Honor.

18 THE COURT: The next question is victim of a crime.

19 JUROR NO. 232: I was.

20 THE COURT: Okay, and tell us –

21 JUROR NO. 232: Back in 2014, our house was burglarized
22 and a lot of stuff was stolen.

23 THE COURT: Okay. Was law enforcement called out?

24 JUROR NO. 232: My neighbor did but we weren't at the
25 premises at the time.

1 THE COURT: Do you know if they ever caught the
2 perpetrator or perpetrators?

3 JUROR NO. 232: Not to my knowledge, Your Honor.

4 THE COURT: Based upon the facts and circumstances of you
5 situation – your burglary, were you satisfied with the services of law
6 enforcement?

7 JUROR NO. 232: Not satisfied.

8 THE COURT: Okay, and why not, sir?

9 JUROR NO. 232: I just got one phone call and that's about it.

10 THE COURT: All right. And sir, I'll go to the next question,
11 have you ever been accused of a crime?

12 JUROR NO. 232: No, Your Honor.

13 THE COURT: Okay. Then we talked about have you had any
14 – besides your home burglary, have you ever had a particularly positive
15 or negative experience with law enforcement?

16 JUROR NO. 232: Positive; yes, I have.

17 THE COURT: Okay, tell us about that, sir.

18 JUROR NO. 232: I have [indiscernible] and I asked for
19 direction from law enforcement. They willingly gave me the direction
20 where to go so that's something positive.

21 THE COURT: Do you recall which – was it Metro or North Las
22 Vegas, Henderson PD?

23 JUROR NO. 232: No, it was back in Texas.

24 THE COURT: Okay. All right, and sir, have you ever had prior
25 jury service?

1 JUROR NO. 232: Yes, I have, in California.

2 THE COURT: Okay, and let me go over that with you, sir. I
3 think you are the first person to have prior jury service that we've talked
4 to so far. Prior jury service is – let me go over the questions for you, was
5 it – let me go over them first before you answer, civil or criminal; all
6 right? Then the next question is did the jury reach a verdict without
7 setting forth the verdict. Just say yes we reached a verdict or not we did
8 not -- were you the foreperson; okay? So, prior jury service?

9 JUROR NO. 232: I probably have to clarify. I wasn't selected
10 to sit –

11 THE COURT: Okay.

12 JUROR NO. 232: -- on any –

13 THE COURT: Okay, can –

14 JUROR NO. 232: -- panel.

15 THE COURT: All right. Ladies and gentlemen, did I ask that
16 question of all of you?

17 THE JURY VENIRE: No.

18 THE COURT: Okay, I will in just a moment. I apologize. I was
19 trying to get you to your lunch break as soon as possible but we'll get to
20 that; okay? Thank you.

21 And, sir, your background. Remember, it's what do you do for
22 a living; if your unemployed or retired, what do you normally do; spouse
23 or significant other, same question; if you have any children, give us
24 their ages; if they are of working age, give us their – what they do for a
25 living.

1 JUROR NO. 232: Yes, Your Honor. My name is Gaspar
2 Pineda., number 232. Married. I retired from the United States Navy as
3 an enlisted person in 2009. In 2012, I retired from University of California
4 in Irvine as a power plant operator. My wife retired from the post office
5 due to a disability. I have – well, we have 4 children. The oldest one is a
6 [indiscernible] teacher out of Los Angeles County School District. My
7 second daughter she's a doctor, anesthesiologist at [indiscernible]
8 Hospital out of the State of Washington. My son is a safety officer for
9 Northrop Grumman. And my youngest one she's a registered nurse out
10 of Southern Hills here in Nevada.

11 THE COURT: All right. Thank you, sir.

12 Ladies and gentlemen, I missed that question for all of you.
13 Prior jury service, who has had prior jury service? All right, a couple.
14 Marshal, if you can hand it to juror number 1 please which is 119 – seat
15 number 1 I should say? And you understand, ma'am, the question is civil
16 or criminal, did the jury reach a verdict without telling us what it was,
17 were you the foreperson?

18 JUROR NO. 119: It was a civil case. No, there was no
19 decision. They settled out of court while we were at lunch.

20 THE COURT: And how long ago was that service?

21 JUROR NO. 119: About four and a half years ago.

22 THE COURT: Was that here in Clark County?

23 JUROR NO. 119: Yes.

24 THE COURT: Okay. And how did you find that experience?

25 JUROR NO. 119: Good.

1 THE COURT: All right.
2 JUROR NO. 119: A lot of detail we had to –
3 THE COURT: All right.
4 JUROR NO. 119: -- go through.
5 THE COURT: Well, we appreciate you on in your second jury
6 summons. Anyone else in the back row prior jury service? Middle row?
7 Front row? I think we had one or two hands. Name and badge number,
8 sir?
9 JUROR NO. 162: Scott Nix, 162. Twice I served in a jury.
10 One was civil, one was criminal, approximately 1987. I was not the
11 foreman on either jury.
12 THE COURT: And did they reach a verdict in those two trials?
13 JUROR NO. 162: We did the same day.
14 THE COURT: Okay. And were you the foreperson in either
15 one of those jury's?
16 JUROR NO. 162: No, I was not.
17 THE COURT: And, sir, was that here in Clark County,
18 Nevada?
19 JUROR NO. 162: It was in Milwaukee, Wisconsin.
20 THE COURT: Okay. And I'm sorry, how long ago was that,
21 sir?
22 JUROR NO. 162: 1987.
23 THE COURT: Both of them were in '87?
24 JUROR NO. 162: Yes.
25 THE COURT: Okay. And how did you find that experience,

1 sir?

2 JUROR NO. 162: It was different.

3 THE COURT: Okay; different.

4 JUROR NO. 162: It was my first time doing it, so.

5 THE COURT: All right.

6 JUROR NO. 162: A big gap between times.

7 THE COURT: All right. All right. Well, thank you, sir, for
8 honoring your summons. And we had a lady at the end of the row here.

9 JUROR NO. 204: Heather Dufrene, 204. It was a civil case
10 probably about 12 years ago and I was not the foreman.

11 THE COURT: And did that jury reach a verdict?

12 JUROR NO. 204: Yes.

13 THE COURT: Okay. And was that here in Clark County?

14 JUROR NO. 204: Yes.

15 THE COURT: All right. I'm sorry, you said civil?

16 JUROR NO. 204: Yes.

17 THE COURT: Okay. And how did you find that experience?

18 JUROR NO. 204: Interesting.

19 THE COURT: All right. All right, thank you, ma'am.

20 And we need to fill the other seat, seat number 9.

21 THE CLERK: Badge number 240, Rebekah Fredrickson.

22 [Colloquy between Court and Clerk]

23 THE COURT: All right, Ms. Fredrickson, I'm going to go over
24 the same questions that I went over with the rest of the panel and Mr.
25 Pineda recently here as far as anyone involved in law enforcement.

1 JUROR NO. 240: My cousin's husband is Henderson police
2 force.

3 THE COURT: Cousin's?

4 JUROR NO. 240: Husband.

5 THE COURT: Husband; okay, I got it. Okay. How often do
6 you see that individual?

7 JUROR NO. 240: Its been a few years.

8 THE COURT: Okay. As you heard, we may have some law
9 enforcement officers testifying in this case. The fact that your cousin's
10 husband is involved in law enforcement is that going to cause you to
11 have any bias or prejudice –

12 JUROR NO. 240: No.

13 THE COURT: -- in this case? Okay. Anyone else in law
14 enforcement?

15 JUROR NO. 240: No.

16 THE COURT: Okay. How about victim of a crime?

17 JUROR NO. 240: No.

18 THE COURT: How about being accused of a crime?

19 JUROR NO. 240: Yes.

20 THE COURT: Okay, tell us about that.

21 JUROR NO. 240: Well, does DUI count? Is that –

22 THE COURT: Yeah, why don't you go ahead on the DUI, yes.

23 JUROR NO. 240: Okay, so I have several family members
24 who've had DUI's.

25 THE COURT: Is it here in Clark County?

1 JUROR NO. 240: Yes.

2 THE COURT: Okay. Can you give us the years, I mean like
3 recently, 10 years ago?

4 JUROR NO. 240: So, within the past 5 years my brother twice
5 and then within the past 10 years my father, within the past 15 years
6 probably would be my mom.

7 THE COURT: Were any of those felonies? You know where
8 there was a possibility that they went to prison?

9 JUROR NO. 240: No.

10 THE COURT: Okay. And those are – I'm sorry, those are all
11 in Clark County?

12 JUROR NO. 240: Yes.

13 THE COURT: Okay. Do you know if any of those cases were
14 prosecuted by the District Attorney's Office because some can be
15 prosecuted by one of the local City Attorney's Office, either Las Vegas
16 City or North Las Vegas or Henderson or Boulder City or some could be
17 prosecuted by the DA's office, do you recall if –

18 JUROR NO. 240: I don't know.

19 THE COURT: Okay. The fact that some family members were
20 prosecuted by some prosecutors' office, we have two prosecutors here
21 in our courtroom, is that going to play into any part in your ability to be a
22 fair juror here because we have two prosecutors?

23 JUROR NO. 240: No.

24 THE COURT: Okay. Anyone else accused of a crime,
25 ma'am?

1 JUROR NO. 240: Yes.

2 THE COURT: Okay.

3 JUROR NO. 240: My uncle for – but it was – I don't – I think it
4 was in Arkansas, so.

5 THE COURT: Do you know what that was for?

6 JUROR NO. 240: Trafficking.

7 THE COURT: A drug case?

8 JUROR NO. 240: Yes.

9 THE COURT: Do you know how long ago that was?

10 JUROR NO. 240: He just got out of prison a month ago, so he
11 was in prison for 5 years.

12 THE COURT: Okay. Now, in that case there definitely was a
13 prosecutor. There was law enforcement involved.

14 JUROR NO. 240: Yes.

15 THE COURT: Okay, and we have law enforcement in this
16 case and we have prosecutors in this case. Does your – I'm sorry, is it
17 brother – your uncle, okay, -- because of your uncle's situation, will that
18 prevent you from being a fair juror in this case?

19 JUROR NO. 240: No.

20 THE COURT: Okay. All right, thank you. Anyone else,
21 ma'am?

22 JUROR NO. 240: No.

23 THE COURT: All right, thank you. And have you ever had a
24 particularly positive or negative experience with law enforcement?

25 JUROR NO. 240: Yes.

1 THE COURT: Okay, can you tell us about that.

2 JUROR NO. 240: I've had positive experiences with Metro
3 police who have come – been called out to my home just for domestic
4 stuff actually with my teenage sons and such. So, very positive
5 experience with Metro police. And then particularly negative also with
6 regards to situations with my brother and my dad actually where I feel
7 that maybe they weren't as respectful as they could have been.

8 THE COURT: Okay. So, you've had some positives, some
9 negative?

10 JUROR NO. 240: Yes.

11 THE COURT: Okay. And as you heard, we may have some
12 law enforcement officers testifying in this case. Your positive and
13 negative experiences in the past is that going to come into play in any
14 way in your ability to be a fair juror in this case?

15 JUROR NO. 240: No.

16 THE COURT: All right, thank you. Have you had prior jury
17 service?

18 JUROR NO. 240: No.

19 THE COURT: Okay. And I'm going to ask you about your
20 background question. Let me just recap: what do you do for a living;
21 spouse or significant other; you have any children, their ages; if they're
22 working age, what do they do for a living. Go ahead.

23 JUROR NO. 240: So I'm in social work. I'm a case manager.
24 I'm single and I have three adult children, a 23 year old who's in call
25 center work. My 20 year old is unemployed and my 18 year old just

1 graduated and he works in fast food [indiscernible].

2 THE COURT: Okay. Thank you.

3 And we need to – thank you, ma'am -- and we need to fill the
4 space for – next to you was Ms. Gonzalez who hasn't shown up yet; is
5 that correct?

6 THE MARSHAL: Correct.

7 THE COURT: Still not showed up?

8 THE MARSHAL: I'll double check outside.

9 THE COURT: Okay, but let's handle – the next space open.

10 THE CLERK: And that would be seat number 13, badge
11 number 241, Zachary Taylor.

12 THE COURT: Good afternoon, Mr. Taylor.

13 JUROR NO. 241: Good afternoon.

14 THE COURT: We're going to go over the same questions
15 with you, sir; law enforcement?

16 JUROR NO. 241: My uncle is a police officer in Washington.
17 We have a close family friend who is a police officer in Idaho Falls. And
18 then my father is a lawyer. I don't know if that qualifies.

19 THE COURT: All right, sir, as you know, we may have some
20 law enforcement officers testifying here. You have two family members, I
21 guess they're police officers, would the fact that you have family
22 members in law enforcement would that prevent you from being a fair
23 juror in this case?

24 JUROR NO. 241: No.

25 THE COURT: Okay. And ever been a victim of a crime, again,

1 the same group of individuals, victim of a crime?

2 JUROR NO. 241: No.

3 THE COURT: How about accused of a crime beyond a traffic
4 matter?

5 JUROR NO. 241: Family members?

6 THE COURT: Either yourself, close family member, anyone
7 closely associated with you.

8 JUROR NO. 241: My cousin was accused and convicted of
9 sexual assault.

10 THE COURT: Was that here in Clark County?

11 JUROR NO. 241: No, that was in Washington.

12 THE COURT: And about how long ago was that, sir?

13 JUROR NO. 241: 10 to 12 years ago.

14 THE COURT: Sir, in that case he was accused of that. Did he
15 actually go to court do you know or –

16 JUROR NO. 241: Yeah, he went to prison.

17 THE COURT: Okay, went to prison. All right, in that scenario I
18 assure you that there was law enforcement involved and there was
19 some prosecutors involved. We have potentially law enforcement
20 officers who will testify here and we have some prosecutors in our
21 courtroom, obviously not the ones from the State of Washington, the
22 question is what happened to your cousin would that have any impact on
23 your ability to be fair to both sides in this case?

24 JUROR NO. 241: No.

25 THE COURT: Okay. And, sir, have you had any particularly

1 positive or negative experience with law enforcement?

2 JUROR NO. 241: None that stick out.

3 THE COURT: Okay. Have you ever had prior jury service?

4 JUROR NO. 241: No.

5 THE COURT: And the – I'm going to ask you the background
6 question now, sir. Do you remember its what do you –

7 JUROR NO. 241: Yeah.

8 THE COURT: -- do, spouse, children.

9 JUROR NO. 241: Yeah, so I'm working in a warehouse and
10 installing shutters and will start school soon. My wife stays at home with
11 our kids who are 3 and 18 months so they don't hold jobs.

12 THE COURT: Okay. All right.

13 JUROR NO. 241: It would be nice though.

14 THE COURT: All right, thank you.

15 And then we're going to fill the next space, the seat in front
16 here.

17 THE CLERK: Okay number – Ms. Abella, badge number 242.

18 THE COURT: Good afternoon, Ms. Abella. The microphone,
19 ma'am. Thank you – and thank you, sir. Ma'am, I'm going to go over the
20 same questions with you; law enforcement?

21 JUROR NO. 242: I don't have anyone.

22 THE COURT: Okay. How about being a victim of a crime?

23 JUROR NO. 242: No.

24 THE COURT: How about accused of a crime?

25 JUROR NO. 242: No.

1 THE COURT: How about a particularly positive or negative
2 experience with law enforcement?

3 JUROR NO. 242: I don't have any.

4 THE COURT: All right. How about jury service?

5 JUROR NO. 242: I was not being pick.

6 THE COURT: I'm sorry? No. All right, then we just go to the
7 background question for you.

8 JUROR NO. 242: I am a senior risk coordinator in the bank.
9 I'm single, no kids.

10 THE COURT: All right, thank you.

11 I think we have all the spots. Now, State, do you have any
12 general or specific questions for our –

13 MS. KALLAS: I do, Your Honor, but can we approach just
14 briefly?

15 THE COURT: Sure.

16 **[Bench conference begins – transcribed as follows:]**

17 MS. KALLAS: Your Honor, we would just ask if we can
18 question 172. He was [Indiscernible] the Nevada Department of
19 Corrections. Could we question him outside the presence of the jury kind
20 of for the same reasons that they want to question the other juror Ms.
21 Booker? We don't want anything said to possibly prejudice
22 [indiscernible].

23 THE COURT: What was the one that you wanted? What's the
24 one --

25 MS. MACHNICH: We wanted Ms. Booker, 120, and we'll

1 submit on that request.

2 THE COURT: Sure. All right, --

3 MS. MACHNICH: Okay.

4 THE COURT: -- I mean let's move forward on this and then
5 he --

6 MS. MACHNICH: Yeah. [Indiscernible].

7 UNKNOWN SPEAKER: [Indiscernible].

8 THE COURT: -- may answer questions that another juror may
9 [indiscernible] about what you -- both sides ask [indiscernible] specifically
10 -- I mean the issues --

11 UNKNOWN SPEAKER: About that issue.

12 THE COURT: -- of concern, but go ahead and ask him the
13 other questions you may [indiscernible] --

14 MS. SISOLAK: [Indiscernible].

15 MS. KALLAS: Thank you, Your Honor.

16 THE COURT: -- whatever they may be.

17 **[Bench conference ends]**

18 THE COURT: Go ahead, State.

19 MS. KALLAS: Good afternoon, everyone. My name is Chelsea
20 Kallas. I am a Deputy Attorney General with the Attorney General's
21 Office. And I have my co-counsel here, Jason Gunnell. He's also a --
22 he's a Senior Deputy Attorney General.

23 Basically what -- as Judge Villani explained to you, the
24 purpose of right now is just for me to ask you a couple of questions to get
25 to know you better. So really all you have to do, as Judge Villani told

1 you, is be as open and honest as possible. There's no right or wrong
2 answer. Who better to open up to than a complete stranger? Obviously,
3 you're all [indiscernible] that – most of my questions really for everyone
4 are follow ups because Judge Villani stole all of my questions. So, I'll
5 just get started.

6 Juror number 120, Ms. Booker, you said that your sister was
7 imprisoned; is that correct?

8 JUROR NO. 120: Yes, she [indiscernible].

9 THE COURT: We need the microphone.

10 MS. KALLAS: Do you need me to have the – oh. I feel like I'm
11 pretty loud enough. I never had any complaints for that.

12 JUROR NO. 120: Yes.

13 MS. KALLAS: And could you just tell me a little about what
14 happened in that case?

15 JUROR NO. 120: Well, she forged [indiscernible] checks and
16 she went to federal prison and she served I think like 5 years. And she
17 got [indiscernible] – she got pregnant by a guard there and so.

18 MS. KALLAS: And what ended up happening with that?

19 JUROR NO. 120: Well, she had the child and the girl is 30
20 years old now.

21 MS. KALLAS: Okay. And – I mean this might sound like a silly
22 question, but [indiscernible] follow up questions and sometimes might
23 actually will be silly but we'll see, but did you feel like she was treated
24 fairly while her case was being prosecuted? Do you know if she pleaded
25 guilty or did she go to trial?

1 JUROR NO. 120: She went to trial and they did find her guilty,
2 so, yeah.

3 MS. KALLAS: But you [indiscernible] –

4 JUROR NO. 120: I don't know a lot of –

5 MS. KALLAS: -- [indiscernible] –

6 JUROR NO. 120: I was young. I'm the baby of the family so I
7 didn't get into – I wasn't there for all the details of it. I just know she went
8 to prison. She did have a trial. It was in Arizona and her husband got off
9 and she went.

10 MS. KALLAS: You said her husband got off?

11 JUROR NO. 120: Mm-hmm.

12 MS. KALLAS: Was he involved in the case as well? Was he a
13 co-Defendant?

14 JUROR NO. 120: Yes.

15 MS. KALLAS: Okay. Did they – did he go to trial as well and
16 was he found – or --

17 JUROR NO. 120: I don't know. I couldn't answer that.

18 MS. KALLAS: Okay. And then you also said – you spoke
19 briefly that your sister was also murdered as well?

20 JUROR NO. 120: Yes.

21 MS. KALLAS: And you were not satisfied you said with the
22 investigation?

23 JUROR NO. 120: I wasn't satisfied with the detectives.

24 MS. KALLAS: And why was that?

25 JUROR NO. 120: Because the detectives they subpoenaed

1 me here and – which was fine to go to California but they put me in the
2 same hotel room as the person that did the crime girlfriend.

3 MS. KALLAS: The same hotel?

4 JUROR NO. 120: Yes, in the same hotel. I was – we were
5 picked up at the airport at the same time – and I didn't know this until me
6 and her went down and was having dinner. She thought that I knew him
7 also and I thought she had a sister that got killed also.

8 MS. KALLAS: Okay, and do you know whatever ended up
9 happening? Was there – did they have a Defendant in that case? Was
10 there a suspect?

11 JUROR NO. 120: Yes. He went to trial. I was there. He went
12 to trial and they found him guilty.

13 MS. KALLAS: And do you believe that he was treated fairly?
14 Was there anything – any concerns you had at that trial?

15 JUROR NO. 120: I felt he was treated fairly. I felt that they did
16 a good – our main point as a family member was to get the right person,
17 not just to get someone. So, yeah, I feel they got the right person and
18 they did it fairly.

19 MS. KALLAS: Okay. Number – juror number 240, right in front
20 of you. Like I said, I've just got mostly follow up questions for everyone.
21 You said that a number of your family had contact with law enforcement
22 and I believe you said there was – you had some positive, had some
23 negative; could you tell me a little bit about the negative, why you felt it
24 was a negative experience?

25 JUROR NO. 240: Sure. My brother was – I think he was

1 intoxicated in public or something like that, so police officers came and
2 we're talking to him and apparently it did not go well. I mean I think he
3 was – I don't know. There was a whole bunch of police officer vehicles –
4 what he said, so you know sometimes if there's one, now there's 10 and
5 they use pepper spray like so much to the extent – I mean there were so
6 many and just him, but so much to where they had to call out
7 paramedics to wash his eyes and then take him you know down – I
8 mean –

9 MS. KALLAS: Did you know that --

10 JUROR NO. 240: --I' m pretty sure –

11 MS. KALLAS: -- [indiscernible] did it go to trial or what
12 [indiscernible] happen?

13 JUROR NO. 240: He was walking and got – I don't know how
14 you get pulled over when you're walking, but he was. But anyway, so, no
15 --

16 MS. KALLAS: Had they ever [indiscernible] –

17 JUROR NO. 240 – or nothing –

18 MS. KALLAS: charged or anything, for any of those
19 [indiscernible]?

20 JUROR NO. 240: Yeah, actually – yeah, and it was
21 something like he was resisting arrest or something like that.

22 MS. KALLAS: Okay. And then I think you said also your dad
23 you had – he had an issue with that –

24 JUROR NO. 240: Yes.

25 MS. KALLAS: -- person. Can you tell me a little bit about that?

1 JUROR NO. 240: And I think it – something about – I’m pretty
2 sure that was when he got a DUI and he was – so he’s 74 now so I think
3 he maybe was like 68 or something and they [indiscernible].

4 MS. KALLAS: Did he ever end up suing or did anything
5 happen?

6 JUROR NO. 240: No.

7 MS. KALLAS: -- from there? Okay. And you said you also had
8 some positive.

9 JUROR NO. 240: Yes.

10 MS. KALLAS: All right, well, that’s good. Okay, can you tell me
11 a little bit about that?

12 JUROR NO. 240: Sure. I have 3 boys and its been very
13 challenging. And as a single mom, -- I mean especially since they’re you
14 know just been without their dad, the police officers have been called out
15 to my home on several occasions with the boys fighting or you know
16 being crazy, and they’ve just been amazing the way they talk to my boys
17 and – or try to encourage them or – unfortunately, my brother, the one
18 who I was just talking about, committed suicide and so actually since
19 then there – my boys have been through a lot of ups and downs as well,
20 and the police officers – I mean as to within the last 5 years have come
21 out to my house at least 3 times a year, so that’s a lot and they’re going
22 to be –

23 MS. KALLAS: Okay, great.

24 Juror number – do you want to pass it down to 140, right here
25 wearing a checkered shirt. You said that you teach policing?

1 JUROR NO. Yeah, I taught for 5 years intro to policing and
2 community policing and problem solving at UNLV.

3 MS. KALLAS: At UNLV?

4 JUROR NO. 140? Yeah.

5 MS. KALLAS: Okay, what – I mean this in the most respectful
6 way possible, what makes you qualified to do that? What have you done
7 kind of beforehand?

8 JUROR NO. 140: Yeah, absolutely, so as a grad student in
9 the criminal justice program as well as doctoral student, its mostly my
10 academic experience, so teaching introductory classes is done a lot of
11 times by graduate students and so my experience working with faculty
12 and on the projects they work on and research related topics that's
13 pretty much it.

14 MS. KALLAS: Okay.

15 Juror number, is it 241 right here? Is that – sorry,
16 [indiscernible] keep mixing around. Okay, so your dad's a lawyer?

17 JUROR NO. 241: Yeah. He went to law school. He didn't take
18 the bar here in Nevada but –

19 MS. KALLAS: Okay.

20 JUROR NO. 241: -- he's taken the bar in California, Idaho,
21 and Utah.

22 MS. KALLAS: He has already taken it so he's passed?

23 JUROR NO. 241: Those – yeah, --

24 MS. KALLAS: Working?

25 JUROR NO. 241: -- those three states.

1 MS. KALLAS: All right. What kind of law does he do?

2 JUROR NO. 241: So here he hasn't taken it so he doesn't
3 practice law here.

4 MS. KALLAS: But just in general, what kind of law does he do
5 in all those other states?

6 JUROR NO. 241: He's done family law and business law.

7 MS. KALLAS: And do you ever have any interest or do you
8 talk with him about law at all?

9 JUROR NO. 241: Well, he came here and chose not to take
10 the bar so I take it that he wanted to get out of specific law work being a
11 lawyer so I don't really have any interest in it, no.

12 MS. KALLAS: No? Okay. All right. And you also said you had,
13 was it, what kind of family member that –

14 JUROR NO. 241: A cousin.

15 MS. KALLAS: A cousin, and he was convicted of sexual
16 assault?

17 JUROR NO. 241: Yes.

18 MS. KALLAS: Did you have any, I don't want to say
19 involvement in that case, any – did you follow that case at all, any – for
20 their trial, what was going on with it?

21 JUROR NO. 241: I just followed it through what my aunt
22 communicated to us about. He's her stepson and it was just within the
23 family there so she would call and talk to my mom, who is her sister,
24 about everything that's going on so I just got my information through
25 there.

1 MS. KALLAS: And you have any reason to believe that he
2 wasn't treated fairly at all?

3 JUROR NO. 241: No.

4 MS. KALLAS: Okay.

5 Juror number 125 right behind you, green shirt. No, you right
6 there in the vest.

7 JUROR NO. 232: 232.

8 MS. KALLAS: Oh. My bad. What was it again, 232?

9 JUROR NO. 232: 232.

10 MS. KALLAS: A lot of numbers to keep track of. All right, you
11 mentioned that you were involved in the service?

12 JUROR NO. 232: Yes.

13 MS. KALLAS: Can you tell me a little bit about that?

14 JUROR NO. 232: I serve for about 20 years and 6 months as
15 – in the engineering department. What I did with – I'm a boiler operator. I
16 produce power to propel and move the ship.

17 MS. KALLAS: Okay. All right, well, that's it. You're easy.

18 Juror number 162 for just a quick follow up. I won't bother you
19 too much. 162; right down here.

20 You said you were a part of – you've served on a jury before;
21 correct?

22 JUROR NO. 162: Yes. Yes.

23 MS. KALLAS: How many?

24 JUROR NO. 162: Twice.

25 MS. KALLAS: [Indiscernible] you say –

1 JUROR NO. 162: Well, --
2 MS. KALLAS: -- what was -- how did you describe it again?
3 JUROR NO. 162: It was interesting. Well, the way they did it
4 back then was -- 'cause each trial -- one was only one day and one was
5 two days so you're in the pool for the whole week, so on two occasions
6 during that week I was part of a trial.
7 MS. KALLAS: The best time of your life?
8 JUROR NO. 162: I don't remember saying that.
9 MS. KALLAS: No? Okay.
10 JUROR NO. 162: It wasn't the worse, though.
11 MS. KALLAS: Maybe it was my hearing. My bad. All right,
12 was it civil or criminal again?
13 JUROR NO. 162: One of each.
14 MS. KALLAS: One of each. And for the criminal, were they
15 convicted or not convicted?
16 JUROR NO. 162: Yes. It was a young boy who stole an old
17 lady's purse.
18 MS. KALLAS: I'm sorry, an old lady's purse?
19 JUROR NO. 162: Yes.
20 MS. KALLAS: And he was convicted?
21 JUROR NO. 162: Yes.
22 MS. KALLAS: And -- okay, I think that's it. Court's indulgence.
23 [Colloquy between State Counsel]
24 MS. KALLAS: All right, we'll pass the panel, Your Honor.
25 THE COURT: And I know you had some follow up questions

1 on one of the other jurors which we'll handle later, but --

2 MS. KALLAS: That's correct.

3 THE COURT: -- otherwise, you pass for cause?

4 MS. KALLAS: I do, Your Honor.

5 THE COURT: Okay.

6 MS. SISOLAK: Court's indulgence just one moment, Your
7 Honor. I apologize.

8 MS. KALLAS: Thank you.

9 [Pause in proceedings]

10 MS. SISOLAK: All right. I'm sorry I have to pick on you. I'll try
11 to make this as painless as possible, though.

12 All right, first let's start with who is excited to be here? You're
13 allowed to be excited to be at jury selection. They never pick me but I
14 always want to. Nobody's excited? Nobody's interested?

15 UNKNOWN JUROR: I am.

16 MS. SISOLAK: I got to address [indiscernible]. Nobody's
17 excited? All right. Mr. Nix, I believe; correct?

18 JUROR NO. 162: Yes.

19 MS. SISOLAK: You said you had a pretty good experience in
20 jury service? You said it wasn't the worst.

21 JUROR NO. 162: That's right. It was not the worst.

22 MS. SISOLAK: Okay, that's something. So, memorable, at
23 least; right?

24 JUROR NO. 162: Yes, I remember each case, yeah.

25 MS. SISOLAK: All right. Interesting.

1 Let's start – let me start by asking a question of everybody. I'm
2 sure you've already noticed, or if you haven't, you are going to notice
3 that at least my co-counsel and I, if not all four of us, are on our cell
4 phones, I apologize. I know it appears rude. Most of the time we are
5 coordinating witnesses or information and we have a team back in our
6 office that takes care of those things for us and we're very fortunate that
7 they are kind of at our beck and call. Is there any reason to hold that
8 against us? You think we're rude? Okay. Perfect.

9 All right, Ms. Basques, you has said you were a juror in a civil
10 trial; right?

11 JUROR NO. 119: Yes.

12 MS. SISOLAK: All right. And you – I'm sure you understand
13 now that the burdens are different. The burden of proof is different
14 between a civil and a criminal trial.

15 JUROR NO. 119: Okay.

16 MS. SISOLAK: Okay, so in a criminal trial, the proof is beyond
17 a reasonable doubt. Can you think of any reasons why that might be a
18 higher burden than in a civil trial?

19 JUROR NO. 119: No.

20 MS. SISOLAK: Okay. Is there anyone who can think of a
21 reason that the burden in a criminal trial might be higher than a civil trial?

22 Can you pass the mic on down to Mr. Pineda?

23 JUROR NO. 232: Yes, [indiscernible].

24 MS. SISOLAK: One sec. Wait till you get the mic so we can
25 hear you.

1 JUROR NO. 232: I think in –
2 THE COURT: You need to identify the juror number and
3 name. Is it Mr. Pineda?
4 MS. SISIOLAK: That's Mr. Pineda.
5 JUROR NO. 232: Yes, Your Honor. Yes, Your Honor.
6 THE COURT: All right. Go ahead.
7 JUROR NO. 232: I think in a criminal trial there's more at
8 stake.
9 MS. SISOLAK: Exactly.
10 JUROR NO. 232: The Defendant could face life in prison or
11 possibly death.
12 MS. SISOLAK: Okay.
13 JUROR NO. 232: I think that's one of the difference.
14 MS. SISOLAK: I think that's a great answer. Is there anyone
15 who disagrees with that sort of idea? Okay. Awesome.
16 Who haven't I talked to? Ms. Campbell. Can you pass it down
17 to Ms. Campbell? Thank you.
18 So, let's set a scenario.
19 JUROR NO. 121: Okay.
20 MS. SISOLAK: You're driving to court. You got here because
21 you had that great jury summons you were so excited about. And you're
22 sitting here and an officer walks in the back and he says, Ms. Campbell,
23 here's your speeding ticket. What are you going to do? How do you
24 prove that you weren't speeding?
25 JUROR NO. 121: I wasn't driving.

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO MIXON,)	No. 78900
)	
Appellant,)	
vs.)	
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	
)	

APPELLANT’S APPENDIX – VOL. III – PAGES 486 - 735

DARIN F. IMLAY
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

STEVEN B. WOLFSON
Clark County District Attorney
200 South Third Street
Las Vegas, Nevada 89155

AARON FORD
Attorney General
100 North Carson Street
Carson City, Nevada 89701
(702) 687-3538

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 28 day of August, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT
STEVEN S. OWENS

HOWARD S BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:
ANTONIO MIXON, NDOC No. 1019828, c/o High Desert State Prison,
P.O. Box 650, Indian Springs, NV 89018.

BY /s/ Carrie M. Connolly
Employee, Clark County Public Defender’s Office