

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

ADRIAN POWELL,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 79037

Electronically Filed  
Oct 18 2019 03:43 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX**

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## **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 18<sup>th</sup> day of October 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT

M ONIQUE MCNEILL

STEVEN WOLFSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

ADRIAN POWELL  
c/o High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070-0650

By: /S/MONIQUE MCNEILL  
MONIQUE A. MCNEILL  
State Bar # 9862

ORIGINAL

1 IND

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

5 JOHN GIORDANI  
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11 Attorney for Plaintiff

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

NOV 08 2017

BY   
DULCE MARIE ROMEA, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 LARENZO PINKEY, aka,  
13 Lorenzo Pinkney, #8295438  
14 ADRIAN POWELL #8387748

Defendant(s).

CASE NO: C-17-327767-2

DEPT NO: I

INDICTMENT

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

17 The Defendant(s) above named, LARENZO PINKEY, aka, Lorenzo Pinkney and  
18 ADRIAN POWELL, accused by the Clark County Grand Jury of the crime(s) of  
19 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -  
20 NOC 50147); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category  
21 B Felony - NRS 205.060 - NOC 50426); FIRST DEGREE KIDNAPPING WITH USE OF A  
22 DEADLY WEAPON (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50055);  
23 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380,  
24 193.165 - NOC 50138) and UNLAWFUL TAKING OF VEHICLE (Gross Misdemeanor -  
25 NRS 205.2715 - NOC 50567), committed at and within the County of Clark, State of Nevada,  
26 on or about the 28th day of September, 2017, as follows:

27 ///

28 ///

C-17-327767-2  
IND  
Indictment  
4696710



1 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the  
4 Defendants committing the acts as set forth in Counts 4, 5, 6 and 7, said acts being incorporated  
5 by this reference as though fully set forth herein.

6 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

7 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
8 willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery,  
9 that certain business occupied by PEPE'S TACOS, located at 2490 Fremont Street, Las Vegas,  
10 Clark County, Nevada, while possessing and/or gaining possession of a handgun and/or  
11 pneumatic gun, a deadly weapon, during the commission of the crime and/or before leaving  
12 the structure; the Defendant(s) being criminally liable under one or more of the following  
13 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
14 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
15 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
16 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
17 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
18 Defendants acting in concert throughout.

19 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

20 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
21 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
22 kidnap, or carry away JOSE CHAVARRIA, a human being, with the intent to hold or detain  
23 the said JOSE CHAVARRIA against his will, and without his consent, for the purpose of  
24 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
25 the Defendant(s) being criminally liable under one or more of the following principles of  
26 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
27 in the commission of this crime, with the intent that this crime be committed, by counseling,  
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
3 concert throughout.

4 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON.

5 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
6 willfully, unlawfully, and feloniously take personal property, to wit: a necklace, from the  
7 person of ANTONIO VALLEJO, or in his presence, by means of force or violence, or fear of  
8 injury to, and without the consent and against the will of ANTONIO VALLEJO, with use of  
9 a deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
10 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

16 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWEL did  
18 willfully, unlawfully, and feloniously take personal property, to wit: a purse and contents, from  
19 the person of SELENA GRACIANO, or in her presence, by means of force or violence, or  
20 fear of injury to, and without the consent and against the will of SELENA GRACIANO, with  
21 use of a deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being  
22 criminally liable under one or more of the following principles of criminal liability, to wit: (1)  
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
27 Defendants aiding or abetting and/or conspiring by Defendants acting in concert throughout.

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1 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
4 person of MYRIAM GASPAR, or in her presence, by means of force or violence, or fear of  
5 injury to, and without the consent and against the will of MYRIAM GASPAR, with use of a  
6 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
7 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
8 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
9 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
10 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
11 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
12 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

13 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
15 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
16 person of JOSE CHAVARRIA, or in his presence, by means of force or violence, or fear of  
17 injury to, and without the consent and against the will of JOSE CHAVARRIA, with use of a  
18 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
19 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
20 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
21 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
22 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
23 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
24 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

25 COUNT 8 - CONSPIRACY TO COMMIT ROBBERY

26 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
27 willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the  
28 Defendants committing the acts as set forth in Counts 11 and 12, said acts being incorporated

1 by this reference as though fully set forth herein.

2 COUNT 9 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

3 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
4 willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery,  
5 that certain business occupied by WALGREENS, located at 4470 East Bonanza Road, Las  
6 Vegas, Clark County, Nevada, while possessing and/or gaining possession of a handgun and/or  
7 pneumatic gun, a deadly weapon, during the commission of the crime and/or before leaving  
8 the structure; the Defendant(s) being criminally liable under one or more of the following  
9 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
10 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
11 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
12 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
13 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
14 Defendants acting in concert throughout.

15 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

16 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
17 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
18 kidnap, or carry away YENEIR HESSING, a human being, with the intent to hold or detain  
19 the said YENEIR HESSING against his will, and without his consent, for the purpose of  
20 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
21 the Defendant(s) being criminally liable under one or more of the following principles of  
22 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
23 in the commission of this crime, with the intent that this crime be committed, by counseling,  
24 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit  
25 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
26 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
27 concert throughout.

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1 COUNT 11 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
4 person of YENEIR HESSING, or in his presence, by means of force or violence, or fear of  
5 injury to, and without the consent and against the will of YENEIR HESSING, with use of a  
6 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
7 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
8 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
9 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
10 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
11 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
12 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

13 COUNT 12 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
15 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency and/or  
16 pharmaceuticals and/or a necklace with dolphin pendant, from the person of DARLENE  
17 ORAT, or in her presence, by means of force or violence, or fear of injury to, and without the  
18 consent and against the will of DARLENE ORAT, with use of a deadly weapon, to wit: a  
19 handgun and/or pneumatic gun; the Defendant(s) being criminally liable under one or more  
20 of the following principles of criminal liability, to wit: (1) by directly committing this crime;  
21 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime  
22 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
23 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
24 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
25 conspiring by Defendants acting in concert throughout.

26 COUNT 13 - UNLAWFUL TAKING OF VEHICLE

27 Defendant LARENZO PINKEY, aka, Lorenzo Pinkney did willfully, unlawfully,  
28 without the consent of the owner, and without intent to permanently deprive the owner thereof,

1 take, carry, or drive away the vehicle of another, to wit: a 2006 Chrysler, bearing Nevada  
2 Temporary Tag No. 368-336, belonging to RAYNETTA SHINE.

3 COUNT 14 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

4 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
5 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
6 kidnap, or carry away TIFNIE BOBBITT, a human being, with the intent to hold or detain the  
7 said TIFNIE BOBBITT against her will, and without her consent, for the purpose of  
8 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
9 the Defendant(s) being criminally liable under one or more of the following principles of  
10 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
11 in the commission of this crime, with the intent that this crime be committed, by counseling,  
12 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit  
13 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
14 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
15 concert throughout.

16 COUNT 15 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
18 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
19 person of TIFNIE BOBBITT, or in her presence, by means of force or violence, or fear of  
20 injury to, and without the consent and against the will of TIFNIE BOBBITT, with use of a  
21 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
22 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
23 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
24 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,

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1 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
2 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
3 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

4 DATED this 7th day of November, 2017.

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

8 BY

 10193 EC  
9 JOHN GIORDANI  
10 Chief Deputy District Attorney  
11 Nevada Bar #012381

12  
13 ENDORSEMENT: A True Bill

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15   
16 Foreperson, Clark County Grand Jury  
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Names of Witnesses and testifying before the Grand Jury:

AOYAMA, KATHRYN, LMVPD

BOBITT, TIFNIE, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

CHAVARRIA-VALENZUELA, JOSE, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

CRUZ, RAYMUNDO, LVMPD #15656

GASPAR, MYRIAM, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

GRACIANO, SELINA, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

HESSING-RODRIGUEZ, YENEIR, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

ORAT, DARLENE, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

PANDULLO, TULLIO A., LVMPD #7884

SHINE, RAYNETTA, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

THOMAS, KRISTINA MARIE, LVMPD #13574

TOOMER, KYLE M., LVMPD #5780

VALLEJO-RODRIGUEZ, ANTONI, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

Additional Witnesses known to the District Attorney at time of filing the Indictment:

AKE, PAUL A., LVMPD #8100

ANDERSON, JORDAN ALAN, LVMPD #15109

AREVALO, BRYANT ANTONY, LVMPD #15771

BALINT, RYAN JOHN, LVMPD #15912

BEHYMER, AARON SAMUEL, LVMPD #15768

BREWER, DOROTHEA ROSE, LVMPD #15720

COLLINS, MAURICE DESHAWN, LVMPD #4719

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS, LVMPD RECORDS

GARLEY, MATTHEW ANTONIO, LVMPD #15652

GONZALEZ, KETHLEEN, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV

1 HERNANDEZ, VICTOR HUGO, LVMPD #15018  
2 JOHNSON, TIFFANY, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV  
3 LEAVITT, SETH, LVMPD #13457  
4 MILLS, PADILLA REED, LVMPD #15850  
5 POWELL, ADRIAN, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV  
6 RAFFERTY, ROBERT, LVMPD #8919  
7 SCHUMMER, DAVID A., LVMPD #7457  
8 SERENA, LANCE L., LVMPD #15888  
9 SPEAS, WILLIAM, LVMPD #5228  
10 WATKINS, DENZEL, c/o CCDA, 200 Lewis Avenue, Las Vegas, NV  
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27 17AGJ106A-B/17F17626A-B/cmj-GJ  
28 LVMPD EV# 1709280314; 1709280495  
(TK8)

ORIGINAL

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

JUL 30 2018

BY Kathy Klein  
KATHY KLEIN, DEPUTY

1 **AIND**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **MICHAEL R. DICKERSON**  
6 **Deputy District Attorney**  
7 **Nevada Bar #013476**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 LARENZO PINKEY, aka,  
13 Lorenzo Pinkney, #8295438  
14 ADRIAN POWELL #8387748

Defendant(s).

CASE NO: C-17-327767-12

DEPT NO: XXVIII

AMENDED  
INDICTMENT

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

17 The Defendant(s) above named, LARENZO PINKEY, aka, Lorenzo Pinkney and  
18 ADRIAN POWELL, accused by the Clark County Grand Jury of the crime(s) of  
19 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -  
20 NOC 50147); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON  
21 (Category B Felony - NRS 205.060 - NOC 50426); FIRST DEGREE KIDNAPPING  
22 WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.310, 200.320,  
23 193.165 - NOC 50055); ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
24 Felony - NRS 200.380, 193.165 - NOC 50138) and UNLAWFUL TAKING OF VEHICLE  
25 (Gross Misdemeanor - NRS 205.2715 - NOC 50567), committed at and within the County  
26 of Clark, State of Nevada, on or about the 28th day of September, 2017, as follows:

27 ///

28 ///

C-17-327767-2  
AIND  
Amended Indictment  
4767524



1 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the  
4 Defendants committing the acts as set forth in Counts 4, 5, 6 and 7, said acts being incorporated  
5 by this reference as though fully set forth herein.

6 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

7 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
8 willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery,  
9 that certain business occupied by PEPE'S TACOS, located at 2490 Fremont Street, Las Vegas,  
10 Clark County, Nevada, while possessing and/or gaining possession of a handgun and/or  
11 pneumatic gun, a deadly weapon, during the commission of the crime and/or before leaving  
12 the structure; the Defendant(s) being criminally liable under one or more of the following  
13 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
14 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
15 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
16 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
17 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
18 Defendants acting in concert throughout.

19 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

20 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
21 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
22 kidnap, or carry away JOSE CHAVARRIA, a human being, with the intent to hold or detain  
23 the said JOSE CHAVARRIA against his will, and without his consent, for the purpose of  
24 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
25 the Defendant(s) being criminally liable under one or more of the following principles of  
26 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
27 in the commission of this crime, with the intent that this crime be committed, by counseling,  
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
3 concert throughout.

4 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
6 willfully, unlawfully, and feloniously take personal property, to wit: a necklace, from the  
7 person of ANTONIO VALLEJO, or in his presence, by means of force or violence, or fear of  
8 injury to, and without the consent and against the will of ANTONIO VALLEJO, with use of  
9 a deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
10 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

16 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWEL did  
18 willfully, unlawfully, and feloniously take personal property, to wit: a purse and contents, from  
19 the person of SELENA GRACIANO, or in her presence, by means of force or violence, or  
20 fear of injury to, and without the consent and against the will of SELENA GRACIANO, with  
21 use of a deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being  
22 criminally liable under one or more of the following principles of criminal liability, to wit: (1)  
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
27 Defendants aiding or abetting and/or conspiring by Defendants acting in concert throughout.

28 ///



1 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
4 person of MYRIAM GASPAR, or in her presence, by means of force or violence, or fear of  
5 injury to, and without the consent and against the will of MYRIAM GASPAR, with use of a  
6 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
7 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
8 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
9 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
10 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
11 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
12 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

13 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
15 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
16 person of JOSE CHAVARRIA, or in his presence, by means of force or violence, or fear of  
17 injury to, and without the consent and against the will of JOSE CHAVARRIA, with use of a  
18 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
19 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
20 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
21 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
22 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
23 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
24 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

25 COUNT 8 - CONSPIRACY TO COMMIT ROBBERY

26 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
27 willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the  
28 Defendants committing the acts as set forth in Counts 11 and 12, said acts being incorporated

1 by this reference as though fully set forth herein.

2 COUNT 9 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

3 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
4 willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery,  
5 that certain business occupied by WALGREENS, located at 4470 East Bonanza Road, Las  
6 Vegas, Clark County, Nevada, while possessing and/or gaining possession of a handgun and/or  
7 pneumatic gun, a deadly weapon, during the commission of the crime and/or before leaving  
8 the structure; the Defendant(s) being criminally liable under one or more of the following  
9 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
10 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
11 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
12 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
13 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
14 Defendants acting in concert throughout.

15 COUNT 10 - ROBBERY WITH USE OF A DEADLY WEAPON

16 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
17 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
18 person of YENEIR HESSING, or in his presence, by means of force or violence, or fear of  
19 injury to, and without the consent and against the will of YENEIR HESSING, with use of a  
20 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
21 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
22 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
23 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
24 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
25 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
26 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

27 ///

28 ///

1 COUNT 11 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency and/or  
4 pharmaceuticals and/or a necklace with dolphin pendant, from the person of DARLENE  
5 ORAT, or in her presence, by means of force or violence, or fear of injury to, and without the  
6 consent and against the will of DARLENE ORAT, with use of a deadly weapon, to wit: a  
7 handgun and/or pneumatic gun; the Defendant(s) being criminally liable under one or more  
8 of the following principles of criminal liability, to wit: (1) by directly committing this crime;  
9 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime  
10 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
11 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
12 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
13 conspiring by Defendants acting in concert throughout.

14 COUNT 12 - UNLAWFUL TAKING OF VEHICLE

15 Defendant LARENZO PINKEY, aka, Lorenzo Pinkney did willfully, unlawfully,  
16 without the consent of the owner, and without intent to permanently deprive the owner thereof,  
17 take, carry, or drive away the vehicle of another, to wit: a 2006 Chrysler, bearing Nevada  
18 Temporary Tag No. 368-336, belonging to RAYNETTA SHINE.

19 COUNT 13 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

20 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
21 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
22 kidnap, or carry away TIFNIE BOBBITT, a human being, with the intent to hold or detain the  
23 said TIFNIE BOBBITT against her will, and without her consent, for the purpose of  
24 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
25 the Defendant(s) being criminally liable under one or more of the following principles of  
26 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
27 in the commission of this crime, with the intent that this crime be committed, by counseling,  
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
3 concert throughout.


4 COUNT 14 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
6 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
7 person of TIFNIE BOBBITT, or in her presence, by means of force or violence, or fear of  
8 injury to, and without the consent and against the will of TIFNIE BOBBITT, with use of a  
9 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
10 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

16 DATED this 26<sup>th</sup> day of July, 2018.

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

19  
20 BY

  
21 MICHAEL R. DICKERSON  
22 Deputy District Attorney  
23 Nevada Bar #013476  
24  
25  
26  
27

28 17AGJ106A-B/17F17626A-B/jm/L2  
LVMPD EV# 1709280314; 1709280495  
(TK8)

ORIGINAL

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

JUL 31 2018

BY, Kathy Klein  
KATHY KLEIN, DEPUTY

GPA  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN GIORDANI  
Chief Deputy District Attorney  
Nevada Bar #012381  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

ADRIAN POWELL, #8387748  
Defendant.

CASE NO: C-17-327767-2

DEPT NO: XXVIII

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: CTS 1 & 8 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); CTS 2 & 9 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 - NOC 50426); CTS 3 & 13 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50055); CTS - 4, 5, 6, 7, 10, 11 & 14 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138) and ~~CT 12 - UNLAWFUL TAKING OF VEHICLE (Gross Misdemeanor - NRS 205.2715 - NOC 50567)~~, as more fully alleged in the charging document attached hereto as Exhibit "1".

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

The Defendants agree to plead guilty to all counts in the Amended Indictment. The State will maintain the full right to argue, including for consecutive time between the counts,

C-17-327767-2  
GPA  
Guilty Plea Agreement  
4767625



1 however, the State agrees to not seek a Life sentence on any count. The State retains the full  
2 right to argue the facts and circumstances, but agrees to not file charges, for the following  
3 events:

4 1. LVMPD Event No. 170605-0220: Armed robbery at 7-Eleven located at 4800 West  
5 Washington, Las Vegas, Clark County, Nevada, on June 5, 2017.

6 2. LVMPD Event No. 170614-0524: Armed robbery at Roberto's/Mangos located at 6650  
7 Vegas Drive, Las Vegas, Clark County, Nevada, on June 14, 2017.

8 3. LVMPD Event No. 170618-0989: Armed robbery at Pepe's Tacos located at 1401  
9 North Decatur, Las Vegas, Clark County, Nevada, on June 18, 2017.

10 4. LVMPD Event No. 170701-0545: Armed robbery at Roberto's located at 2685 South  
11 Eastern Avenue, Las Vegas, Clark County, Nevada, on July 1, 2017.

12 5. LVMPD Event No. 170812-3809: Armed robbery at Pizza Bakery located at 6475 West  
13 Charleston Boulevard, Las Vegas, Clark County, Nevada, on August 12, 2017.

14 6. LVMPD Event No. 170817-0241: Armed robbery at Terrible Herbst located at 6380  
15 West Charleston Boulevard, Las Vegas, Clark County, Nevada, on August 17, 2017.

16 7. LVMPD Event No. 170817-0470: Armed robbery at Rebel located at 6400 West Lake  
17 Mead Boulevard, Las Vegas, Clark County, Nevada, on August 17, 2017.

18 8. LVMPD Event No. 170824-0521: Armed robbery at Roberto's located at 6820 West  
19 Flamingo Road, Las Vegas, Clark County, Nevada, on August 24, 2017.

20 9. LVMPD Event No. 170824-0645: Armed robbery at Roberto's located at 907 North  
21 Rainbow Boulevard, Las Vegas, Clark County, Nevada, on August 24, 2017.

22 10. LVMPD Event No. 170825-0589: Armed robbery at Pepe's Tacos located at 1401  
23 North Decatur, Las Vegas, Clark County, Nevada, on August 25, 2017.

24 The Defendants agree to take no position at sentencing regarding the aforementioned  
25 ten (10) armed-robbery events.

26 This Agreement is contingent upon the co-defendant's acceptance and adjudication on  
27 his respective Agreement.

28 //

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

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

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

#### 15 CONSEQUENCES OF THE PLEA

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

18 **As to Counts 1 & 8** - I understand that as a consequence of my plea of guilty the Court  
19 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
20 term of not less than one (1) year and a maximum term of not more than six (6) years. The  
21 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of  
22 imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that I am  
23 eligible for probation for the offense(s) to which I am pleading guilty. I understand that, except  
24 as otherwise provided by statute, the question of whether I receive probation is in the discretion  
25 of the sentencing judge.

26 **As to Counts 2 & 9** - I understand that as a consequence of my plea of guilty the Court  
27 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum  
28 term of not less than two (2) years and a maximum term of not more than fifteen (15) years.

1 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum  
2 term of imprisonment. I understand that I may also be fined up to \$10,000.00. I understand  
3 that I am eligible for probation for the offense(s) to which I am pleading guilty. I understand  
4 that, except as otherwise provided by statute, the question of whether I receive probation is in  
5 the discretion of the sentencing judge.

6 As to Counts 3 & 13 - I understand that as a consequence of my plea of guilty the Court  
7 must sentence me to imprisonment in the Nevada State Prison for Life with the possibility of  
8 parole with eligibility for parole beginning at five (5) years; OR a definite term of fifteen (15)  
9 years with eligibility for parole beginning at five (5) years plus a consecutive term of one (1)  
10 to fifteen (15) years for the deadly weapon enhancement. I understand that I am not eligible  
11 for probation for the offense to which I am pleading guilty.

12 As to Counts 4, 5, 6, 7, 10, 11 & 14 - I understand that as a consequence of my plea of  
13 guilty the Court must sentence me to imprisonment in the Nevada Department of Corrections  
14 for a minimum term of not less than two (2) years and a maximum term of not more than  
15 fifteen (15) years plus a consecutive term of one (1) to fifteen (15) years for the deadly weapon  
16 enhancement. The minimum term of imprisonment may not exceed forty percent (40%) of the  
17 maximum term of imprisonment. I understand that I am not eligible for probation for the  
18 offense to which I am pleading guilty.

19 I understand that the law requires me to pay an Administrative Assessment Fee.

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

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

26 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,  
27 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or  
28 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation



1 and may receive a higher sentencing range.

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

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

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

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

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

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

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

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

25 I understand that the Division of Parole and Probation will prepare a report for the  
26 sentencing judge prior to sentencing. This report will include matters relevant to the issue of  
27 sentencing, including my criminal history. This report may contain hearsay information  
28 regarding my background and criminal history. My attorney and I will each have the

1 opportunity to comment on the information contained in the report at the time of sentencing.  
2 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also  
3 comment on this report.

#### 4 WAIVER OF RIGHTS

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

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

#### 21 VOLUNTARINESS OF PLEA

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

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

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

28 All of the foregoing elements, consequences, rights, and waiver of rights have been

1 thoroughly explained to me by my attorney.

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

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

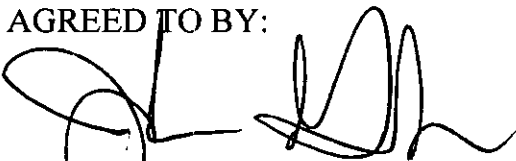
7 I am not now under the influence of any intoxicating liquor, a controlled substance or  
8 other drug which would in any manner impair my ability to comprehend or understand this  
9 agreement or the proceedings surrounding my entry of this plea.

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

12 DATED this 31 day of July, 2018.

13  
14   
15 \_\_\_\_\_  
ADRIAN POWELL  
Defendant

16 AGREED TO BY:

17   
18 \_\_\_\_\_

19 JOHN GIORDANI  
20 Chief Deputy District Attorney  
Nevada Bar #012381

1 CERTIFICATE OF COUNSEL:

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

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

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

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

29 Dated: This 31 day of July, 2018.

  
ATTORNEY FOR DEFENDANT

ed/GCU

1 **AIND**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 MICHAEL R. DICKERSON  
6 Deputy District Attorney  
7 Nevada Bar #013476  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-17-327767-2

11 -vs-

DEPT NO: XXVIII

12 LARENZO PINKEY, aka,  
13 Lorenzo Pinkney, #8295438  
14 **ADRIAN POWELL #8387748**

AMENDED  
INDICTMENT

14 Defendant(s).

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

17 The Defendant(s) above named, LARENZO PINKEY, aka, Lorenzo Pinkney and  
18 ADRIAN POWELL, accused by the Clark County Grand Jury of the crime(s) of  
19 **CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -**  
20 **NOC 50147); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON**  
21 **(Category B Felony - NRS 205.060 - NOC 50426); FIRST DEGREE KIDNAPPING**  
22 **WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.310, 200.320,**  
23 **193.165 - NOC 50055); ROBBERY WITH USE OF A DEADLY WEAPON (Category B**  
24 **Felony - NRS 200.380, 193.165 - NOC 50138) and UNLAWFUL TAKING OF VEHICLE**  
25 **(Gross Misdemeanor - NRS 205.2715 - NOC 50567), committed at and within the County**  
26 of Clark, State of Nevada, on or about the 28th day of September, 2017, as follows:

27 ///

28 ///

1 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the  
4 Defendants committing the acts as set forth in Counts 4, 5, 6 and 7, said acts being incorporated  
5 by this reference as though fully set forth herein.

6 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

7 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
8 willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery,  
9 that certain business occupied by PEPE'S TACOS, located at 2490 Fremont Street, Las Vegas,  
10 Clark County, Nevada, while possessing and/or gaining possession of a handgun and/or  
11 pneumatic gun, a deadly weapon, during the commission of the crime and/or before leaving  
12 the structure; the Defendant(s) being criminally liable under one or more of the following  
13 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
14 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
15 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
16 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
17 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
18 Defendants acting in concert throughout.

19 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

20 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
21 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
22 kidnap, or carry away JOSE CHAVARRIA, a human being, with the intent to hold or detain  
23 the said JOSE CHAVARRIA against his will, and without his consent, for the purpose of  
24 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
25 the Defendant(s) being criminally liable under one or more of the following principles of  
26 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
27 in the commission of this crime, with the intent that this crime be committed, by counseling,  
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
3 concert throughout.

4 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
6 willfully, unlawfully, and feloniously take personal property, to wit: a necklace, from the  
7 person of ANTONIO VALLEJO, or in his presence, by means of force or violence, or fear of  
8 injury to, and without the consent and against the will of ANTONIO VALLEJO, with use of  
9 a deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
10 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

16 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWEL did  
18 willfully, unlawfully, and feloniously take personal property, to wit: a purse and contents, from  
19 the person of SELENA GRACIANO, or in her presence, by means of force or violence, or  
20 fear of injury to, and without the consent and against the will of SELENA GRACIANO, with  
21 use of a deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being  
22 criminally liable under one or more of the following principles of criminal liability, to wit: (1)  
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
27 Defendants aiding or abetting and/or conspiring by Defendants acting in concert throughout.

28 ///

1 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
4 person of MYRIAM GASPAR, or in her presence, by means of force or violence, or fear of  
5 injury to, and without the consent and against the will of MYRIAM GASPAR, with use of a  
6 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
7 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
8 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
9 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
10 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
11 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
12 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

13 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
15 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
16 person of JOSE CHAVARRIA, or in his presence, by means of force or violence, or fear of  
17 injury to, and without the consent and against the will of JOSE CHAVARRIA, with use of a  
18 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
19 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
20 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
21 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
22 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
23 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
24 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

25 COUNT 8 - CONSPIRACY TO COMMIT ROBBERY

26 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
27 willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the  
28 Defendants committing the acts as set forth in Counts 11 and 12, said acts being incorporated



1 by this reference as though fully set forth herein.

2 COUNT 9 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

3 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
4 willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery,  
5 that certain business occupied by WALGREENS, located at 4470 East Bonanza Road, Las  
6 Vegas, Clark County, Nevada, while possessing and/or gaining possession of a handgun and/or  
7 pneumatic gun, a deadly weapon, during the commission of the crime and/or before leaving  
8 the structure; the Defendant(s) being criminally liable under one or more of the following  
9 principles of criminal liability, to wit: (1) by directly committing this crime; and/or (2) by  
10 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
11 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
12 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
13 intent that this crime be committed, Defendants aiding or abetting and/or conspiring by  
14 Defendants acting in concert throughout.

15 COUNT 10 - ROBBERY WITH USE OF A DEADLY WEAPON

16 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
17 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
18 person of YENEIR HESSING, or in his presence, by means of force or violence, or fear of  
19 injury to, and without the consent and against the will of YENEIR HESSING, with use of a  
20 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
21 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
22 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
23 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
24 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
25 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
26 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

27 ///

28 ///

1 COUNT 11 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
3 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency and/or  
4 pharmaceuticals and/or a necklace with dolphin pendant, from the person of DARLENE  
5 ORAT, or in her presence, by means of force or violence, or fear of injury to, and without the  
6 consent and against the will of DARLENE ORAT, with use of a deadly weapon, to wit: a  
7 handgun and/or pneumatic gun; the Defendant(s) being criminally liable under one or more  
8 of the following principles of criminal liability, to wit: (1) by directly committing this crime;  
9 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime  
10 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
11 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
12 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
13 conspiring by Defendants acting in concert throughout.

14 COUNT 12 - UNLAWFUL TAKING OF VEHICLE

15 Defendant LARENZO PINKEY, aka, Lorenzo Pinkney did willfully, unlawfully,  
16 without the consent of the owner, and without intent to permanently deprive the owner thereof,  
17 take, carry, or drive away the vehicle of another, to wit: a 2006 Chrysler, bearing Nevada  
18 Temporary Tag No. 368-336, belonging to RAYNETTA SHINE.

19 COUNT 13 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

20 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
21 willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal,  
22 kidnap, or carry away TIFNIE BOBBITT, a human being, with the intent to hold or detain the  
23 said TIFNIE BOBBITT against her will, and without her consent, for the purpose of  
24 committing robbery, with use of a deadly weapon, to wit: a handgun and/or pneumatic gun;  
25 the Defendant(s) being criminally liable under one or more of the following principles of  
26 criminal liability, to wit: (1) by directly committing this crime; and/or (2) by aiding or abetting  
27 in the commission of this crime, with the intent that this crime be committed, by counseling,  
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants aiding or abetting and/or conspiring by Defendants acting in  
3 concert throughout.

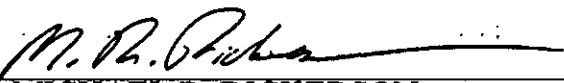
4 COUNT 14 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants LARENZO PINKEY, aka, Lorenzo Pinkney and ADRIAN POWELL did  
6 willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the  
7 person of TIFNIE BOBBITT, or in her presence, by means of force or violence, or fear of  
8 injury to, and without the consent and against the will of TIFNIE BOBBITT, with use of a  
9 deadly weapon, to wit: a handgun and/or pneumatic gun; the Defendant(s) being criminally  
10 liable under one or more of the following principles of criminal liability, to wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring by Defendants acting in concert throughout.

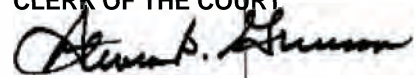
16 DATED this \_\_\_\_\_ day of July, 2018.

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

19  
20 BY

  
21 MICHAEL R. DICKERSON  
22 Deputy District Attorney  
23 Nevada Bar #013476  
24  
25  
26

27 17AGJ106A-B/17F17626A-B/jm/L2  
28 LVMPD EV# 1709280314; 1709280495  
(TK8)



1 **MOT**

2 MONIQUE A. MCNEILL, ESQ.  
3 Nevada Bar No. 9862  
4 325 S. Third Street  
5 Suite 200  
6 Las Vegas, Nevada 89101  
7 Telephone: (702) 497-9734  
8 Attorney for Defendant

9  
10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 THE STATE OF NEVADA,  
13  
14 Plaintiff,  
15  
16 vs.

CASE NO.: C-17-327767-2

DEPT. NO.: 28

Date:

17 ADRIAN POWELL,  
18  
19 Defendant.

Time:

20 **MOTION TO WITHDRAW GUILTY PLEA**

21 **COMES NOW** the Defendant, by and through his attorney of record, MONIQUE  
22 MCNEILL, Esq., and respectfully submits the above-titled Motion. This Motion is based upon  
23 the following Memorandum of Points and Authorities, the pleadings and papers on file herein,  
24 and argument of Counsel at the time set for hearing this matter.

DATED this 10th day of January, 2019.

/s/ MONIQUE MCNEILL

By: \_\_\_\_\_  
MONIQUE MCNEILL, ESQ.  
Nevada Bar No. 9862  
Attorney for Defendant

1                                    **MEMORANDUM OF POINTS AND AUTHORITIES**

2                                    **I. BACKGROUND**

3            On July 31, 2018, Defendant pleaded guilty to two counts of Conspiracy to Commit  
4 Robbery and two counts of Burglary While in Possession of a Firearm, two counts of First Degree  
5 Kidnapping with a Deadly Weapon, and seven counts of Robbery with Use of a Deadly Weapon.  
6 The entry of plea took place on the second day of trial. On the date of his sentencing, Mr. Powell  
7 indicated a desire to withdraw his guilty plea and current defense counsel was appointed  
8 accordingly.

9            Mr. Powell contends that he entered his guilty plea without first being given the  
10 opportunity to review a full and complete copy of his discovery. Additionally, his attorney did  
11 not go through the discovery with him, never discussed the defense that the attorney was going  
12 to present to the jury, did not have substantial contact with Mr. Powell before trial, and failed to  
13 give well-educated advice regarding the soundness of the plea negotiations. Mr. Powell's attorney  
14 told him that he was going to spend the rest of his life in prison unless he took the deal, and further  
15 informed Mr. Powell that the deal was a good deal because of the State agreeing not to file charges  
16 on multiple cases in which the police suspected Mr. Powell and his co-defendant. However, not  
17 only had Mr. Powell never seen discovery from those incidents, but the attorney did not even have  
18 the discovery from those events and did not have any idea about the strength of those cases. But  
19 for counsel's failure to adequately prepare his client for trial, and his counsel's failure to give well  
20 researched and advice founded on actual due diligence, Mr. Powell would not have entered the  
21 plea. Mr. Powell's contentions are listed in the attached affidavit. See Exhibit A. This Court can  
22 see from the attached jail records that prior counsel had very limited contact with Mr. Powell over  
23 the course of his representation. See Exhibit B.



1 A review of the discovery provided regarding the uncharged acts indicates that there is no  
2 evidence that connects Mr. Powell to those cases. According to counsel for the co-defendant, the  
3 discovery on those incidents was not even provided to counsel until AFTER the defendants  
4 entered their pleas, despite the State using the incidents as leverage. The discovery lists police  
5 reports and witness statements for ten different metro event numbers. Those reports and witness  
6 statements show that the descriptions of the perpetrators varies between the events, and that in  
7 almost all of those occurrences, the suspects had their faces and hands covered. There is no  
8 mention of any processing of any fingerprints or DNA. It should be noted that in the instant case,  
9 the Metro crime lab did process Mr. Powell's DNA and compared to samples recovered in the  
10 instant case. It stands to reason that if there had been DNA collected in the uncharged cases,  
11 Metro could have processed it at the same time. There is no forensic evidence tying Mr. Powell  
12 to those uncharged incidents. As it stands, there is not enough evidence to even charge Mr. Powell  
13 in those cases, so it was a grave error for his attorney to use those cases to inform Mr. Powell as  
14 to the nature of the plea offer.

## 15 II. ARGUMENT

16 In Nevada, a district court may grant a defendant's pre-conviction motion to withdraw a  
17 guilty plea for any "substantial reason" if it is "fair and just." *Woods v. State*, 114 Nev. 468, 475,  
18 958 P. 2d 91, 95 (1998) (citing *State v. District Court*, 85 Nev. 381, 385, 455 P.2d 923, 926  
19 (1969)). *See also Stevenson v. State*, 131 Nev. \_\_\_, \_\_\_, 354 P.3d 1277, 1281 (2015). To determine  
20 whether the defendant advances a substantial, fair, and just reason to withdraw a guilty plea, the  
21 district court must consider the totality of the circumstances surrounding the defendant's plea.  
22 *Woods*, 114 Nev. at 475, 958 P. 2d at 95-96 (1998). In *Stevenson v. State*, the Nevada Supreme  
23 Court noted that fair and just reasons include reasons such as a defendant establishing that there  
24

1 are “circumstances which might lead a jury to refuse to convict, notwithstanding technical guilt,”  
2 or the defendants becoming aware of some collateral consequences. *Id.*

3 A criminal defendant may withdraw his guilty plea if, under the totality of the  
4 circumstances, the court finds that he did not enter that plea voluntarily, knowingly, and  
5 intelligently. *Woods*, 114 Nev. at 475, 958 P.2d at 95-96 (1998); *Crawford v. State*, 117 Nev.  
6 718, 722, 30 P. 3d 1123, 1125-26 (2001); *Baal v. State*, 106 Nev. 69, 787 P.2d 391 (1990). The  
7 guidelines for voluntariness of guilty pleas require that the record affirmatively show that the  
8 defendant entered his plea understandingly and voluntarily. See *Heffley v. Warden*, 89 Nev. 573,  
9 574, 516 P.2d 1403, 1404 (1973). A “knowing” plea is one entered into with a full understanding  
10 of the nature of the charge and all the consequences of the plea. *Boykin v. Alabama*, 395 US 238  
11 (1969). Here, Mr. Powell’s plea was not knowing, as he did not have a full understanding of the  
12 nature of the charges against him due to counsel’s failure to provide Mr. Powell with a review of  
13 the discovery and a discussion regarding potential defenses. Additionally, counsel advised Mr.  
14 Powell regarding incidents that counsel had never even seen discovery regarding. Because Mr.  
15 Powell’s attorney did not provide meaningful communication, the plea is not knowing. Because  
16 Mr. Powell’s counsel himself was uneducated regarding the evidence being used to broker a deal,  
17 the plea was not knowing. This is one fair and just reason this Court should allow Mr. Powell to  
18 withdraw his plea.

19 Furthermore, a plea agreement is construed according to what the defendant reasonably  
20 understood when he entered the plea. *Statz v. State*, 113 Nev. 987, 993, 944 P.2d 813, 817 (1997);  
21 *Sullivan v. State*, 115 Nev. 383, 387, 990 P.2d 1258, 1260 (1999). The defendant’s reasonable  
22 understanding is distinguishable from the mere subjective belief of defendant as to any potential  
23 sentence, or hope of leniency, unsupported by a promise from the State or an indication by the  
24 court. See *Rouse v. State*, 91 Nev. 677, 541 P. 2d 643 (1975). Mr. Powell reasonably understood



1 that counsel informed him that he was going to serve approximately six to fifteen years in prison.  
2 This was not based on any offer from the State, but was communicated to Mr. Powell at the time  
3 counsel discussed the plea negotiations with Mr. Powell on the second day of trial.

4 A defendant who enters a guilty plea based on the advice of counsel may refute the guilty  
5 plea by demonstrating the ineffectiveness of counsel's performance violated the defendant's right  
6 to counsel guaranteed under the Sixth Amendment to the United States Constitution. *Nollette v.*  
7 *State*, 118 Nev. 341, 348-349, 46 P.3d 87, 92 (2002); *Strickland v. Washington*, 466 U.S. 668,  
8 687-88 (1984). A defendant must substantiate their claim of ineffective assistance of counsel by  
9 showing counsel's performance fell below an objective standard of reasonableness, and a  
10 reasonable probability exists that, but for counsel's erroneous advice, the defendant would not  
11 have pled guilty. *Id.*; *Warden v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984); *Hill v.*  
12 *Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).

13 Prior counsel's performance did not meet objective standards regarding criminal  
14 representation. In 2007, the Nevada Supreme Court convened a commission on the state of  
15 indigent defense in Nevada. See Exhibit C. As part of that commission, the committee came up  
16 with recommended standards of performance, which provide a guideline for this Court to  
17 measure counsel's performance. Those standards indicate that counsel should engage in a  
18 continuing interactive dialogue with the client concerning all matters that might reasonably be  
19 expected to have a material impact on the case, such as the development of a defense theory,  
20 presentation of the defense case, potential agreed-upon dispositions of the case. Mr. Powell's  
21 attorney did not meet this standard, and certainly communicating in person with a client two  
22 times before a felony jury trial on a life sentence case cannot be reasonable.

23 The standards also indicate that "under no circumstances should defense counsel recommend to  
24 a defendant acceptance of a plea unless appropriate investigation and study of the case has



1 been completed, including an analysis of controlling law and the evidence likely  
2 to be introduced at trial.” ADKT 411. Mr. Powell’s counsel had done none of that. His  
3 representation certainly fell below an objective standard of reasonableness. And, but for  
4 counsel using uninvestigated uncharged bad acts to make assurances that this plea was the best  
5 outcome, Mr. Powell would not have entered this plea.

6 In this case, Mr. Powell’s plea was the product of ineffective assistance of counsel, which  
7 lead to him accepting a plea that was based on assurance that were later discovered to be untrue  
8 and unfounded. His counsel made him assurances about the sentence he would receive, telling  
9 him it was all but a given, despite what the guilty plea agreement states, and his counsel coerced  
10 the plea by informing Mr. Powell there were ten other uncharged cases looming over his head.  
11 His counsel’s performance was deficient in keeping his client informed at every step of the  
12 proceedings, and was based on a lack of understanding regarding the true nature of the plea  
13 negotiations.

### 14 15 III. CONCLUSION

16 In light of the foregoing, Defendant respectfully requests that this Honorable Court grant  
17 his Motion to Withdraw Guilty Plea.

18  
19 DATED this 11th day of Janaury, 2019.

20 /s/ MONIQUE A. MCNEILL

21 By: \_\_\_\_\_  
22 MONIQUE MCNEILL, ESQ.  
23 Nevada Bar No. 9862  
24 Attorney for Defendant

1  
2 **CERTIFICATE OF SERVICE**

3 **IT IS HEREBY CERTIFIED** by the undersigned that on the 14th day of January, 2019,

4 I served a true and correct copy of the foregoing **MOTION** to the parties listed on the attached  
5 service list via one or more of the methods of service described below as indicated next to the  
6 name of the served individual or entity by a checked box:

7 **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage  
thereon fully prepaid, in the United States mail at Las Vegas, Nevada.

8 **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the  
party who has filed a written consent for such manner of service.

9 **BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by  
such designated individual whose particular duties include delivery of such on behalf of the firm,  
10 addressed to the individual(s) listed, signed by such individual or his/her representative accepting  
on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery  
of the document will be maintained with the document and is attached.

11 **BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to  
12 the electronic-mail address designated by the attorney or the party who has filed a written consent  
for such manner of service.

13  
14 **BY:** /s/ MONIQUE MCNEILL, Esq.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**SERVICE LIST**

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
PDMotions@clarkcountyda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service

ADDITIONAL INDIVIDUALS	PARTIES REPRESENTED	METHOD OF SERVICE
	N/A	<input type="checkbox"/> Personal service <input type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service

## EXHIBIT A



## AFFIDAVIT

**ADRIAN POWELL** makes the following declaration:

1. Prior to trial, my attorney had only visited me twice at the Clark County Detention Center, and only spoke to me on the phone a few times.
2. During the first visit with my attorney, he told me that he was going to "get me home." That led me to believe he felt that the case was winnable. He never sat down with me and provided full discovery on my case.
3. My attorney did not go through the discovery with me. In fact, my attorney did not provide me with all the discovery in the case. In fact, I have never seen the discovery regarding the uncharged incidents in which the State alleges that I am a person of interest. The only discovery I received was at my second preliminary hearing setting, and never received anything after that, until the bailiff handed me a DNA report the second day of trial.
4. My attorney did not show me the results from the DNA processing until we had already started jury selection. My attorney gave the Marshall the paperwork with the results, and had him provide it me. He never explained to me what any of it meant.
5. Prior to trial, I did not know anything about how my attorney was going to defend the case. At no point, did he discuss the discovery with me, or discuss the theory of defense at trial.
6. My attorney told me that I was going to spend the rest of my life in prison if I did not take the deal. He told me that it was this deal or the rest of my life. This was said to me as we were in the middle of trial. At that point., I was unaware of how he was going to defend me at trial. I did not know the entirety of the evidence against me and was scared. He told me that were it not for the uncharged cases, I could have been offered a 3-8 year sentence.
7. My attorney told me that regardless of what the Guilty Plea Agreement said, I was going to get a sentence of six to fifteen years.

- 1 8. At sentencing, when I told my attorney I was scared that I was not going to get the six to  
2 fifteen years he promised me, he became angry.
- 3 9. The advice my attorney gave me about taking the plea involved the uncharged cases listed  
4 in my guilty plea agreement; however, he misled me about the strength of the evidence in  
5 those cases. In fact, I have since learned that he had not actually reviewed the discovery  
6 regarding those cases until September, months after he advised me that those cases not  
7 being filed against me was beneficial to me. I have since reviewed that discovery and it is  
8 clear that the evidence in those charges is not strong and I do not believe should have been  
9 used to pressure me into this plea.
- 10 10. My attorney never went through the PSI with me, but instead handed it to me and left the  
11 visiting room. Prior to my interview, he told me not to tell the PSI writer that I had a  
12 substance abuse problem, and not to let the PSI writer see my tattoos, but instead to try to  
13 make the PSI writer think I was a "scholar and a student."
- 14 11. At sentencing, my co-defendant told me that his attorney had advised him about the lack of  
15 evidence in the uncharged cases.
- 16 12. I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

17  
18  
19 EXECUTED this 7<sup>TH</sup> day of January, 2018.

20  
21  
22 

23 \_\_\_\_\_  
ADRIAN POWELL

24  
25  
26  
27  
28

## EXHIBIT B



NT-7B-14-4

NT

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CLARK COUNTY DETENTION CENTER; RECORDS SUPPORT UNIT

## INMATE CORRESPONDENCE REQUEST

Inmate ID#:

8387748

Inmate Name:

Powell, Adrian

Floor:

7B

Housing

Unit:

14-4

QTY	TYPE OF RECORD	COST	QTY	TYPE OF RECORD	COST
<input type="checkbox"/>	LETTER OF INCARCERATION (UP TO 5 LODGINGS)	\$6.00	<input type="checkbox"/>	REPLACEMENT COPY OF TCR	\$0.50 PER PAGE
<input type="checkbox"/>	SCOPE RECORD	\$9.00	<input type="checkbox"/>	COPY OF PROPERTY SHEET	\$0.50 PER PAGE
<input type="checkbox"/>	SOCIAL SECURITY REINSTATEMENT FORM	\$6.00	<input checked="" type="checkbox"/>	VISITOR LOG	\$0.50 PER PAGE
<input type="checkbox"/>	1 ADDITIONAL COPY (OF ABOVE ONLY)	\$0.29 PER PAGE	<input type="checkbox"/>	INMATE KITES/ MISC DOCUMENT	\$0.50 PER PAGE

By signing below, I authorize the appropriate charge to be applied to my inmate trust account. If I do not have sufficient funds, an obligation will be applied to my account and any funds I receive will be deducted to pay for the debt. I understand that the Social Security Reinstatement form and/or Letter of Incarceration will be placed in my file and given to me upon my release from custody. All other items will be sent to me along with a copy of this form.

C.R. 7.11.18

Inmate Signature / Date

T. Glover 16703 7/11/18

Officer Signature &amp; P# / Date

.....Below to be completed by RSU ONLY.....

'COMPLIED WITH'

M9288

P#/INIT

7/16/18

DATE

'TOTAL AMOUNT DUE'

\$ 50¢

ATTENTION: I am stating that I want the copy of my visits with my lawyer not my regular visits. It should be free if not then you may charge me.

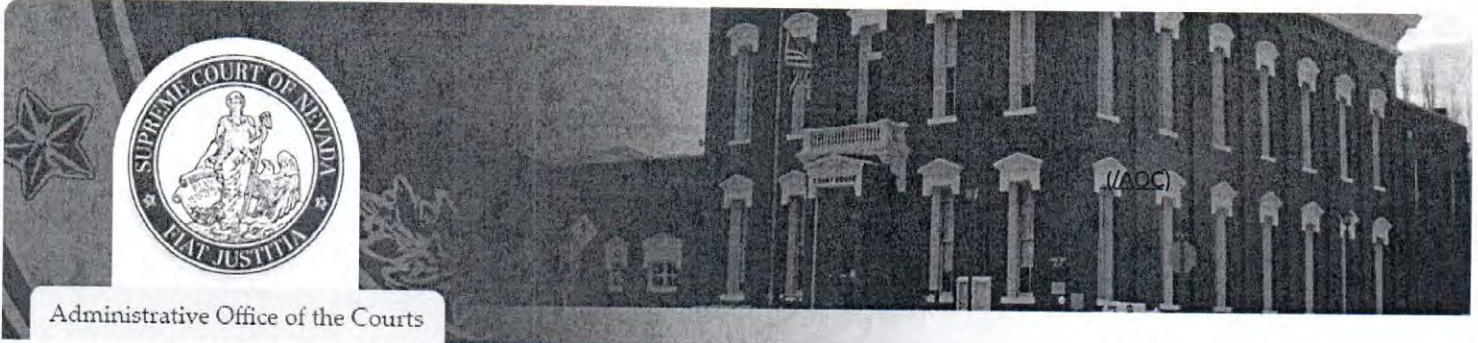


Visits With Visitor										
(Contact Only after May 2010, Non-Contact in Renovo)										
ID Number : '0008387748' , Start Date : '28-SEP-2017' , End Date : '16-JUL-2018'										

	Current Housing	Inmate Last Name	Inmate First Name	Offender ID	Start Date/Time	End Date/Time	Visit Type	Relation Type	Visitor Last name	Visitor First name	Visitor Middle name
1	LVMPD-NT-7B-14-U	POWELL	ADRIAN	0008387748	06-Oct-17 09:00:00	06-Oct-17 09:30:00	LEG	INV	LAWSON	ROBERT	
2	LVMPD-NT-7B-14-U	POWELL	ADRIAN	0008387748	13-Oct-17 08:00:00	13-Oct-17 08:05:00	LEG	INV	LAWSON	ROBERT	
3	LVMPD-NT-7B-14-U	POWELL	ADRIAN	0008387748	17-Oct-17 13:00:00	17-Oct-17 13:30:00	LEG	ATT	KANE	MICHAEL	
4	LVMPD-NT-7B-14-U	POWELL	ADRIAN	0008387748	08-Nov-17 13:00:00	08-Nov-17 13:05:00	LEG	INV	LAWSON	ROBERT	
5	LVMPD-NT-7B-14-U	POWELL	ADRIAN	0008387748	08-Feb-18 13:00:00	08-Feb-18 13:30:00	LEG	INV	CAMPBELL	SKYE	
6	LVMPD-NT-7B-14-U	POWELL	ADRIAN	0008387748	26-Apr-18 13:30:00	26-Apr-18 14:00:00	LEG	INV	CAMPBELL	SKYE	

## EXHIBIT C





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## Commission on Indigent Defense Overview

In 2007, the Nevada Supreme Court convened the Indigent Defense Commission (IDC) under the Chairmanship of Justice Michael Cherry to examine and make recommendations regarding the delivery of indigent defense services in Nevada.

The Commission filed its initial report with the Court in November of 2007.

On January 4, 2008, the Court issued its first ADKT 411 Order which contained performance standards, a requirement to remove judges from the appointment of counsel process, and also recommended that all rural counties use the State Public Defender's Office. Additionally, the Order required all jurisdictions to file a plan for the appointment of counsel and made real the voluntary request from Clark and Washoe Counties to conduct weighted caseload studies in order to determine appropriate public defender caseloads. The Order also established a definition of 'indigent' to be used when appointing counsel.

In response to this initial Order, several groups including the district attorneys, rural judges, and counties, filed objections with the Court; a hearing was held in March 2008 and resulted in an Order on March 21, 2008. This Order required that new members be added to the IDC, the performance standards be reconsidered, and the Rural Subcommittee be reconstituted to re-examine the issues in Rural Nevada.

During this interim period, the District Attorneys and Defense Bar worked with the IDC to revise the performance standards, and the Rural Subcommittee reconvened and developed new, refined recommendations. Clark and Washoe Counties, together with cities in urban jurisdictions, formulated and began to implement plans to remove judges from the process of appointment for conflict counsel, and reformed their contract attorney systems.

In 2014, the Indigent Defense Commission's Rural Subcommittee completed its tasks of gathering and analyzing data pertaining to the number and scope of public defender appointments across the State. Early in the winter of 2014, the Rural Subcommittee used this data to present its "Rural Subcommittee Report on the Status of Indigent Defense in the 15 Rural Counties and Recommendations to Improve Service to Indigent Defendants" to the Nevada Supreme Court.

On July 23, 2015, history was made when the Nevada Supreme Court signed ADKT 0411 and adopted and/or endorsed 4 of the Rural Subcommittee's recommendations. This banned the use of strictly flat fee contracts in the delivery of indigent defense services, placed rural death penalty cases and appeals in the hands of the State Public Defender's Office, and encouraged the implementation of an Indigent Defense Board.

### QUICK LINKS

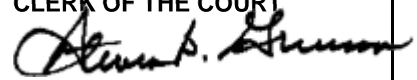
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**OPPS**

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

ADRIAN POWELL,  
#8387748

Defendant.

CASE NO: C-17-327767-2

DEPT NO: XXVIII

**STATE'S OPPOSITION TO DEFENDANT'S MOTION  
TO WITHDRAW GUILTY PLEA**

DATE OF HEARING: 2/25/2019  
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN GIORDANI, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Withdraw Guilty Plea.

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

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## PROCEDURAL HISTORY

On November 8, 2017, Indictment returned in the District Court charging Defendants Lorenzo Pinkey aka, Lorenzo Pinkney, and Adrian Powell with two (2) counts of Conspiracy To Commit Robbery (Category B Felony - NRS 200.380, 199.480), two (2) counts of Burglary While In Possession Of A Deadly Weapon (Category B Felony - NRS 205.060), three (3) counts of First Degree Kidnapping With Use Of A Deadly Weapon (Category A Felony - NRS 200.310, 200.320, 193.165), seven (7) counts of Robbery With Use Of A Deadly Weapon (Category B Felony - NRS 200.380, 193.165) and one (1) count of Unlawful Taking Of Vehicle (Gross Misdemeanor - NRS 205.2715). All charges stemmed from robberies that occurred at a Pepe's Tacos restaurant and a Walgreens store in Las Vegas, Nevada on September 28, 2017.

On November 13, 2017, Defendants Pinkney and Powell were arraigned on the aforementioned charges in the District Court. The case ultimately proceeded to jury trial on July 30, 2018. Voir Dire commenced On Monday, July 30, 2018. Court concluded for the day, and the parties returned the following day to resume jury selection. That morning, the parties negotiated for hours, and the State ultimately agreed to allow the Defendants to plead guilty pursuant to the Guilty Plea Agreement discussed below. The Defendants pled guilty, the jury was discharged, and a sentencing date was set for September 12, 2018. Prior to sentencing, the Defendants filed Motions to withdraw their guilty pleas. The State opposes as follows.

## FACTUAL BACKGROUND

The evidence in this case was overwhelming. The following is a summary of the victims' testimony from the Grand Jury presentation, as well as a summary of the forensic evidence (DNA AND FINGERPRINTS) and the circumstantial evidence that would have been presented at trial.

### A. Testimony of Jose Chavarria

Jose Alfredo Chavarria Valenzuela was working as a cook at Pepe's Tacos located at 2490 Fremont Street, Las Vegas, Nevada on September 28, 2017. (RT1 at 32-33). At approximately 2:40 AM, Chavarria was in kitchen area when two gunmen entered the

1 restaurant. (RT1 at 35). Chavarria ran toward the back refrigerator where his co-worker was  
2 located, when one of the gunman jumped the counter, followed Chavarria and pointed a gun  
3 at him. (RT1 at 35). The gunman told Chavarria to get on the ground and that he “wanted the  
4 money.” Id. The gunman then forced Chavarria at gunpoint from the back of the store to the  
5 front cash registers. (RT1 35-36). At the cash registers, the gunman began jabbing Chavarria  
6 in his side, but Chavarria was unable to open the till because he did not have the correct  
7 passcode. (RT1 at 36). The second gunman then retrieved Chavarria’s coworker from the  
8 back of the store and forced her to open the cash registers at the front of the store. (RT1 at  
9 37). One of the gunmen then took Chavarria to the second cash register, threw him on the  
10 ground, and pointed a gun to Chavarria’s head. Id. The gunmen took the money from the  
11 cash registers, but did not take any property from Chavarria. (RT1 at 37-38).

12 **B. Testimony of Yenir Hessing**

13 Yenir Hessing works as the shift lead at the Walgreens located at 4470 East Bonanza,  
14 Las Vegas, Nevada. (RT1 at 7). On September 28, 2017, Hessing was working the graveyard  
15 shift with four other Walgreens employees when, at approximately 4:05 AM, two masked  
16 gunmen entered the store. (RT1 at 8-10).

17 Hessing was stocking the shelves in the food aisle when one of the gunmen pointed a gun  
18 to her stomach, demanded she move to the front of the store. (RT1 at 10). The food aisle is  
19 located near the store’s photo section, away from the registers and store entrance. (RT1 at  
20 14:2-6). While pushing her to the front of the store, the gunman told Hessing to go to the cash  
21 registers in the front of the store, passing the cash register in the photo section. (RT 14:4-6).  
22 As gunman pushed Hessing, he told her this is “not a game and I’m going to kill you.” (RT1  
23 at 10).

24 At the front of the store, the gunman told her to open the three cash registers, which Hessing  
25 did. Id. At that moment, another Walgreens employee, Tifnie Bobbitt was returning from  
26 lunch and, upon seeing Bobbitt, the gunman ordered her the front of the store too. Id. Hessing  
27 testified that the gunman was “swearing and saying like really bad things ... grabbed both of  
28 us and he asked me where is the big money, where is the safe, and I tell him it was in the

1 office.” (RT1 at 10:12-15). The gunman then used the gun to again push Hessing, this time  
2 toward the office located at the back of the store. (RT1 at 10).

3 While the gunman pushed Hessing toward the back of the store, Hessing saw down an aisle  
4 that the Walgreen’s pharmacist, Darlene Orat, was being held up by another gunman in the  
5 pharmacy. (RT at 9, 12). As the gunman pushed Hessing toward the back office at gunpoint,  
6 he told Hessing “I’m going to kill you.” (RT1 at 14:15). Hessing responded to the gunman,  
7 telling him “please don’t hurt me, I’m nine weeks pregnant, don’t do anything to me.” (RT1 at  
8 15-17). To which the gunman responded “I don’t give a [fuck] I’m going to kill you if you do  
9 the wrong code or ... try to call [police].” (RT1 at 14:17-19).

10 Upon reaching the back office, which is behind two doors that each have a different pin  
11 code, Hessing entered the code and the gunman forced Hessing and Bobbitt into the office.  
12 (RT1 at 15-16). The door to the office closed behind them, leaving Hessing, Bobbitt and the  
13 gunman isolated from the rest of the store. (RT1 at 17-18). In the office, the gunman began  
14 hitting Hessing in the ribs with the gun and demanding that she open the safe. (RT at 17).  
15 Hessing opened the first of two safes and the gunman grabbed everything. Id. The gunman  
16 then demanded Hessing open the second safe, which she did. The gunman grabbed the  
17 contents from the second safe and fled from the office. Id.

### 18 **C. Testimony of Tifnie Bobbitt.**

19 Tifnie Bobbit was working as a cashier at the Walgreens located at 4470 East Bonanza,  
20 Las Vegas, Nevada, on September 28, 2017. (RT2 at 8). Around 4:00 AM, Bobbitt was  
21 headed to breakroom to take her lunch break when she heard a man “say the F word.” (RT2  
22 9-10:1). Bobbitt looked over to see the man crouching and walking behind Tenir Hessing.  
23 (RT2 at 10). Bobbitt entered the code to the breakroom, entered the room and approached the  
24 seconded code-locked door to the office, which she knocked on to alert the Walgreen’s  
25 manager. (RT2 10-11). Bobbitt’s manager left and did not return, so Bobbitt, thinking the  
26 situation was taken care of, walked out of the breakroom into the store. (RT2at 11). At that  
27 moment, the gunman saw her and yelled at her “Where the fuck do you think you’re going,  
28 bitch?” ((RT2 at 11:21-24). The gunman then ordered Bobbitt to the front of the store where



1 Hessing was opening the cash registers for the gunman. (RT2 at 13). From there, the gunman  
2 forced Bobbit and Hessing from the front of the store to the back office, pushing Bobbitt while  
3 telling the women they were walking too slowly. (RT2 at 13-14). At the breakroom door,  
4 they enter the code and enter the breakroom. (RT2 at 14). From there, Hessing entered the  
5 code to the office door and the gunman forced the women into the office. (RT2 at 14-15). In  
6 the office, the gunman “kept jabbing the gun” into Hessing’s side as he was forcing her to  
7 open the safes. (RT2 at 15). Once the safes were open, the gunman took the money from the  
8 safes and fled. Id.

9 **D. Evidence in addition to Grand Jury Testimony**

10 Both of these armed robberies were captured on video surveillance. In addition, the  
11 Defendants used Mr. Pinkney’s girlfriend’s vehicle. After the Walgreen’s event, they crashed  
12 the vehicle while fleeing. Defendant’s Pinkney and Powell fled the wrecked vehicle on foot,  
13 leaving a trail of US Currency, a mask, and the proceeds of the robberies in their wake. Mr.  
14 Powell’s DNA was on the red mask that he dropped when fleeing from Walgreen’s, and Mr.  
15 Pinkney’s fingerprints were on the prescription bottles from the Walgreen’s robbery. They  
16 were apprehended a short time later wearing the same clothing they wore during the robberies.

17 **ARGUMENT**

18 **I. DEFENDANT’S PLEA WAS KNOWINGLY AND VOLUNTARILY**  
19 **ENTERED AND HE HAS NOT ESTABLISHED A SUBSTANTIAL**  
20 **REASON WARRANTING WITHDRAWAL OF HIS PLEA.**

21 **A. THERE IS NOT A SUBSTANTIAL, FAIR, AND JUST REASON TO**  
22 **ALLOW DEFENDANT TO WITHDRAW HIS GUILTY PLEA**

23 “[A] motion to withdraw a plea of guilty...may be made only before sentence is  
24 imposed or imposition of sentence is suspended” unless it is necessary “to correct manifest  
25 injustice.” N.R.S. 176.165; Baal v. State, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990). The  
26 district court may grant a motion made prior to sentencing or adjudication of guilty for any  
27 substantial reason that is fair and just. State v. District Court, 85 Nev. 381, 385, 455 P.2d 923,  
28 926 (1969).



1           However, in determining whether a Defendant has “advanced a substantial, fair, and  
2 just reason to withdraw a [guilty] plea, the District Court must consider the totality of the  
3 circumstances to determine whether the defendant entered the plea voluntarily, knowingly,  
4 and intelligently.” Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1125-26 (2001). A  
5 Court “has a duty to review the entire record to determine whether the plea was valid ... [and]  
6 may not simply review the plea canvass in a vacuum.” Mitchell v. State, 109 Nev. 137, 141,  
7 848 P.2d 1060, 1062 (1993). Nonetheless, a defendant has no right to withdraw his plea simply  
8 because he makes his motion prior to sentencing or because the State failed to establish actual  
9 prejudice. See, Hubbard v. State, 110 Nev. 671, 675-76, 877 P.2d 519, 521 (1994).

10           In determining whether a guilty plea was knowingly and voluntarily entered, the Court  
11 reviews the totality of the circumstances surrounding the plea. Bryant v. State, 102 Nev. 268,  
12 271, 721 P.2d 364, 367 (1986)(*superseded by statute*). However, a guilty plea is  
13 presumptively valid. Wilson v. State, 99 Nev. 362, 373, 664 P.2d 328, 334 (1983). In  
14 addition, when a guilty plea is accepted by the trial court after proper canvassing as to whether  
15 the defendant knowingly and intelligently entered his plea, such plea will be deemed properly  
16 accepted. Baal v. State, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990).

17           If a proper canvass is conducted, the record will reflect the following: “(1) the defendant  
18 knowingly waived his privilege against self-incrimination, the right to trial by jury, and the  
19 right to confront his accusers; (2) the plea was voluntary, was not coerced, and was not the  
20 result of a promise of leniency; (3) the defendant understood the consequences of his plea and  
21 the range of punishment; and (4) the defendant understood the nature of the charge, i.e., the  
22 elements of the crime.” Wilson v. State, 99 Nev. 362, 366, 664 P.2d 328, 330 (1983).  
23 However, the failure to conduct a ritualistic oral canvass does not require that the plea be  
24 invalidated. State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000).

25           In the instant case, Defendant signed a written Guilty Plea Agreement, wherein he  
26 acknowledged that he fully understood the entirety of the agreement, had all of his questions  
27 answered, and was knowingly and voluntarily entering his guilty pleas. Defendant further  
28

1 acknowledged in his signed Guilty Plea Agreement all of the rights he was giving up by  
2 entering the agreement:

3 I understand that I am waiving and **forever giving up** the following rights and  
4 privileges: 1. The constitutional privilege against self-incrimination...2. The  
5 constitutional right to a speedy and public trial by an impartial jury...3. The  
6 constitutional right to confront and cross-examine any witnesses who would  
7 testify against me...I have discussed the elements of the original charge(s)  
8 against me with my attorney and I understand the nature of the charge(s) against  
9 me.... I have discussed with my attorney any possible defenses, defense  
10 strategies and circumstances which might be in my favor... All of the foregoing  
11 elements, consequences, rights, and waiver of rights have been thoroughly  
12 explained to me by my attorney. I believe that pleading guilty and accepting  
13 this plea bargain is in my best interest, and that trial would be contrary to my  
14 best interest. I am signing this agreement voluntarily...and I am not acting under  
duress or coercion or by virtue of any promise of leniency, except for those set  
forth in this agreement...My attorney has answered all my questions regarding  
this guilty plea agreement and its consequences to my satisfaction and I am  
satisfied with the services provided by my attorney (GPA pp. 5-6).

15 In addition to the actual GPA, the Court discussed the terms of the agreement with both  
16 Defendants extensively on the second day of trial. Specifically, on Monday, July 30, 2018, the  
17 Court and the State began the voir dire process. The following morning on Tuesday, July 31,  
18 2018, the State and defense attorneys negotiated the case before voir dire resumed. Pursuant  
19 to the guilty plea agreements, both Defendants essentially “pled to the sheet,” and in exchange,  
20 the State agreed to not seek Life in prison, and agreed to not file charges on ten (10) additional  
21 robbery events. Because the jury trial had already commenced, the Court conducted an  
22 extremely thorough plea canvass on both Defendants, and ultimately accepted their guilty  
23 pleas as freely, knowingly, and voluntarily entered. See Recorder’s Transcript of Plea Canvass  
24 of Pinkney and Powell attached hereto as Exhibit 1.

25 After Mr. Durham placed the negotiations on the record, the Court’s plea canvass  
26 began with Defendant Pinkney:

27 THE COURT: Okay. I’m going to do these one at a time and very, hopefully,  
28 carefully. Let’s start off, Mr. Pinkey –

1 ...  
2 DEFENDANT PINKNEY: [Defendant spells True Name]  
3 THE COURT: And how old are you?  
4 DEFENDANT PINKNEY: I'm 22, Your Honor.  
5 THE COURT: How far did you go in school?  
6 DEFENDANT PINKNEY: I never got my high school diploma or I never got  
7 a GED, but I'm planning on getting that.  
8 THE COURT: Do you have any sort of learning disability of any kind?  
9 DEFENDANT PINKNEY: Yes, I grew up with a learning disability. I had an  
10 IEP, and I grew up with a lot like behavior, my behavior. I got the information  
11 on that too. Benjamin, he got status on the stuff, stating that type of stuff.  
12 THE COURT: Okay, do you read, write and understand the English language?  
13 DEFENDANT PINKNEY: Yes.  
14 THE COURT: And is English your primary language?  
15 DEFENDANT PINKNEY: Yes, sir.  
16 THE COURT: Have you been treated recently for any mental illness or  
17 addiction of any kind?  
18 DEFENDANT PINKNEY: I have in the past, but not recently.  
19 THE COURT: Okay. Has anyone ever suggested to you that you be treated for  
20 mental illness or an emotional condition?  
21 DEFENDANT PINKNEY: Well, yeah, but – and no. I say yeah and no. It's a  
22 yeah on the mental affect, it has been where they wanted me to get treated, but  
23 I just hadn't.  
24 THE COURT: Okay. Are you currently under the influence of any drug,  
25 medication, or alcoholic beverage?  
26 DEFENDANT PINKNEY: No, sir.  
27 THE COURT: Have you been on any medication during your time in jail?  
28 DEFENDANT PINKNEY: No, sir.  
THE COURT: Have you received a copy of the indictment – or the guilty plea  
agreement?  
DEFENDANT PINKNEY: Yes, I have.  
THE COURT: Have you discussed this case with your attorney?

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DEFENDANT PINKNEY: Yes.

THE COURT: Are you satisfied with his representation and the advice given to you by your attorney?

DEFENDANT PINKNEY: Yes I have. Or, yes, I am. Sorry.

THE COURT: Okay. And as to the guilty plea agreement, are you pleading guilty to Counts ... [Court lists counts in the Indictment]

DEFENDANT PINKNEY: Yes, I do.

THE COURT: And do you understand all the – have you read a copy of the guilty plea agreement?

DEFENDANT PINKNEY: Yes, I read it over, sir.

THE COURT: And do you understand everything contained in the guilty plea agreement?

DEFENDANT PINKNEY: Yes.

THE COURT: And have you had an opportunity to discuss this with your attorney?

DEFENDANT PINKNEY: Yes.

THE COURT: And if you had any questions, did he answer your questions?

DEFENDANT PINKNEY: Yes, he did.

THE COURT: Do you have any questions of me regarding that at this time?

DEFENDANT PINKNEY: No, Your Honor.

THE COURT: And as to the charges in the guilty plea agreement that I just discussed, how are you pleading?

DEFENDANT PINKNEY: Pleading guilty.

THE COURT: And is it because in truth and in fact you committed the charges listed in the guilty plea agreement?

DEFENDANT PINKNEY: Yes.

THE COURT: Are you making this plea freely and voluntarily?

DEFENDANT PINKNEY: Yes, I am, sir.

THE COURT: Has anyone forced or threatened you or anyone close to you to get you to enter this plea?

DEFENDANT PINKNEY: No, sir.

1 THE COURT: Has anyone made any promises other than what's stated in the  
2 guilty plea agreement to get you to enter this guilty plea agreement?

3 DEFENDANT PINKNEY: No.

4 THE COURT: And do you understand that as part of the guilty plea  
5 agreement, although you are not admitting to these crimes, that the State will  
6 be allowed to argue these crimes as I'm about to list for you at the time of  
7 sentencing? ... [Court then lists ten armed robbery dates, locations, and event  
8 numbers, which are also contained on page 2 of the guilty plea agreement].

9 DEFENDANT PINKNEY: Yes.

10 THE COURT: And you're agreeable to the same? You're agreeable to that?

11 DEFENDANT PINKNEY: Yes, I am.

12 ... [Court showed Defendant his signature on the guilty plea agreement]

13 THE COURT: Okay. Before you signed it, again, did you read and discuss it  
14 with your attorney?

15 DEFENDANT PINKNEY: Yes.

16 THE COURT: And again, just to be clear, did you understand everything  
17 contained in the guilty plea agreement?

18 DEFENDANT PINKNEY: Yes, I did, sir.

19 THE COURT: Do you understand the constitutional rights you're giving up by  
20 [] entering a guilty plea agreement?

21 DEFENDANT PINKNEY: Yes, sir.

22 THE COURT: And do you understand that you have a right to appeal on  
23 reasonable constitutional, jurisdictional or other grounds that challenge the  
24 legality of the proceedings?

25 DEFENDANT PINKNEY: Yes, sir.

26 ... [Parties recite the range of punishment for each and every count to which  
27 Defendant pled]

28 THE COURT: Do you understand the range of punishment?

DEFENDANT PINKNEY: Yes, sir.

... [Colloquy regarding the maximum punishment for all counts]

MR. GIORDANI: As long as both Mr. Pinkney and Mr. Powell understand the  
range for each count...[a]nd then also they understand sentencing is  
completely up to the Court, and if the Court can either run the counts  
concurrent or run the counts consecutive.

1 THE COURT: Okay. ... So you understand the individual range of  
2 punishments on each of the counts?

3 ...

4 DEFENDANT PINKNEY: Yes, sir.

5 THE COURT: I can – it's at my discretion. And do you understand that the  
6 counts can be run consecutively or concurrently? Once again, that's up to me.

7 DEFENDANT PINKNEY: Yes, sir.

8 THE COURT: And no one is in a position to promise you probation, leniency,  
9 or any special treatment; do you understand that?

10 DEFENDANT PINKNEY: Oh, yeah, I understand that, sir.

11 ...

12 THE COURT: Thank you. What is it that you did to cause you to plead guilty?

13 DEFENDANT PINKNEY: I committed – I went to an establishment, and I  
14 committed two robberis – two more robberies – sir.

15 THE COURT: What were the establishments?

16 DEFENDANT PINKNEY: It was a Pepe's, and another one was Walgreen's,  
17 sir.

18 THE COURT: All right. Do you have any questions you'd like to ask me or  
19 your attorney before I accept this plea?

20 DEFENDANT PINKNEY: No, sir. Not questions, sir, no.

21 THE COURT: The Court finds the Defendant's plea of guilty is freely and  
22 voluntarily made, and the Defendant understands the nature of the offenses and  
23 consequences of his plea, and therefore, accepts the guilty plea. The matter is  
24 referred to Parole & Probation for a PSI report.

25 MR. GIORDANI: Your Honor, before you move on, can I ask one more thing  
26 of the Court?

27 THE COURT: Sure.

28 MR. GIORDANI: Just with regard to your first few questions of Mr. Pinkney  
where he indicated he had an IEP, a learning program, learning disabilities  
growing up, can we just be clear on the record that Mr. Pinkney had sufficient  
time with his attorney – it's been a couple hours, I think, since we broke and  
started really getting into the meat of this – understood fully both the written  
words and, you know, the conversations that he had with his attorney.

1 MR. DURHAM: Your Honor, I signed the certificate of counsel, which  
2 indicates that I believe he's fully competent to enter the plea; that I went over  
3 it with him.

4 THE COURT: Okay.

5 MR. DURHAM: And so I would just ask the Court to adopt that as part of the  
6 plea agreement.

7 THE COURT: That's fine, and I certainly think I've asked him three times at  
8 least now if he had any questions regarding this, and he's advised me that he  
9 does not. And you had plenty of time, for the record, to go over this with your  
10 attorney since it's now 1:30 and you first met with him at approximately 11:00  
11 a.m., correct?

12 DEFENDANT PINKNEY: Yes.

13 THE COURT: And once again, you have no questions regarding the  
14 agreement?

15 DEFENDANT PINKNEY: No, sir.

16 THE COURT: All right. Thank you.

17 MR. DURHAM: Thank you.

18 THE COURT: I find it's freely and voluntarily entered into. The Defendant is  
19 remanded.

20 Reporter's Transcript, pp. 3-12.

21 After the foregoing plea canvass of Mr. Pinkney, the Court then went on to canvass Mr.  
22 Powell, as thoroughly as it had Mr. Pinkney:

23 THE COURT: ... Mr. Powell, how old are you?

24 DEFENDANT POWELL: I'm 23 years old. I'll be 24 on Thursday.

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

26 DEFENDANT POWELL: I graduated high school.

27 THE COURT: And do you have any learning disability?

28 DEFENDANT POWELL: No, Your Honor.

THE COURT: Do you read, write, and understand the English language?

DEFENDANT POWELL: Yes, Your Honor.

THE COURT: And is English your primary language?

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DEFENDANT POWELL: Yes, Your Honor?

THE COURT: Have you been treated recently for any mental illness or addiction of any kind?

DEFENDANT POWELL: No, Your Honor.

THE COURT: Has anyone ever suggested you should be treated for mental health?

DEFENDANT POWELL: No, Your Honor.

THE COURT: Are you currently under the influence of any drug, medication, or alcohol?

DEFENDANT POWELL: No, Your Honor.

THE COURT: Have you been on any medication during your stay in jail?

DEFENDANT POWELL: Yes, Your Honor.

THE COURT: What medication?

DEFENDANT POWELL: Remeron.

THE COURT: What is – what type of medication is that?

DEFENDANT POWELL: It treats depression.

**THE COURT: How do you feel today?**

**DEFENDANT POWELL: I feel excellent, Your Honor.**

THE COURT: Do you understand what's happening?

DEFENDANT POWELL: Yes, Your Honor.

THE COURT: Does the medication affect your ability to understand what's going on today?

DEFENDANT POWELL: No, Your Honor.

THE COURT: Are you under any other effects of the medication?

DEFENDANT POWELL: No, Your Honor.

THE COURT: Have you received a copy of the guilty plea agreement?

DEFENDANT POWELL: Yes, Your Honor.

THE COURT: Did you read the guilty plea agreement?

DEFENDANT POWELL: Yes, Your Honor.

THE COURT: Did you understand everything in the guilty plea agreement?

DEFENDANT POWELL: Yes, Your Honor.



1 THE COURT: Have you discussed this case with your attorney?

2 DEFENDANT POWELL: Yes, Your Honor.

3 THE COURT: Are you satisfied with the representation and advice given to  
4 you by your attorney?

5 DEFENDANT POWELL: Yes, Your Honor.

6 THE COURT: As to the charges in the guilty plea agreement, how do you  
7 plead?

8 DEFENDANT POWELL: I plead guilty, Your Honor.

9 THE COURT: [Are you] making this plea freely and voluntarily?

10 DEFENDANT POWELL: Yes, Your Honor.

11 **THE COURT: Has anyone forced or threatened you or anyone close to  
12 you to get you to enter this plea?**

13 **DEFENDANT POWELL: No, Your Honor.**

14 **THE COURT: Has anyone made any promises other than what's in the  
15 guilty plea agreement to get you to enter this plea?**

16 **DEFENDANT POWELL: No, Your Honor.**

17 THE COURT: I have before me the guilty plea agreement, and I'm going to  
18 hold this up, on page 7, is this your signature?

19 DEFENDANT POWELL: Yes, Your Honor.

20 THE COURT: Did you understand everything contained in the guilty plea  
21 agreement?

22 DEFENDANT POWELL: Yes, Your Honor.

23 THE COURT: And do you understand that as part of the guilty plea  
24 agreement, although you are not pleading guilty to these alleged offenses, the  
25 State will be allowed to argue them at the time of sentencing?

26 DEFENDANT POWELL: Yes, Your Honor.

27 ... [Court lists ten additional robberies by date, location, and event number.]

28 **THE COURT: So I don't know if I asked you, before you signed this plea  
agreement, did you read it and discuss it with your attorney?**

**DEFENDANT POWELL: Yes, Your Honor.**

**THE COURT: Did you understand everything contained in this  
agreement?**

**DEFENDANT POWELL: Yes, Your Honor.**

1 THE COURT: You understand that there are certain constitutional rights that  
2 you're giving up by entering the guilty plea agreement?

3 DEFENDANT POWELL: Yes, Your Honor.

4 THE COURT: You understand that you have a right to appeal on reasonable  
5 constitutional, jurisdictional or other grounds that challenge the legality of the  
6 proceedings?

7 DEFENDANT POWELL: Yes, Your Honor.

8 THE COURT: And again, do you understand the range of punishment?

9 DEFENDANT POWELL: Yes, Your Honor.

10 THE COURT: Well, we're going to go through and put these on the record, so  
11 it's clear.

12 ... [Parties recite penalty range for each and every count to which Defendant  
13 pled.]

14 THE COURT: Do you understand the range for each of those counts?

15 DEFENDANT POWELL: Yes, Your Honor.

16 **THE COURT: Do you understand sentencing is entirely up to me?**

17 **DEFENDANT POWELL: Yes, Your Honor.**

18 **THE COURT: And do you understand that, again, it's up to me as to  
19 whether any or whether all of those counts run consecutively or  
20 concurrently?**

21 **DEFENDANT POWELL: Yes, Your Honor.**

22 **THE COURT: And no one is in a position to promise you leniency or  
23 special treatment of any kind?**

24 **DEFENDANT POWELL: Yes, Your Honor.**

25 THE COURT: [] What is it that you did on the 28<sup>th</sup> of September to cause you  
26 to plead guilty?

27 DEFENDANT POWELL: I went into two establishments, Your Honor, and I  
28 committed the armed robbery.

...

THE COURT: You went into those establishments and committed armed  
robberies?

DEFENDANT POWELL: Yes, Your Honor.

1           **THE COURT:** And do you have any questions you'd like to ask me or  
2           your attorney before I accept this plea?

3           **DEFENDANT POWELL:** No, Your Honor.

4           **THE COURT:** Anything I left out?

5           **MR. GIORDANI:** No.

6           **THE COURT:** Okay. And also for the record, you had approximately two  
7           hours to discuss all of this – maybe longer than that now – with your  
8           attorney before accepting this?

9           **DEFENDANT POWELL:** Yes, Your Honor.

10          **THE COURT:** And without telling me what they were, your attorney  
11          answered all your questions regarding the guilty plea agreement?

12          **DEFENDANT POWELL:** Yes, Your Honor.

13          **THE COURT:** Okay. The Court finds the Defendant's plea of guilty is freely  
14          and voluntarily made and the Defendant understands the nature and  
15          consequences of his plea and, therefore, accepts the plea of guilty.

16          Reporter's Transcript, pp. 15-20.

17               As this Court can see, there is absolutely no basis to allow either Defendant to withdraw  
18          this guilty pleas. The Court conducted an extremely thorough plea canvass of both Defendants,  
19          and they both responded appropriately and intelligently throughout. Mr. Pinkney was  
20          repeatedly asked, out of an abundance of caution, whether he understood the deal, whether he  
21          had enough time to talk to his lawyer, and whether he had any questions. Never once did he  
22          respond inappropriately to a question, or raise any concerns. Likewise, Mr. Powell responded  
23          appropriately to all questions, indicated he had ample time to talk to his lawyer, and went so  
24          far as to say he felt "excellent" during his plea canvass. That's because he knew he was getting  
25          a beneficial deal when he avoided ten additional robbery cases for pleading guilty to the  
26          charges he would have been convicted of by a jury anyway.

27               At the time these deals were entered into, a jury was in the hallway, and the State was  
28          entirely prepared to go complete the trial. In fact, the trial had already begun, as the pleas were  
29          entered on the second day of jury selection. These Defendants begged for negotiations, and,  
30          notwithstanding the fact that the State was confident in the outcome if the case proceeded to

1 trial, the State entered into the deals. The Defendants received a large benefit that incentivized  
2 them to take the deals. Specifically, they avoided being charged with dozens of additional  
3 counts – many of which included potential Life sentences. Those charges were discussed in  
4 detail, and neither Defendant ever once raised a concern or objection to those charges being  
5 referenced. The reason for that is simple. **The Defendants themselves knew they committed**  
6 **the crimes, understood their exposure, and chose to avoid it.** Now, after the jury was  
7 discharged, the State released all its witnesses from subpoena, halted any investigation into  
8 the additional offenses, and sent the files to P&P for PSI's to be completed, the Defendants  
9 claim that their pleas were not knowingly and voluntarily entered. The record completely  
10 contradicts their claims, and the Motion should be denied.

11 Defendant has not set forth any valid basis whatsoever to withdraw his plea.  
12 Defendant's Motion rests upon three general claims: 1) the evidence in the ten additional cases  
13 was not tested in court, 2) the Defendant did not have an opportunity to review discovery on  
14 the ten related cases, and 3) trial counsel was ineffective in advising Defendant to take the  
15 plea. *See* Defendant's Motion to Withdraw Guilty Plea, pp. 2-3. Clearly, these claims do not  
16 provide a substantial reason that is both fair and just warranting withdrawal of a guilty plea  
17 – for several reasons. First, the State notes that the ineffective assistance of counsel claim will  
18 be addressed in section B, *infra*. As to the first two claims – that the ten related robberies had  
19 not been litigated and that they did not review discovery – those claims are nonsensical.  
20 Everyone in the room knew that those charges had not been filed, but that they could have  
21 been filed after the jury's verdict on the instant charges. That was the entire nature of the  
22 agreement. Trial counsel could not have known whether the Defendants committed those ten  
23 additional events – only the Defendants themselves knew whether they did. And obviously,  
24 since they took the instant plea deal – they did commit those offenses and sought to limit their  
25 liability. The alternative for them would have been to complete the trial, run the risk of getting  
26 convicted of all counts in the instant case anyway, and then have more exposure on the back  
27 end when the State proceeded on the ten additional events. Clearly, they wanted to limit their  
28 exposure, as they knew they were going to be convicted on the instant charges, and chose to

1 avoid the chance of being convicted on dozens of additional charges. Again, the trial was  
2 already underway. Had the Defendants believed that they were innocent of the ten additional  
3 events – they could have finished the trial on the instant charges, and took their chances on the  
4 additional charges. They chose not to do so. And, based upon the plea canvass and the GPA  
5 itself, they chose to do so strategically. They cannot now withdraw their pleas on a whim. Nor  
6 can they withdraw their pleas based on a second opinion from a different attorney, or even  
7 cold feet. The legal standard for withdrawal of a guilty plea is a “**substantial reason that is**  
8 **both fair and just**” – not “cold feet” or “a second opinion.”

9 While the State need not set forth actual prejudice, Hubbard, 110 Nev. at 675-76, 877  
10 P.2d at 521, the State would take this opportunity to address the broader implications of  
11 allowing a defendant such as this to withdraw his plea based on nothing more than a whim.  
12 As this Court can see, there are no issues with the Guilty Plea Agreement, no issues with the  
13 plea canvass, and absolutely no reason to believe that anything else was going on behind the  
14 scenes that may render this guilty plea questionable. As such, allowing this Defendant to  
15 withdraw his plea would render plea agreements and plea canvasses meaningless. If those  
16 things are done perfectly, and there is nothing outside those records that creates a question as  
17 to the voluntary and knowing nature of the guilty plea, why would any party – State or Defense  
18 – ever enter into a guilty plea, knowing it can be withdrawn for no good reason? When the  
19 guilty pleas were entered in this case, the Court discharged the jury, the State released dozens  
20 of witnesses from subpoena, did not file additional charges related to the ten robbery events  
21 (per the agreement), and sent its file to Parole & Probation for a PSI. In a perfect world with  
22 unlimited prosecutorial resources, the State would continue to investigate and build the  
23 strength of their case up until the moment the defendant is sentenced, but as this Court is  
24 aware, that is simply not possible in the real world. Allowing Defendant’s to withdraw their  
25 pleas on a whim would change the entire fabric of the justice system. That is why the law  
26 requires a **substantial reason that is both fair and just** before a Defendant is allowed to  
27 withdraw his plea. No such reason was given here.

1 As to Defendant's claim that they had not received discovery on the ten additional  
2 cases, that claim fails as well. Most importantly, there is no right to pre-indictment discovery,  
3 so there was no "discovery" to begin with. In addition, as outlined thoroughly above, the  
4 Defendants themselves knew whether they committed the ten additional events, and the  
5 strength of the evidence in those cases is irrelevant. They chose to take the deal that ensured  
6 them the least exposure, and they did so. While the new attorney may personally believe that  
7 the evidence in the additional cases was not as strong as the evidence in the instant case, that  
8 is not a basis to allow them to withdraw their guilty pleas. They pled guilty to the charges in  
9 the instant case, not the ten additional cases. Again, this is not a substantial reason that is both  
10 fair and just. Allowing the Defendants to withdraw their pleas would be unfair and unjust.

11 **B. DEFENDANT'S TRIAL COUNSEL WAS EFFECTIVE, AND GAVE HIM**  
12 **SOUND ADVICE PRIOR TO HIS ENTRY OF PLEA**

13 To the extent that a motion to withdraw plea is premised upon an allegation of  
14 ineffective assistance of counsel, to succeed a Defendant must establish that: (1) counsel's  
15 performance was deficient because it fell below an objective standard of reasonableness  
16 measured by prevailing professional norms; and, (2) counsel's deficient performance  
17 prejudiced the defendant. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Riley v.  
18 State, 110 Nev. 638, 646, 878 P.2d 272, 277-78 (1995). The Court may consider both prongs  
19 in any order and need not consider them both when a defendant's showing on either prong is  
20 insufficient. Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). A defendant  
21 demonstrates that Counsel's performance was deficient when he can establish that counsel  
22 made errors so grave that counsel was not functioning as the counsel guaranteed by the Sixth  
23 Amendment. Strickland v. Washington, supra, 466 U.S. at 687. To satisfy the prejudice prong  
24 of the Strickland standard, Defendant must establish a reasonable probability that but for  
25 counsel's errors, the defendant would not have pleaded guilty and would have insisted on  
26 going to trial. Reeves v. State, 113 Nev. 959, 960, 944 P.2d 795, 796 (1997). A reasonable  
27 probability means a probability sufficient to undermine confidence in the outcome of the  
28 proceeding. Kirksey v. State, supra, 112 Nev. at 988.

1       “A fair assessment of attorney performance requires that every effort be made to  
2 eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's  
3 challenged conduct, and to evaluate the conduct from counsel's perspective at the time.”  
4 *Kirksey v. State*, *supra*, 112 Nev. at 987-988 (citing *Strickland v. Washington*, *supra*, 466 U.S.  
5 at 689). Moreover, “[t]he role of a court presented with allegations of ineffective counsel ‘is  
6 not to pass upon the merits of the action not taken but to determine whether, under the  
7 particular facts and circumstances of the case, trial counsel failed to render reasonably  
8 effective assistance...’” *Donovan v. State*, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978)(citing  
9 *Cooper v. Fitzharris*, 551 F.2d 1162, 1166 (9th Cir. 1977)). Trial counsel is not obligated not  
10 make every conceivable motion regardless of the possibility of success in order to protect  
11 himself from claims of ineffectiveness. *Id.* Thus, the Court starts with a presumption that  
12 counsel offered effective assistance of counsel and then evaluates whether Defendant  
13 demonstrated that counsel was ineffective. *See, Means v. State*, 120 Nev. 1001, 1012, 103  
14 P.3d 25, 33 (2004). Counsel’s strategy decisions are "tactical" decisions and will be "virtually  
15 unchallengeable absent extraordinary circumstances." *Doleman v. State*, *supra*, 112 Nev. at  
16 846; *see also, Howard v. State*, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); *State v. Meeker*,  
17 693 P.2d 911, 917 (Ariz. 1984). “[W]hile the client may make decisions regarding the ultimate  
18 objectives of representation, the trial lawyer alone is entrusted with decisions regarding legal  
19 tactics... He, not the client, has the immediate-and ultimate-responsibility of deciding if and  
20 when to object, which witnesses, if any, to call, and what defenses to develop.” *Rhyne v. State*,  
21 118 Nev. 1, 8, 38 P.3d 163, 167 (2002).

22       In the instant case, trial counsel’s performance was not deficient, nor did it prejudice  
23 Defendant in any way. While the new attorney on the case, may have done things differently,  
24 or sought a different outcome, the reality of the situation was simple – trial counsel knew his  
25 client was going to be convicted if the trial was completed, knew there were ten additional  
26 events that could be filed thereafter, and he sought a negotiation at Defendant’s request. The  
27 State was inclined to finish the trial, but relented and agreed to the negotiation. Trial counsel’s  
28 performance was entirely reasonable. Indeed, “[a] fair assessment of attorney performance

1 requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct  
2 the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's  
3 perspective at the time.” Kirksey v. State, *supra*, 112 Nev. at 987-988 (citing Strickland v.  
4 Washington, *supra*, 466 U.S. at 689). In fact, the alternative would have been to proceed to  
5 verdict on the instant charges, and take their chances with the dozens of additional charges.  
6 Out of those two options, any reasonable attorney would have advised their client to limit their  
7 exposure, as trial counsel did here. As to the prejudice prong of the Strickland analysis, the  
8 same reasoning applies. Defendant did not suffer any prejudice based upon his counsel’s  
9 performance, he simply had two options, and took the better of the two.

### 10 CONCLUSION

11  
12 In light of the foregoing, the State respectfully requests that this Honorable Court  
13 DENY Defendant’s Motion to Withdraw Guilty Plea.

14 DATED this 5th day of February, 2019.

15 Respectfully submitted,

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

18  
19 BY /s// JOHN GIORDANI  
JOHN GIORDANI  
20 Chief Deputy District Attorney  
Nevada Bar #012381  
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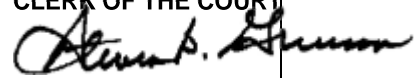
CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 5th day of February, 2019, by electronic transmission to:

MONIQUE MCNEILL  
Monique.mcneill@yahoo.com

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

JG/ed/GCU



RTRAN

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff,

CASE#: C-17-327767-1&2

DEPT. XXVIII

vs.

LARENZO PINKEY,  
ADRIAN POWELL,

Defendant.

BEFORE THE HONORABLE RONALD J. ISRAEL, DISTRICT COURT JUDGE  
WEDNESDAY, FEBRUARY 27, 2019

**RECORDER'S TRANSCRIPT OF HEARING  
HEARING RE: WITHDRAWAL OF PLEA**

**APPEARANCES:**

For the State:

JOHN L. GIORDANI III, ESQ.  
Chief Deputy District Attorney

For the Defendant,  
Lorenzo Pinkey:

LUCAS J. GAFFNEY, ESQ.

Adrian Powell:

MONIQUE A. MCNEILL, ESQ.

RECORDED BY: JUDY CHAPPELL, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, February 27, 2019

2  
3 [Case called at 10:48 a.m.]

4  
5 THE COURT: Okay, 327767-1 & 2, Mr. Pinkey and  
6 Mr. Powell.

7 Counsel, state –

8 MS. MCNEILL: Good morning, Your Honor.

9 THE COURT: -- your appearance.

10 MS. MCNEILL: Monique McNeill, Bar Number 9862, on  
11 behalf of Mr. Powell.

12 MR. GAFFNEY: Lucas Gaffney, appearing on behalf of  
13 Mr. Pikney, who's present and in custody.

14 MR. GIORDANI: John Giordani on behalf of the State. Good  
15 morning.

16 THE COURT: Good morning. Okay, let's start with – this is  
17 Mr. Powell's motion to withdraw his guilty plea.

18 MS. MCNEILL: Yes, Your Honor. I would ask –

19 THE COURT: I've read this, but –

20 MS. MCNEILL: Okay.

21 THE COURT: -- if you have anything to add.

22 MS. MCNEILL: I would – I think it's important and I think that  
23 Mr. Gaffney probably concurs because these deals were contingent, the  
24 outcomes do affect each other, that it's probably the most prudent to  
25 have an evidentiary hearing with prior Counsel testifies to what he actual

1 told Mr. Powell with regards to the substance of the negotiations. One of  
2 the most concerning pieces of information is the fact that the State was  
3 indicating that they would not file charges in those other cases as a point  
4 of leverage in the offer that he pled to.

5 I know the State seems to indicate that Mr. Powell knows  
6 whether or not he committed those crimes but that's not how it works  
7 when you advise a client as to whether or not they should take a deal.  
8 What you have to do is tell the client what the evidence is against you  
9 and that controls whether or not it makes --

10 THE COURT: Well that's regarding the charges. He wasn't  
11 charged. And we -- that's --

12 MS. MCNEILL: But it --

13 THE COURT: -- in their opposition and you didn't file a reply --

14 MS. MCNEILL: Well, Your Honor, --

15 THE COURT: -- that I saw, but.

16 MS. MCNEILL: -- if -- if -- if they're saying we won't file the  
17 charges on that if you plead to this, the attorney needs to know whether  
18 or not they'd actually be able to file those charges. You have to review  
19 the discovery. If you don't review the discovery, you don't know if they're  
20 actually giving you anything. I reviewed that discovery and I can tell you I  
21 don't believe they'll ever be able to file those charges. And the lawyer  
22 who told him you should take this deal because they're not going to file  
23 charges in these other cases, did not review that discovery.

24 THE COURT: Anything else?

25 MS. MCNEILL: No, Your Honor, but I think it's important that

1 the prior Counsel come in and testify about what he specifically told  
2 Mr. Powell with regards to those other cases with regard to the deal that  
3 he was offered.

4 THE COURT: State.

5 MR. GIORDANI: Could I just respond after Mr. Gaffney's  
6 gone so just respond one time? Or.

7 MR. GAFFNEY: Sure.

8 THE COURT: Well, I'm doing these separately.

9 MR. GIORDANI: Okay. As to Mr. Powell, Your Honor,  
10 number one I think the motion is both belied by the record and  
11 unsupported by what Your Honor likely recalls.

12 So to set the scene for this thing and with respect –  
13 respectfully to Ms. McNeill and to Mr. Gaffney, they weren't in the room  
14 when all this happened. This was Day 2 of jury selection in a trial in  
15 which 30 witnesses were prepared to testify. Every indication was that  
16 we were going to verdict and then the defense approached the State on  
17 Day 2 of jury selection and asked us for a deal. Being confident in the  
18 case, being that we already started and invested a lot of time and effort  
19 into preparing for the trial, which again was multiple victims, we weren't  
20 inclined to deal it. But they're clients indicated to them or the attorneys  
21 indicated to us that they would entertain any offer we would give and  
22 bring it back to their clients to see if they wanted it.

23 We took hours, with the jury in the hallway, hours to come to  
24 this agreement. Those ten additional events were a potential. Everyone  
25 in the room knew that. We discussed that in front of Your Honor. We

1 weren't saying that we were for sure going to file them. They didn't  
2 believe we were for sure going to file them. The real benefit of the deal  
3 was taking the life tail off the table and the opportunity to plead straight  
4 up, because they were going to be convicted anyway, and come in at  
5 sentencing and say, Judge, we accepted responsibility for this. We didn't  
6 put the Court through a week long or two-week long trial. We didn't put a  
7 jury through a two-week long trial. That was the big benefit to them.

8           While I understand that the ten additional counts appear to be  
9 serious because they are obviously very serious offenses, the end the  
10 day, what this was, was two options. Finish the trial out, get convicted,  
11 face the potential of a life tail and then the opportunity – or the potential  
12 that these additional charges would be filed. Again, there was no  
13 guarantee and none was ever represented that those additional charges  
14 would be filed.

15           I would also note, during the plea canvas, if we're just arguing  
16 Mr. Powell right now, he told this Court he felt excellent. He went out of  
17 his way to do that. And that's because he knew he was getting out from  
18 under the life tail. He was very familiar with the evidence. They had  
19 prepared for trial just like we had so they knew the writing was on the  
20 wall. Everything in that plea canvas, and I would submit to Your Honor  
21 without trying to flatter you in any way, it was extra thorough because of  
22 stakes. Because we were halfway through trial and we informed the  
23 Court, we don't want this coming back. They want to do, let's do an extra  
24 thorough plea canvas. And you do.

25           So now that we're here after we've released all these

1 witnesses, stopped any investigation on the additional charges and they  
2 want to withdraw their plea, I think frankly it's buyer's remorse. They got  
3 their PSI, they realize that they're -- P&P is recommending a substantial  
4 amount of prison time and they're trying to get out of it. But that's not a  
5 substantial reason that is both fair and just. That's what's required by the  
6 law and none was given here.

7 THE COURT: Reply.

8 MS. MCNEILL: And, Your Honor, it's one thing for the State  
9 to say, well, they were told X, Y, and Z. He doesn't know what the lawyer  
10 told him. Additionally, they agreed --

11 THE COURT: Well, regarding the ten potential, that I believe  
12 is on the record --

13 MR. GIORDANI: Oh, it was.

14 MS. MCNEILL: Well --

15 THE COURT: -- that -- that wasn't --

16 MS. MCNEILL: -- we don't know if his lawyer said, you should  
17 take this because otherwise you're going to get these ten additional  
18 cases coming at you. We also don't know what he's --

19 THE COURT: Isn't that the case in every case? We don't  
20 know. We don't ever know.

21 MS. MCNEILL: But we need to know when a defendant says  
22 this is what happened to me.

23 THE COURT: So you're arguing that in every single case, we  
24 need to have -- and I'm talking every single case, we need to have a  
25 hearing to find out what was discussed in confidence, otherwise it's not

1 knowing and voluntary?

2 MS. MCNEILL: No, Your Honor --

3 THE COURT: But that's not --

4 MS. MCNEILL: -- what I'm --

5 THE COURT: -- what the case --

6 MS. MCNEILL: -- what I'm --

7 THE COURT: -- says.

8 MS. MCNEILL: -- what I'm saying is it's ineffective for a  
9 lawyer to tell a client they should take a deal when they don't know the  
10 substance of the deal they're telling our client to take. If I tell a client, you  
11 should take this deal because of these other cases, and I don't know  
12 what those cases are, that's ineffective. It would be ineffective of me to  
13 tell a client to take a deal when I don't know the substance of the  
14 discovery of the case. And for Mr. Giordani to say that my client was  
15 aware, he never had all of his discovery in this case. His lawyer never  
16 provided it to him.

17 So you can't say he knew what the substance of the  
18 negotiations were, if one of the parts of the negotiations was these  
19 additional cases going away and no one even knew what those cases  
20 contained except for the State. Additionally, they didn't actually take life  
21 off the table. Your Honor can still sentence them to life. And going to  
22 trial, they could have won those kidnapping counts. The Supreme Court  
23 could have reversed those kidnapping counts.

24 I generally myself don't find the kidnapping charges to be that  
25 much leverage because the Supreme Court kicks those back frequently.



1 So to say we took like off the table and so that we need to know did he  
2 tell him, hey, I might be able to beat these kidnapping counts. Did he tell  
3 him, hey, the Supreme Court might reverse these.

4 So we don't have to do this in every case, but in a motion to  
5 withdraw a guilty plea where what the attorney told the client, because  
6 when he enters his plea, it's yes, I – he told me this, yes, I agree to that,  
7 is based on what the lawyer told him. And we don't know what he told  
8 him. But we do know that now he stands here and saying, hey, this may  
9 be wasn't – I wasn't advised well. And I don't believe he was based on  
10 my review of the case. It's ineffective to tell –

11 THE COURT: All right. Thank you.

12 MS. MCNEILL: -- a client to take a deal.

13 THE COURT: Anything else? All right. Anything else?

14 MS. MCNEILL: No, Your Honor.

15 THE COURT: Okay, well, first, for ineffective we need to look  
16 at *Strickland*, and the burden is on the defendant must substantiate the  
17 claim that there was ineffective assistance. And it's not – is, you seem to  
18 be arguing, well, it's not the best thing, it's not what I would have done,  
19 et cetera. It's basically, for lack of better, what a reasonable defense  
20 attorney would do. And I see no grounds, if you will, under *Strickland* to  
21 substantiate the ineffective assistance. The fact that, certainly, even in  
22 court we discuss those cases weren't filed. It was only that they wouldn't  
23 be.

24 So I don't see, other than mere speculation, that somehow  
25 that would affect the decision and the voluntariness, and that's what

1 we're here about, whether the voluntary and knowingly entered into the  
2 plea. And I, well, I didn't recall, but I did review the actual canvas where  
3 your client said that, I believe, I don't want to go -- take the time to go to  
4 the page, but he says something about I'm excellent. And we -- I inquired  
5 extensively, the best I could that he was knowingly and voluntarily  
6 making this plea and that he was aware of all the consequences, not the  
7 least which he signed the guilty plea agreement that sets forth  
8 everything.

9 And although, yes, I certainly have allowed for a hearing, I  
10 don't think either the Supreme Court or the State Supreme Court requires  
11 that in every case we do this when a defendant decides that, oh, they're  
12 no longer satisfied with their plea. And I think that the overall, and I  
13 forget how the State Supreme Court worded this, the overall  
14 circumstances show that the plea was entered knowingly and voluntarily.

15 And therefore I'm denying the motion for Mr. Powell to  
16 withdraw his guilty plea. State will have to prepare an order.

17 THE COURT: Mr. Pinkey. Am I saying that correct? Yes,  
18 Mr. Pinkey.

19 Go ahead.

20 MR. GAFFNEY: Thank you, Judge. And Your Honor, I  
21 understand the --

22 THE COURT: And I know this one's --

23 MR. GAFFNEY: -- Court's ruling. I'm not --

24 THE COURT: -- different based on different --

25 MR. GAFFNEY: -- quarreling with the Court's findings.

1 However, I would join in Ms. McNeill's request for an evidentiary hearing.  
2 You know, what's – essentially what we're –

3 THE COURT: Your client, there's different facts.

4 MR. GAFFNEY: Right. Well, and what I'm referring to is with  
5 the uncharged robberies. I think that is important that we know what trial  
6 Counsel told Mr. Pikney in regard to the evidence of the uncharged act  
7 that induced him to enter into the plea. We don't know what that  
8 conversation – what happened during that conversation and therefore  
9 what weight Mr. Pikney would have given that benefit in his plea  
10 agreement.

11 And I'll just – I'll submit it for – on that issue because I  
12 understand the Court's ruling on that.

13 THE COURT: Oh.

14 MR. GAFFNEY: And Mr. Pikney he is in a different situation  
15 than Mr. Powell in that he has these mental health issues. He's a young  
16 man, he's 22 years old. He has a ninth grade education. He's never got  
17 his GED. He has a significant learning disability. Suffers from PTSD,  
18 ADHD, and all of these mental health ailments that he suffers from  
19 culminated in him not being able to understand certain aspects of his  
20 plea agreement which I laid out in the motion.

21 When I first spoke to him, he told me that he didn't understand  
22 any of it. And then when I started kind of drilling down to figure out what  
23 exactly precisely did he not understand, he didn't understand the  
24 sentencing structure. He believed that he was going to get – he  
25 understands that the Court now is the ultimate arbiter of what sentence

1 he's going to get. Back then he thought that he was going to get a 6 to  
2 15 based on his Counsel's advice and that by entering into the  
3 negotiation, he was taking what he thought was a guaranteed life  
4 sentence off the table. And, to me, that makes zero sense that he would  
5 choose not to go to trial, be convicted of 15 counts, but instead plead  
6 guilty to 14 counts and expect his situation to change.

7           The one thing that Mr. Pikney was not told was that the Court  
8 has a discretion to impose the sentence. You're the final arbiter of what  
9 his sentence is going to be. So if he goes through –

10           THE COURT: Even though that's part of the canvas.

11           MR. GAFFNEY: Well, true. But at the time –

12           THE COURT: So you're arguing which I understand that he  
13 doesn't understand that.

14           MR. GAFFNEY: Correct.

15           THE COURT: And that's substantially different than the  
16 co-defendant. He has allegedly a learning disability.

17           MR. GAFFNEY: Well, and I, Your Honor, submitted as  
18 exhibits to my motion –

19           THE COURT: Yeah, read all of that.

20           MR. GAFFNEY: -- paperwork from the Social Security  
21 Administration to show that he's been suffering from these ailments since  
22 2004. One thing I didn't include is that when you're getting disabilities  
23 from the Social Security Administration, you have to go in every year and  
24 be reevaluated by a psychologist or a psychiatrist in order to continue  
25 receiving those benefits. So it wasn't a situation where he's diagnosed

1 back in 2004 and he just continues to receive benefits to the present day.  
2 He was diagnosed and reaffirmed to have those issues every year by a  
3 different, well, I believe a different psychologist or psychiatrist.

4 And, Your Honor, I –

5 THE COURT: All right. You didn't attach those.

6 MR. GAFFNEY: I have plenty of paperwork I can, –

7 THE COURT: Okay.

8 MR. GAFFNEY: -- I can submit to the Court, if you'd like.

9 THE COURT: All right.

10 MR. GAFFNEY: And so, you know, essentially, Your Honor,  
11 it's a situation where in this plea agreement there's these complex  
12 concepts. He understands simple concepts. The more complex the  
13 concept, the more difficult it is for him to comprehend. There were  
14 certain things about the plea agreement, like the sentencing structure,  
15 how the State could go about recommending their sentence that he  
16 simply didn't understand and didn't figure out until after he'd entered his  
17 plea. You know, he knows what his plea agreement contemplates now  
18 but we really talking about is what he understood on that day that he  
19 entered his plea agreement. And he simply didn't understand the direct  
20 consequences. And so without knowing the direct consequences, he  
21 couldn't have entered a knowing, voluntary, or intelligent plea.

22 And, Your Honor, I would submit to you that that's a fair and  
23 just reason to allow him to withdraw his plea.

24 THE COURT: Okay. State.

25 MR. GIORDANI: My argument is similar as it was – or as my

1 argument for Mr. Powell, but there's a couple of things to add here.  
2 Number one, what Mr. Gaffney attached to his motion were assessments  
3 of the defendant from 2012, and I believe, 2016. This all occurred last  
4 year. So while those assessments have the big buzz words, the big  
5 scary words that he's got borderline intelligence and all these things, the  
6 reality of the situation is those don't reflect his mind state at the time of  
7 the plea.

8               Now when this plea canvas went down, it was different from  
9 Mr. Powell's. During the course of this plea canvas, you asked him  
10 multiple times whether he understood what was contained in the guilty  
11 plea agreement. He said, yes, I did, sir. Yes, sir. Multiple times.

12              Then we go back and I jump in and say, as long as both  
13 Mr. Pikney and Mr. Powell understand the range for each count and they  
14 also understand sentencing is completely up to the Court, and if the  
15 Court can either run the counts concurrent or run the counts consecutive.

16              Your Honor says, okay, so you understand the individual  
17 range of punishment. Yes – or yes, sir.

18              And then you say, I can, it's at my discretion and do you  
19 understand that the counts can be run consecutively or concurrently.  
20 Once again, that's up to me. Yes, sir.

21              Then we go on further in the plea canvas and the Court says  
22 to the State, anything else – or I jump in and I ask, Your Honor, before  
23 you move on, can I ask one more thing. And you allow me to and I say  
24 just with regard to your first few questions of Mr. Pikney where he  
25 indicated he had an IEP or Individualized Education Plan, a learning

1 program, can we just be clear on the record that Mr. Pikney had sufficient  
2 time with his attorney. It's been a couple of hours – and again that was  
3 with a jury in the hallway – since we broke and started really getting into  
4 the negotiations. And that he understands that.

5 And Mr. Durham jumps in, he mentions he signed the  
6 Certificate of Counsel, that his belief at the time was that Mr. Pikney was  
7 fully competent and understood.

8 And you then ask him again, you say, that's fine, I certainly  
9 think I've asked him three times at least now if you have requests – or  
10 questions regarding this, and you ask him again and he says yes.

11 Okay, that's what happens during the plea canvas. I think you  
12 can tell by my conduct that this was a big deal at the time. We wanted to  
13 make very clear that we don't release all these witnesses and have to do  
14 this all over again sometime down the road. That was done in the record.

15 Then after Mr. Gaffney comes on the case, Mr. Pikney is sent  
16 to competency court and those aren't attached to this motion because he  
17 was found competent by two separate doctors, after the fact. So we  
18 have a window of competence and understanding of the system and how  
19 it works at least that we can narrow it down. I mean, we have his words  
20 on the day of and I understand we don't look at these in a vacuum, but  
21 then we also have two doctors, two court-ordered doctors saying he's  
22 competent and understands what's going on, after the fact.

23 So unless he had just a spike of incompetence on that day,  
24 which is highly unlikely based upon what he said in the record, then there  
25 was no issue here. And this is the same argument as it was to

1 Mr. Powell.

2 MR. GAFFNEY: Well, Judge, first of all, the standard for  
3 competency is a much lower bar than, I mean, that's the *Dusky* standard.  
4 And just because he doesn't meet the *Dusky* standard doesn't mean that  
5 he understood and voluntarily entered a plea. You can see by the  
6 records I've attached that he's been suffering from these ailments for  
7 quite a while. These are ailments that cause cognitive disabilities, that is,  
8 that he has difficulty processing information. I'm not a trained  
9 professional, mental health professional. Mr. Durham's not a trained  
10 mental health professional. I can't look at Mr. Pikney and say, yeah, this  
11 guy's competent. Even after I interact with him for, you know, 30 minutes  
12 to an hour, I can't say whether or not he's competent. That's something  
13 that we have to rely on the mental health professionals for. So I didn't  
14 attach the competency –

15 THE COURT: So, what – what is it you're asking for?

16 MR. GAFFNEY: Well –

17 THE COURT: If you're asking for a hearing and you want to  
18 call the prior attorney, but you're saying what difference does it make,  
19 he's not a competent –

20 MR. GAFFNEY: Oh, no, that's not what I'm saying. What  
21 I'm – what I'm submitting to the Court is that Mr. Pikney has told me that  
22 his mental health issues were affecting his ability to understand what was  
23 going on. That's what I'm relying on, in addition to all of this mental  
24 health history to show that he actually has these diagnosed ailments.  
25 And so in an evidentiary hearing, what I would ask Counsel is, were you



1 aware of these issues? What did you do to make sure that he  
2 understood what he was pleading to and that this was a knowing,  
3 intelligent, and voluntary plea? You know, the discussions he had with  
4 him about the sentencing structure and the discussions he had with him  
5 in terms of whether he believed – what did he say to Mr. Pikney to make  
6 Mr. Pikney believe that he was guaranteed to get a life sentence going  
7 forward with trial as opposed to pleading to 14 out of these 15 counts.  
8 Where essentially he's still in the position because you're the one who  
9 decides whether or not he gets a life sentence.

10           The records I attached from 2012 and 2016, I attached them  
11 because they were the most recent and a lot of what I have are sort of  
12 these summaries. Judge, if you'd like to see the rest of the paperwork,  
13 I'd be happy to submit it to you.

14           THE COURT: Well, is the evaluation that – was it done at  
15 Lakes, his competency.

16           MR. GAFFNEY: I think –

17           MR. GIORDANI: I have the --

18           THE COURT: There's –

19           MR. GAFFNEY: -- it was done at CCDC by two psychologists  
20 or psychiatrists. I have the –

21           THE COURT: Quite frankly, the – well, I don't even think, my  
22 recollection is it wasn't –

23           MR. GAFFNEY: It's completely two different standards as to  
24 what they're trying to determine and what we're trying to determine.  
25 They're just trying to determine whether or not he can assist Counsel in

1 his defense, whether he understands –

2 THE COURT: No, I get that.

3 MR. GAFFNEY: -- what's going on in terms of the --

4 THE COURT: I wasn't --

5 MR. GAFFNEY: -- proceedings.

6 THE COURT: -- I was –

7 MR. GAFFNEY: Oh.

8 THE COURT: The person, let's see now, oh, the evaluation  
9 you gave me was from a clinical psychologist. I wasn't sure –

10 MR. GAFFNEY: Oh, --

11 THE COURT: -- that was the case.

12 MR. GAFFNEY: -- those are all from California, I believe.

13 MR. GIORDANI: Yes, I have the --

14 THE COURT: Yeah.

15 MR. GIORDANI: -- actual comp evals here.

16 THE COURT: Yeah. I'll review those. Okay, anything else?  
17 You can approach.

18 MR. GAFFNEY: No, Your Honor, I think – I'd submit it on that.

19 THE COURT: All right. I'm going to allow the hearing on  
20 Mr. Pinkey for the limited purpose. This isn't for your first, if you will,  
21 argument that regarding the discovery on 10 or whatever number of  
22 cases that were never even charged, but on whether or not –

23 Who was the prior attorney? I forgot.

24 MR. GAFFNEY: Benjamin –

25 MR. GIORDANI: Ben –

1 MR. GAFFNEY: -- Durham.

2 MR. GIORDANI: -- Durham.

3 THE COURT: Whether he advised him of the -- properly  
4 advised him regarding the negotiations. So we'll have that in 30 days.

5 MR. GAFFNEY: Thank you, Judge.

6 THE CLERK: Okay. You want -- and how long do you think  
7 that'll be?

8 THE COURT: It'll take over --

9 MR. GIORDANI: I'd say an --

10 THE COURT: -- an hour.

11 MR. GIORDANI: -- an hour max.

12 THE CLERK: So we're looking at March --

13 MR. GIORDANI: Nope? Longer?

14 MR. GAFFNEY: Hope not.

15 MR. GIORDANI: Oh, okay.

16 THE CLERK: Let's see. Let's do March -- we already have  
17 one March 27<sup>th</sup>. We're going to have to go a little further. How about  
18 April 3<sup>rd</sup> at 10:30?

19 MR. GIORDANI: Have the Court's brief indulgence. That  
20 works for me.

21 That work for you?

22 MR. GAFFNEY: I'm sorry, what time?

23 MR. GIORDANI: 10:30.

24 MR. GAFFNEY: 8:30?

25 MR. GIORDANI: 10:30.

1 MR. GAFFNEY: 10:30.

2 THE CLERK: No, 10 –

3 THE COURT: No, 10:30 it would be.

4 MR. GAFFNEY: That will work. April 3<sup>rd</sup>?

5 THE CLERK: Yes.

6 MR. GAFFNEY: 10:30?

7 MR. GIORDANI: And I will have Mr. Durham here.

8 Your Honor, based on the contingent nature of the deal, can  
9 we set a status check on Mr. Powell that date – or, I guess, the following  
10 day so –

11 THE CLERK: Well, it would have to be the following week  
12 because we don't have another criminal –

13 THE COURT: Sure, following week.

14 MR. GIORDANI: Okay.

15 THE CLERK: Okay, so Mr. Powell we'll just put them both  
16 together then?

17 THE COURT: Status check.

18 THE CLERK: For status checks?

19 MR. GIORDANI: Sure.

20 THE CLERK: That would be April 8<sup>th</sup> at 9 a.m.

21 MR. GAFFNEY: And, Judge, just to clarify, the evidentiary  
22 hearing is going to be focused on whether Counsel knew about his  
23 mental health issues and the conversations they had regarding the –

24 THE COURT: Whether he knowingly and voluntarily accepted  
25 it, whether he was apprised of it. And I suppose Mr. – and I wasn't, sorry,

1 whether prior Counsel, at least in his opinion, felt that he understood it.  
2 Since you've given your opinion now that you think he now understands  
3 it, I'm sure when it goes, you know, you've already said that he's not  
4 even qualified to do that, to give an opinion as to his –

5 MR. GAFFNEY: Oh, sure, well he has no formal training in  
6 psychology that I'm aware of.

7 THE COURT: So I, again, but all right, that's what it'll be  
8 about.

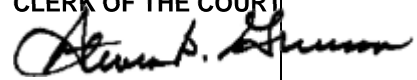
9 MR. GIORDANI: Thank you.

10  
11 [Hearing concluded at 11:14 a.m.]

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

22   
23 \_\_\_\_\_  
24 Judy Chappell  
25 Court Recorder/Transcriber



RTRAN

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff,

CASE#: C-17-327767-1 & 2

DEPT. XXVIII

vs.

LARENZO PINKEY, aka  
Lorenzo Pinkney, and  
ADRIAN POWELL,

Defendant.

BEFORE THE HONORABLE RONALD J. ISRAEL, DISTRICT COURT JUDGE  
WEDNESDAY, MAY 22, 2019

***RECORDER'S TRANSCRIPT OF HEARING  
SENTENCING***

**APPEARANCES:**

For the State:

JOHN L. GIORDANI, III, ESQ.  
Chief Deputy District Attorney

For the Defendant,  
Lorenzo Pinkey:  
Adrian Powell:

LUCAS J. GAFFNEY, ESQ.  
MONIQUE A. MCNEILL, ESQ.

RECORDED BY: JUDY CHAPPELL, COURT RECORDER

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Las Vegas, Nevada, Wednesday, May 22, 2019

[Case called at 9:33 a.m.]

THE COURT: C327767, 1 and 2.

Counsel, this is the time set for sentencing. Let's start with Pinkey. Are you ready to go?

MR. GAFFNEY: Yes, Your Honor.

THE COURT: Or Penkey.

MR. GAFFNEY: Pinkney.

THE COURT: And let the record reflect both defendants are present, in custody.

State.

MR. GIORDANI: Yes, Your Honor. May I approach –

THE COURT: Go ahead.

MR. GIORDANI: -- before we start.

THE COURT: I think – oh, okay, no I don't have that.

MR. GIORDANI: Yeah, you wouldn't have that, Your Honor. What that is, is just a chart to kind of follow along with where I'm going with my argument because there are so many counts.

MR. GAFFNEY: And I did receive that, Your Honor.

MR. GIORDANI: Yes, I –

MS. MCNEILL: I did as well, Your Honor.

THE COURT: So, Your Honor is probably very aware of the facts of the two robberies in the instant case, but I just want to refresh the Court's memory. On the two events in which the defendants ultimately proceeded to trial, but then pled guilty on Day 2 of trial while we had a

1 jury in the hallway, those were two of a twelve-event series. The  
2 investigation originated as a robbery series to several different  
3 businesses, ten of which at the time of trial had not been filed upon.

4           This case proceeded first because they were caught  
5 red-handed fleeing the scene. They left a trail of DNA and fingerprints  
6 behind along with cash and the items they stole from the businesses as  
7 well as the victims' personal property who were in the businesses  
8 working at the time. So those cases came in first. Subsequently the  
9 detectives linked them to these ten other incidents. And they did so by  
10 means of video surveillance from each and every one of the stores.  
11 Similar M.O.s, they called it the Jumping Jack series because the  
12 defendants would jump the counters and do takeover-style robberies of  
13 these different businesses. They were all close in time over a  
14 several-month period and generally within the same jurisdictional  
15 bounds. Those – all of those events were extremely violent, but what I  
16 want to do is just provide those other ten as background for what I'm  
17 going to get into. Because I think the sentence that I'm asking for of 20  
18 to 60 years is appropriate for what they did on the two charges – or the  
19 two cases in which they proceeded to trial ultimately.

20           Ultimately my recommendation is going to be a 10-to-30-year  
21 term on each, Count 3 and Count 13, to run consecutively. In that  
22 diagram I provided to the Court, the two highlighted charges are what I'm  
23 asking to run consecutive. We did agree to not seek a life tail on any  
24 accounts pursuant to the negotiation. And I'm not doing that, I'm asking  
25 for a 5 to 15 on the underlying first-degree kidnapping with a consecutive



1 5 to 15 for the deadly weapon on Count 3. And the same thing on Count  
2 13, running consecutive to Count 3 with the remainder of the 14 or so  
3 counts running concurrent.

4 In preparation for a trial like this, obviously the State speaks to  
5 their witnesses and schedules them and gets a summary of what  
6 occurred during the course of the robbery. And because we got so far  
7 along in this case and we were actually in trial, I was able to do that. And  
8 I can represent to the Court that these victims in these two separate  
9 businesses were absolutely terrified. The majority of them were female  
10 and they were roughed up by one of both of the defendants in each of  
11 the events. One of the women was pregnant at the time and she begged  
12 and pleaded that they not shoot her. And when she did so – or she told  
13 them, I'm pregnant, please don't shoot me, please don't shoot me. And  
14 they said, I don't give a fuck, bitch, get behind the register and give me  
15 the money. That conduct is extremely egregious and that wasn't the only  
16 time where they threatened women who were working at these two  
17 stores with deadly force.

18 Ultimately, after they commit these two robberies close in time  
19 where there are, I believe, four victims at the Pepe's Tacos and three  
20 victims at the Walgreen's, they flee that scene in a vehicle they had  
21 borrowed from Mr. Pinkney's girlfriend at the time. They high centered  
22 that vehicle, meaning they crashed that vehicle very nearby as they're  
23 fleeing and then they return to the scene to get that vehicle and to  
24 recover what's arguably the cash and property from the stores in another  
25 vehicle. Well by the time they do that, the officers are there investigating

1 the robbery and they very quickly spot them and pull them over. Inside  
2 the vehicle they're pulled over is a large wad of cash and the defendants  
3 and a couple other individuals.

4 I understand that Mr. Powell has two prior felonies, violence  
5 related. Mr. Pinkney does not. But I don't think that they should be  
6 treated differently when it comes to sentencing here. Typically I would  
7 ask for more time for the convicted felon, but I think that their conduct  
8 was so egregious that they should be treated equally when it comes to  
9 sentencing. I understand it's not an insignificant amount of time I'm  
10 asking for, it's quite a lot of time I'm asking for, but had this case  
11 proceeded to trial, I think that's where we would have ended up. And  
12 not to mention the ten other robberies with multiple victims per robbery  
13 that would have been filed upon had they rejected the deal that we  
14 ultimately made.

15 So I respectfully would ask the Court to sentence them on  
16 those charges as I set forth in the sentencing chart that I provided to the  
17 Court.

18 THE COURT: Thank you.

19 Mr. Pinkey, before your attorney speaks on your behalf, is  
20 there anything you want to say?

21 DEFENDANT PINKNEY: Yes, sir, it is

22 THE COURT: Go ahead.

23 DEFENDANT PINKNEY: I want to take this time to tell the  
24 Court I am very sorry for my actions and not just to court, to the victims  
25 as well. On September 28<sup>th</sup>, 2017, I made a mistake. Not just any

1 mistake, one of the biggest mistakes in my life. I am 22 years old and I  
2 will be 23 on the 25<sup>th</sup> of this month. I have four young children. This is  
3 my first time ever getting in trouble like this. I understand that there's  
4 consequences for my action. This time I am given today, I will take it to  
5 better myself for my family and most importantly my kids. I want to  
6 apologize to my mother, Earline Fullilove, for putting her through so much  
7 stress growing up. She raised me as a single parent and did her best to  
8 provide for me.

9 I want to say this once again I truly apologize to all the victims  
10 on this case and I know it don't matter how many times I say this, it will  
11 never be right what I did. I would just ask the judge that can you show  
12 me leniency this being my first felony.

13 Thank you for letting me speak, Your Honor.

14 THE COURT: Thank you.

15 MR. GAFFNEY: Thank you, Judge. Did the Court receive my  
16 sentencing memorandum and the letter –

17 THE COURT: Yes.

18 MR. GAFFNEY: -- from Mr. Pinkney's mother?

19 THE COURT: Yes.

20 MR. GAFFNEY: Okay. So Your Honor, in the sentencing  
21 memorandum, I had recommended a sentence of 6 to 15 years. That's  
22 actually incorrect. It should be 6 to 18 years. It would essentially be a  
23 5-to-15-year sentence on Count 3, the first-degree kidnapping. And a  
24 consecutive sentence of 1 to 3. You add those together, you come up  
25 with a 6-to-18 year sentence. And then running all the other 13 counts

1 concurrent to that for the 6 to 18.

2           And, you know, just like the State is, it feels like they are  
3 asking for a lot of time. I know that a 6 to 18 year sentence may seem  
4 like I'm asking the Court to go in the opposite direction and do a lot for  
5 Mr. Pinkney. And I believe that that's also warranted in this case. One of  
6 the things that I've laid out in the sentencing memorandum was the  
7 trauma that Mr. Pinkney has been through as a child. And I think that  
8 that's relevant here because you can see that the – there's a causal  
9 effect to the traumatic events that he experienced and where he's at  
10 today. At 7 years old, he's shot in the face with a .22 caliber firearm by a  
11 friend. That was the origin of the PTSD that he still suffers from, as he  
12 stands before the Court today. At 17 or 18 years old, he witnessed his  
13 brother commit suicide. By my calculation, that's one year before a  
14 significant amount of his substance abuse occurred. And so they do  
15 have connections – what happened to him in his past has connections  
16 with him today.

17           And when you take those and you couple them with the  
18 mental health afflictions, which I know the Court's already familiar with  
19 through our previous litigation, he has significant diagnoses. He's got  
20 schizophrenia, bipolarism, ADHD, significant learning disabilities,  
21 schizoaffective disorder. And what all those things do is create a  
22 situation where he has very significant impulse control problems. And he  
23 also does not appreciate the – how his actions affect other people or the  
24 consequences he may face because of them. And then when you also  
25 tie that into the substance abuse history that he has where he starts

1 ingesting marijuana at age 14 in order to self-medicate these symptoms  
2 he has from his mental health issues. In 2013 is when the death of his  
3 brother occurred and then according to the PSI, a year later, he begins  
4 experiencing with cocaine and Xanax. And again those are  
5 self-medicating to try to stave off the symptoms of his mental health  
6 issues. And it also explains his affinity for Xanax because that's the kind  
7 of drug I think a doctor would prescribe to treat the sort of systems he  
8 has. It treats – it's a benzodiazepine. It treats anxiety, depression,  
9 things of that nature.

10           And so, Judge, what I'm trying to convey is that this is a case  
11 that was Mr. Pinkney's actions were fueled by his mental health issues  
12 and also by his substance abuse issues. And obviously when he was  
13 living in California before he came out to Las Vegas and got involved in  
14 these offenses, he had started drug abuse – or he started abusing drugs.  
15 When he was, I think, 19 years old, you see that he has a misdemeanor  
16 battery, DV. But that's different than what happened when he comes out  
17 to Las Vegas. Once he isolates himself from his mother and the support  
18 system and the family he has out in California and he comes out to  
19 Las Vegas, his substance abuse issues kick into overdrive and that's  
20 where you start to see the daily consumption of the Xanax, the cocaine,  
21 and the alcohol.

22           And so what I'm suggesting to the Court is that when  
23 Mr. Pinkney committed these offenses, he was not in his right state of  
24 mind. He was impaired by his mental health issues. He's impaired by  
25 these substance abuse issues. And if given the chance, I think that he is

1 redeemable. If he receives treatment for his substance abuse, if he  
2 receives treatment for his mental health issues, he can be a productive  
3 citizen. He can be a good parent. He hasn't had an opportunity to – well  
4 he hasn't received any treatment for those kinds of ailments and I don't  
5 think he's going to receive the kind of treatment he needs for those  
6 ailments within the NDOC. I know they have programs that are similar to  
7 what our psychologist suggested in the diversionary programs, but  
8 they're not – they're not as extensive as what he could receive on the  
9 outside. And so that was one of the reasons why I'm suggesting a  
10 minimum sentence. So he serves his time. Obviously there has to be  
11 consequences for his actions. He can't put all of his actions at the feet of  
12 his substance abuse issues and his mental health issues. So he knows  
13 he has to serve some time for those.

14           But what I'm asking the Court to do is to give him a lenient  
15 sentence so he can get out, start the next chapter of his life, get the kind  
16 of counseling he needs for mental health and substance abuse treatment  
17 and then move on. He is a different person than what you see when you  
18 read these reports. This is Mr. Pinkney at his rock bottom working with  
19 an impaired mentality. This is not him at his best.

20           And just – as far as the nature of the offense, there's only a  
21 couple of things I'd want to point out. And one was that when  
22 the – Mr. Pinkney and Mr. Powell fled from the scene and the police were  
23 recovering all these items of evidence, one of the things that they  
24 recovered was a BB gun. And so what I'm submitting to the Court was  
25 that this wasn't an actual firearm used in the robbery. I know that the

1 victims' fear that they felt would have been very real and would have  
2 been very traumatic. However, this is a situation where Mr. Pinkney went  
3 into these stores, not intending to shoot anybody, and he couldn't have  
4 shot anybody even if he had that intention. And as you heard from him  
5 today and as you can read in Mr. – in Dr. Pacult's report, he does  
6 understand the trauma that he's caused to the victims here. And, yeah,  
7 there are a lot of victims. And, like I said, he understands there's going  
8 to have to be consequences for his actions.

9               So, Your Honor, you know, one of the flaws in our criminal  
10 justice system is that we have these kinds of defendants who maybe  
11 legally don't meet the standard of being incompetent, but they have a  
12 variety of mental health issues that impair their impulse control and their  
13 intent to commit these crimes. And unfortunately, what we have in  
14 Nevada is a one-size-fits-all approach. What really Mr. Pinkney needs is  
15 treatment, maybe in some kind of institution or an asylum. But what we  
16 have is the NDOC. And so, you know, unfortunately, that's just one of  
17 the flaws that we have to work around and again that's why I'm  
18 suggesting to the Court to impose a 6-to-18-year sentence and allow  
19 Mr. Pinkney to get out, to get the treatment he needs and to start the next  
20 chapter of his life.

21               And, Judge, with that, I'll submit it.

22               THE COURT: Thank you. His statement tends to belie all the  
23 medical or psychological reports. It was eloquent and his – his IQ  
24 deficiency certainly doesn't appear to be borne out. But he doesn't have  
25 the priors like his co-defendant.

1 I hereby adjudicate you guilty of – let's go through all of these.  
2 Counts 1 and 8, conspiracy to commit robbery. Counts 2 and  
3 9, burglary while in possession of a deadly weapon. Counts 3 and 13,  
4 first-degree kidnapping with the use of a deadly weapon. Counts 4, 5, 6,  
5 7, 10, 11, and 14, robbery with the use of a deadly weapon. Count 12,  
6 unlawful taking of a vehicle is a gross misdemeanor.

7 I assess you the \$25 administrative assessment, DNA of 150.  
8 DNA administrative assessment of \$3.

9 On Count 1, conspiracy to commit robbery, I sentence you to  
10 12 to 48 months in the Nevada Department of Corrections.

11 On Count 2, burglary while in possession of a deadly weapon,  
12 I sentence you to 24 to 120 in the Nevada Department of Corrections.  
13 That's concurrent to Count 1.

14 On Count 3, I sentence you to 60 to 180 in the Nevada  
15 Department of Corrections, with a consecutive enhancement since you  
16 used a weapon and put people in fear of their lives. That's 12 to 60  
17 consecutive.

18 On Counts 5, 6, 7, 10, 11, and, woops, and 14, those will run  
19 concurrent to Count 4.

20 On Count 4, I sentence you to 24 to 120 in the Nevada  
21 Department of Corrections. That's consecutive to Count 3, with the  
22 enhancement of 12 to 120 for the use of the weapons.

23 The aggregate – and I want to make –

24 THE CLERK: Um –

25 THE COURT: What's that?



1 THE CLERK: You didn't get Count 12 –  
2 THE COURT: I missed –  
3 THE CLERK: -- and also –  
4 THE COURT: Oh, Count 12 is the – isn't that the –  
5 THE CLERK: It's the gross misdemeanor.  
6 THE COURT: Yeah, the gross misdemeanor, 364 days in  
7 Clark County Detention Center.  
8 THE CLERK: And that's concurrent?  
9 THE COURT: Concurrent.  
10 THE CLERK: And then also Count 3. You did the  
11 enhancement, but you didn't say if it's concurrent –  
12 THE COURT: That's –  
13 THE CLERK: -- or consecutive.  
14 THE COURT: -- consecutive, yes. So –  
15 THE CLERK: To what?  
16 THE COURT: It's consecutive to Count 2.  
17 THE CLERK: Okay.  
18 THE COURT: So the aggregate is 11 years, which is 132  
19 months on the bottom end and 600 months on the top end.  
20 THE CLERK: And then you also had Count 13 that you  
21 didn't state –  
22 THE COURT: Count 13 is – I thought I said Count 13.  
23 THE CLERK: It's the same as 3.  
24 THE COURT: Count 13 is the first-degree kidnapping and  
25 that's concurrent to Count 3. And I sentence you to 60 to 180 on Count

1 13 with the enhancement of 12 to 60.

2 THE CLERK: Okay.

3 THE COURT: And assuming I added all this up, again, it's  
4 132 months and 600.

5 Does everybody have that?

6 MR. GIORDANI: Well, yes, Your honor, except for on Counts  
7 5, 6, --

8 THE COURT: 7, --

9 THE CLERK: 7, --

10 MR. GIORDANI: -- 7 --

11 THE CLERK: -- 10, --

12 THE COURT: -- 10, --

13 THE CLERK: -- 11 --

14 THE COURT: --11, and 14 --

15 THE CLERK: -- 14.

16 THE COURT: -- yeah.

17 MR. GIORDANI: Yeah, what -- what was the sentence for  
18 those? I understand those are running --

19 THE COURT: Oh, sorry, you're right. Those are --

20 THE CLERK: The same as 4.

21 THE COURT: Where's 4? Same as Count 4, 24 to 120 --

22 MR. GIORDANI: Okay.

23 THE COURT: -- and with the enhancement for the use of a  
24 deadly weapon, 12 to 120. But they're to run concurrent to Count 4.

25 MR. GIORDANI: Okay. And then Count 9 was a different

1 charge so –

2 THE CLERK: Yes.

3 MR. GIORDANI: -- I know that runs concurrent, but I didn't  
4 get the actual sentence on Count 9.

5 THE COURT: Oh, okay.

6 MR. GIORDANI: Or Count 8, actually.

7 THE CLERK: And 8, yeah.

8 THE COURT: Yeah, you're right. I don't know how –

9 Count 8 was conspiracy to commit robbery, 12 to 48. That's  
10 concurrent with Count 1. And Count 9 is burglary while in possession, 36  
11 to 120, and that's also concurrent with Count 3.

12 THE CLERK: Count 3?

13 THE COURT: Yeah. So are they – woops, where is the other  
14 conspiracy? Isn't there another?

15 THE CLERK: Count 9 is the same as Count 2. It should be  
16 burglary while in possession.

17 THE COURT: Okay, so that should come out.

18 So it's Count 2, 24 to 120 is – Count 3, 60 to 180, minimum of  
19 5 years. The consecutive enhancement, 12 to 60. Those are  
20 consecutive to each other. Count 4, 24 to 120, is two years on the  
21 minimum with the enhancement of 12 to 120. And that's consecutive to  
22 the other to – to 3.

23 MR. GIORDANI: Okay, so, Your Honor, I'm sorry. So if  
24 that's – your intent was 132 or 11 years –

25 THE COURT: Correct.

1 MR. GIORDANI: -- on the bottom.

2 THE COURT: Yes.

3 MR. GIORDANI: I'm showing the only consecutive counts are  
4 3 and 4. So that would make 9 on the bottom.

5 THE COURT: Well, okay, no. Here, do you want to see my  
6 chart, Counsel?

7 MR. GIORDANI: Sure.

8 Sorry.

9 THE COURT: No, this is -- when they get the -- and I, I admit  
10 this was difficult but that's what.

11 Okay, so Count 2 is -- Count 1 doesn't, you know, that's  
12 concurrent to all the others Count 2 counts 24 to 120 is two years.  
13 That's the first one, if you will.

14 MR. GIORDANI: Okay. You got 60 to 180 plus 12 to 60.

15 THE COURT: Right.

16 MR. GIORDANI: And that's con --

17 THE COURT: Consecutive to Count 2. Then Count 4 is 24 to  
18 120, is consecutive to Count 3 and with the 120 -- or with the 12 to 120  
19 enhancement.

20 MR. GIORDANI: Oh, so 2, 3 and 4 are consecutive.

21 THE COURT: Correct.

22 MR. GIORDANI: Okay.

23 THE COURT: And the rest are all concurrent with, if you will --

24 MR. GIORDANI: Okay.

25 MR. GAFFNEY: Okay.

1 MR. GIORDANI: Thank you. And there is –  
2 THE COURT: All right. Does that make –  
3 MR. GIORDANI: Yes, Your Honor, there is a restitution.  
4 THE COURT: Oh, yeah, it did say –  
5 MR. GIORDANI: 3,942 total.  
6 THE COURT: And that goes to various defendants.  
7 MR. GIORDANI: Victims as set forth in the PSI.  
8 THE COURT: Okay, that will be ordered, 3942.  
9 MR. GIORDANI: And I believe he's entitled to –  
10 THE COURT: Credit for time served?  
11 MR. GIORDANI: 602 days.  
12 MR. GAFFNEY: And that's, I think, joint and several.  
13 MR. GIORDANI: Correct.  
14 MR. GAFFNEY: Right. The restitution.  
15 THE COURT: Correct. Joint and several. And 602?  
16 MR. GIORDANI: Yes, Your Honor.  
17 MR. GAFFNEY: Yes, Your Honor.  
18 THE COURT: Okay. Thank you.  
19 All right. Mr. Powell.  
20 State.  
21 MR. GIORDANI: I would submit on my prior argument. Just  
22 noting that this defendant has two prior felony convictions. His were  
23 violent in nature. It was an attempt robbery and a robbery out of  
24 California in 2013. Violated parole in 2017, and then committed the  
25 instant offenses two months later in September of 2017. So this is not

1 this defendant's first rodeo.

2 I would submit it on everything I stated earlier.

3 THE COURT: Mr. Powell, before your attorney speaks on  
4 your behalf, is there anything you'd like to say?

5 DEFENDANT POWELL: Yes, Your Honor. I want to start by  
6 apologizing to the victims first. And I want to apologize to my son  
7 because he's my heart, he's my everything. I want to apologize to my  
8 family for even put them in this position. I mean it, for them to have to  
9 go through this with me in the situation that I'm in right now.

10 I want to start by saying this is really not the person I am. I  
11 know my background doesn't show of much of who I am, but they don't  
12 really know who you really are until they have a conversation with you.  
13 They never actually had a conversation with me so they don't really know  
14 how intelligent I really am.

15 Honestly, Your Honor, I feel like in this situation, I made a  
16 mistake. I did something I wasn't supposed to do. I'm taking full  
17 responsibility for my actions. That's why I pled guilty to what I pled guilty  
18 to because I felt like I need to take responsibility for my actions. As a  
19 man, stand up, take full responsibility for what I've done. All I ask you,  
20 Your Honor, is in your heart, could you please show me some leniency.  
21 My son is one years old. I never actually touched him. I don't know what  
22 it feels like to be a father, but I do know in the situation that I'm in right  
23 now that he's going to have to do without me for a while. At the end of  
24 the day, I do want to be his dad. I want to be his male role model in his  
25 life. I do want to be some – I want him to grow to be somebody in this

1 crazy world that we live in. I know what I did wasn't correct. I know what  
2 I did is – there's, you can't justify none of that, period. But at the end of  
3 the day, Your Honor, I just ask for leniency because of the simple fact I  
4 made a mistake. I read in the Bible, I'm not sure if you read the Bible or  
5 not, but me I read in the Bible, 1 Corinthians, chapter 13, verse 11: when  
6 I was a child, I thought as a child, I acted as a child, but when I became a  
7 man, I put all the childish things away.

8 I felt like this time that I've been in CCDC, these two years  
9 that I've been here, I haven't been in no type of trouble, no situations,  
10 period, because the simple fact I feel like I'm growing up. I'm becoming a  
11 better man. I know that I've got to go sit down for a minute, I'll have to  
12 get away, I'm going to be away from my family for a while. But I'm fine  
13 myself. I've forgiven myself for letting myself get too deep in this  
14 situation and get too hard into the lifestyle that's really not me. I'm  
15 starting to find out who I really am. I had to apologize to myself because  
16 at the end of the day, I don't blame nobody for what I've done. I blame  
17 myself. Because in this situation, like I said earlier, can't nobody do  
18 anything for me but me. Can't nobody help me but me. I'm in here with  
19 me. My family always had my back. They're always going to be there.  
20 They crying in the court right now. I know why, but I'm going to hold my  
21 head up high, my head up high no matter what you give me, Your Honor.  
22 But I ask for leniency because I do want to be a father and I do want to  
23 be a male role – a male role model in my son's life. Not even just in his  
24 life, in society period. I have a woman, I do. I love her to death and I  
25 want to be there to be her man as well as be there to be my son's father.

1 And all I ask for leniency in the court today, Your Honor. Thank you.

2 THE COURT: Thank you.

3 MS. MCNEILL: Thank you.

4 THE COURT: Counsel.

5 MS. MCNEILL: Thank you, Your Honor. Mr. Powell  
6 understands the – what his actions caused in the victims' lives and fear  
7 that they were in that day. And I have never heard him minimize that. I  
8 have sometimes clients who don't quite grasp the position that their  
9 actions put other people in, but Mr. Powell has had two years to think  
10 about what happened to the people that were the victims in this case as  
11 well as his family who now suffers as yet another victim because they are  
12 now being deprived of a son and a father and a love one. And so he  
13 would not minimize in any way what his actions caused to other people  
14 outside of himself.

15 However, as an advocate for Mr. Powell, this is probably one  
16 of the most difficult cases that I've had in a while because it's an example  
17 of the system going wrong at pretty much every stage. I understand that  
18 he has two prior felonies. Those are from one case. He was 19 years  
19 old when he got that arrest. What's interesting is that Mr. Powell is a little  
20 bit different from Mr. Pinkney in that he's educated. He's articulate. He  
21 stands before you with certificates that were sent to the Court showing  
22 that when he got out of prison, he was able to turn his life around. He  
23 was getting OSHA certified. He was working. He was fathering a child.  
24 He was doing all of the things that we would want someone to do when  
25 they were out of prison. And so Mr. Powell is certainly capable of being



1 the member of society that we would want him to be. What he didn't tell  
2 the Court because you say, how did you end up here. And  
3 that's – Mr. Powell, just as Mr. Pinkney, has a substance abuse problem.  
4 And while it's not an excuse, he fell back into that and made terrible  
5 decisions, went back to behaviors that he was familiar with from when he  
6 was 19 and we end up here before the Court today.

7 I would like to remind the Court of a few things. One, yes, the  
8 State agreed not to file charges on those other counts. However, as  
9 you're familiar from the motion to withdraw the plea, after I reviewed the  
10 discovery in that case and that's part of the reason that we filed the  
11 motion to withdraw the plea, there was nothing tying him to those  
12 incidents. They were never going to be able to identify him or  
13 Mr. Pinkney as somebody who was involved in those incidents. The  
14 surveillance showed that the people in those crimes had their faces  
15 covered and had their hands covered. And so I don't know that we  
16 should hold those against Mr. Powell when, yes, he agreed to this deal in  
17 exchange for the State not filing charges, but that was because of advice  
18 he was given from counsel who gave him that advice not having  
19 reviewed the discovery in those cases. I believe that if counsel had  
20 reviewed that discovery, he would not have advised him to take this deal.

21 Despite that, despite the fact that I believe that this deal was  
22 not equitable and was not fair, Mr. Powell took it knowing that. He pled  
23 to almost every single charge that he was charged with to avoid going to  
24 trial. To avoid having to have the victims come in and relive this. At no  
25 point did he actually want to go to trial. He just wanted a deal. The only

1 deal that the State came with was during jury selection which was  
2 basically plead to the sheet. And because he wanted to take  
3 responsibility, because he didn't want to go through a jury trial, because  
4 he didn't want to put the victims through that, because everyone in his life  
5 said you have to take responsibility for your actions, he pled to a deal  
6 that most counsel probably not have advised him to take.

7 And so he stands before this Court with the State asking to  
8 put him in prison for 20 years, at 24 years old. And he has taken  
9 responsibility for that. I'm asking the Court to sentence him to a total of  
10 72 to 210 months, similar to Mr. Gaffney did. I understand that it seems  
11 like that's a slap on the wrist, but it's 6 years of his life at 24 years old  
12 that he will be spending in prison having to think every day about what he  
13 did, having to think about every day that he is going to miss out on the  
14 entirety of his child's life. The first six years of his child's life.

15 That we are in a situation where at any point had the system  
16 worked the way that it was supposed to work, perhaps we wouldn't have  
17 been here. And that Mr. Powell wants this court to see that is not the  
18 person who is listed in this PSI. He is not the person who is listed in the  
19 police report. And he's capable of much, much more than all of that.  
20 And he can certainly do that when he gets out of prison in six years of  
21 which is no small amount of time. He's asking Your Honor to be lenient  
22 with him based on the fact that he knows better, he can do better and he  
23 will do better in his future.

24 THE COURT: Thank you.

25 I hereby adjudicate you guilty of Counts 1 and 8, conspiracy to

1 commit robbery. Counts 2 and 9, burglary while in possession of a  
2 deadly weapon. Counts 3 and 13, first-degree kidnapping with the use of  
3 a deadly weapon. Counts 4, 5, 6, 7, 10, 11, and 14, robbery with the use  
4 of a deadly weapon.

5           As you said, given Mr. Powell's priors, he certainly should  
6 have learned from that incarceration. But given the fact that there – the  
7 subsequent ten or the additional ten, however you want to characterize it,  
8 not even taking that into account, this was, these were violent robberies  
9 with the use of a deadly weapon putting dozens of people, changing the  
10 lives of dozens of people. I would not be at all surprised that they're in  
11 counseling for a significant period of time if not for the rest of their lives  
12 having a gun pointed at them and told them, being told that if they do  
13 something, they could be killed.

14           I'm going along with Parole and Probation's sentencing on this  
15 and therefore Count 1, 12 to 48 months in the Nevada Department of  
16 Corrections.

17           Count 2, burglary while in possession of a deadly weapon, 36  
18 to 120, that's to run concurrent.

19           Count 3, first-degree kidnapping with the use of a deadly  
20 weapon, that's 5 to 15, along with the enhancement of 36 to 96. The  
21 enhancement, sorry, the enhancement is consecutive and that is  
22 concurrent with Count 2. I said the enhancement was 36 to 96, yes.

23           Count 4, robbery with the use of a deadly weapon, 36 to 120,  
24 plus the enhancement of the use of the gun, that's 36 to 96. That's  
25 concurrent with Count 3.

1                   Count 5, robbery with the use of a deadly weapon, 36 to 120,  
2 plus the use of the deadly weapon, the gun, 36 to 96. That's  
3 consecutive, that's the enhancement is consecutive. Count 5 is  
4 concurrent with Count 4.

5                   Count 6, robbery with use of a deadly weapon 36 to 120. The  
6 use of the gun, it's consecutive 36 to 96. Count 6 is concurrent with  
7 Count 5.

8                   Count 7, robbery with use of a deadly weapon 36 to 120. Use  
9 of the deadly weapon is consecutive, 36 to 96. Count 7 is concurrent  
10 with Count 6.

11                  Count 8, conspiracy to commit robbery, 12 to 48. That's  
12 concurrent with Count 7.

13                  Count 9, burglary while in possession of a deadly weapon, 36  
14 to 120. That's concurrent with Count 8.

15                  Count 10, robbery with the use of a deadly weapon, 36 to 120.  
16 The use of the gun is 36 to 96. That's consecutive. Count 10 is  
17 concurrent with Count 9.

18                  Count 11, robbery with the use of a deadly weapon, 36 to 120.  
19 Use of the gun, it's consecutive to 36 to 96. Count 11 is concurrent with  
20 Count 10.

21                  Count 13, first-degree kidnapping with the use of a deadly  
22 weapon, that's 5 to 15. Use of the deadly weapon is 36 to 96, that's  
23 consecutive. And Count 13 is consecutive to Count 3.

24                  Count 14, robbery with the use of a deadly weapon, 36 to 120.  
25 The enhancement 36 to 96. Count 14 is concurrent with Count 13.

1 That totals on the bottom end, it's 16 years and on the top end  
2 for the aggregate, I had it written down. What's the – anybody add –

3 THE CLERK: I have 192 months with 552 months total.

4 THE COURT: 552?

5 THE CLERK: In months.

6 THE COURT: In months. Okay. \$3,942 joint and several  
7 restitution to the multiple defendants. Credit for time served –

8 MR. GIORDANI: 602.

9 THE COURT: 602.

10 MR. GIORDANI: Can I get that top end number again please.

11 THE CLERK: One ninety – oh, 552. Five hundred and fifty  
12 two months. It's 192 for –

13 THE COURT: I'm going along with Parole and Probations on  
14 that and although I don't think they did an aggregate. No.

15 MR. GIORDANI: So 16 to 46 years aggregate?

16 THE CLERK: Yes.

17 THE COURT: Yes.

18 MR. GIORDANI: Thank you, Your Honor.

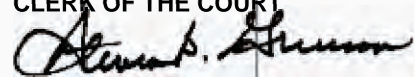
19 THE COURT: All right. Thank you.

20 [Hearing concluded at 10:13 a.m.]

21 \* \* \* \* \*

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

24   
25 Judy Chappell  
Court Recorder/Transcriber



1 JOCP

2  
3  
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6  
7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C-17-327767-2

9 -VS-

DEPT. NO. XXVIII

10  
11 ADRIAN POWELL  
#8387748

12 Defendant.

13 JUDGMENT OF CONVICTION

14 (PLEA OF GUILTY)

15  
16  
17 The Defendant previously appeared before the Court with counsel and entered a plea of  
18 guilty to the crimes of COUNTS 1 and 8 – CONSPIRACY TO COMMIT ROBBERY  
19 (Category B Felony) in violation of NRS 200.380, 199.480; COUNTS 2 and 9 – BURGLARY  
20 WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of  
21 NRS 205.060; COUNTS 3 and 13 – FIRST DEGREE KIDNAPPING WITH USE OF A  
22 DEADLY WEAPON (Category A Felony) in violation of NRS 200.310, 200.320, 193.165; and  
23 COUNTS 4, 5, 6, 7, 10, 11 and 14 - ROBBERY WITH USE OF A DEADLY WEAPON  
24 (Category B Felony) in violation of NRS 200.380, 193.165; thereafter, on the 22<sup>nd</sup> day May,  
25 2019, the Defendant was present in Court for sentencing with counsel MONIQUE A.  
26 MCNEILL, ESQ., and good cause appearing,  
27  
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<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	

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1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition  
2 to the \$25.00 Administrative Assessment and \$3,942.00 Restitution payable jointly and  
3 severally with Co-Defendant (\$1,100.00 Pepe's Tacos; \$2,342.00 to Rebel Oil Co; \$500.00 to  
4 Roberto's on Rainbow) plus \$3.00 DNA Collection Fee, the Defendant is sentenced to the  
5 Nevada Department of Corrections (NDC) as follows: **COUNT 1** - a MAXIMUM of FORTY-  
6 EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS;  
7 **COUNT 2** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a  
8 MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT  
9 1; **COUNT 3** - a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM Parole Eligibility  
10 of FIVE (5) YEARS plus a CONSECUTIVE term of NINETY-SIX (96) MONTHS with a  
11 MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly  
12 Weapon, CONCURRENT with COUNT 2; **COUNT 4** - a MAXIMUM of ONE HUNDRED  
13 TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)  
14 MONTHS plus a CONSECUTIVE term of NINETY-SIX (96) MONTHS with a MINIMUM  
15 Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon,  
16 CONCURRENT with COUNT 3; **COUNT 5** - a MAXIMUM of ONE HUNDRED TWENTY  
17 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a  
18 CONSECUTIVE term of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
19 THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT  
20 4; **COUNT 6** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a  
21 MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of  
22 NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)  
23 MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 5; **COUNT 7** - a



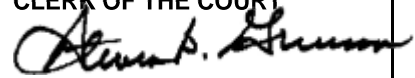
1 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
2 Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of NINETY-SIX (96)  
3 MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of  
4 a Deadly Weapon, CONCURRENT with COUNT 6; **COUNT 8** - a MAXIMUM of FORTY-  
5 EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS,  
6 CONCURRENT with COUNT 7; **COUNT 9** - a MAXIMUM of ONE HUNDRED TWENTY  
7 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS,  
8 CONCURRENT with COUNT 8; **COUNT 10** - a MAXIMUM of ONE HUNDRED TWENTY  
9 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a  
10 CONSECUTIVE term of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
11 THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT  
12 7; **COUNT 11** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a  
13 MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of  
14 NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)  
15 MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 10; **COUNT 13** - a  
16 MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM Parole Eligibility of FIVE (5)  
17 YEARS plus a CONSECUTIVE term of NINETY-SIX (96) MONTHS with a MINIMUM  
18 Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon,  
19 CONSECUTIVE to COUNT 3; and **COUNT 14** - a MAXIMUM of ONE HUNDRED  
20 TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)  
21 MONTHS plus a CONSECUTIVE term of NINETY-SIX (96) MONTHS with a MINIMUM  
22 Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon,  
23 CONCURRENT with COUNT 11; with SIX HUNDRED TWO (602) DAYS credit for time  
24  
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1 served. As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously imposed,  
2 the Fee and Testing in the current case are WAIVED. The AGGREGATE TOTAL sentence is  
3 FIVE HUNDRED FIFTY-TWO (552) MONTHS MAXIMUM with a MINIMUM PAROLE  
4 ELIGIBILITY OF ONE HUNDRED NINETY-TWO (192) MONTHS.  
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6 DATED this 23 day of May, 2019.

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9 RONALD J. ISRAEL  
10 DISTRICT COURT JUDGE  
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NOASC  
**MONIQUE MCNEILL, ESQ.**  
Nevada State Bar No. 009862  
P.O. Box 2451  
Las Vegas, Nevada 89125  
Tel: (702) 497-9734  
Email: monique.mcneill@yahoo.com

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA	)	<b>CASE NO: C-17-327767-2</b>
	)	
Plaintiff,	)	<b>DEPT. NO: XXVIII</b>
	)	
vs.	)	
	)	
ADRIAN POWELL,	)	
	)	
Defendant.	)	

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**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that Defendant, ADRIAN POWELL, appeals to the Supreme Court of Nevada from the judgment entered against said Defendant on May 24, 2019, whereby he was convicted of Conspiracy to Commit Robbery (2 counts), Burglary while in Possession of a Deadly Weapon (2 counts), First Degree Kidnapping with Use of a Deadly Weapon (2 counts), Robbery with Use of a Deadly Weapon (7 counts).

DATED this 13th day of June, 2019.

By: /s/ Monique McNeill  
MONIQUE A. MCNEILL, ESQ.  
Nevada Bar No. 009862  
P.O. Box 2451  
Las Vegas, Nevada 89125  
Phone: (702) 497-9734  
Email: monique.mcneill@yahoo.com

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**SERVICE LIST**

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE 200 E. Lewis Ave Las Vegas, NV 89101  pdmotions@clarkcountynvda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service