

Steven D. Grierson

1 NOAS

2 Name: Denzel Dorsey

3 Address: 330 S. Casino Center Blvd

4 City/State/Zip: Las Vegas, NV 89101

5 Phone: 253 617 8700

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

Electronically Filed
Oct 22 2019 01:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

9 State of Nevada

10 Plaintiff,

11 v.

CASE NO. C-17-323324-1

DEPT. NO. XV (15)

12 Denzel Dorsey

13 Defendant.

14 **NOTICE OF APPEAL**

15 Notice is hereby given that Denzel R. Dorsey, Defendant above-named,
16 hereby appeals to the Supreme Court of Nevada from the denial of defendants
17 pre-sentence motion to withdraw plea and then sentencing
18 defendant to a small habitual criminal (60-150 months).

19 entered in this action on the 9th day of October, 2019.

20 DATED this 9th day of October, 2019.

21 *[Signature]*
22 Defendant's Signature

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

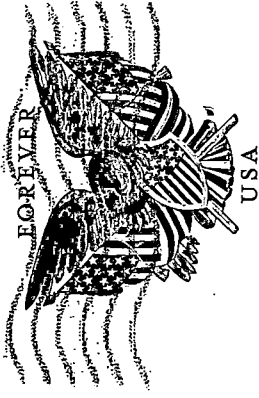
CLERK OF THE COURT

RECEIVED
OCT 15 2019

Danzel R. Dorsey #2845569
C.C.D.C.
330 S. Casino Center Blvd
Las Vegas, NV 89101

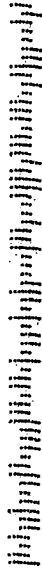
LAS VEGAS NV 89101

13 OCT 2013 PM 4:11



Steven D. Grierson
200 Lewis Avenue, 3rd floor
Las Vegas, NV 89155-1160

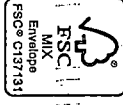
SENT FROM CCDC

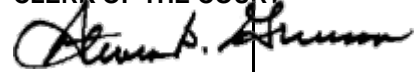


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THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT





1 ASTA

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3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12 DENZEL DORSEY,

13 Defendant(s),

Case No: C-17-323324-1

Dept No: XV

14
15
16 **CASE APPEAL STATEMENT**

17
18 1. Appellant(s): Denzel Dorsey

19 2. Judge: Joe Hardy

20 3. Appellant(s): Denzel Dorsey

21 Counsel:

22 Denzel Dorsey #1099468
23 P.O. Box 650
24 Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

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

(702) 671-2700

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

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

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

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

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

9. Date Commenced in District Court: May 5, 2017

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

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 17 day of October 2019.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Denzel Dorsey

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-17-323324-1**

State of Nevada
vs
Denzel Dorsey

§ Location: **Department 15**
 § Judicial Officer: **Hardy, Joe**
 § Filed on: **05/05/2017**
 § Case Number History:
 § Cross-Reference Case **C323324**
 § Number:
 § Defendant's Scope ID #: **2845569**
 § ITAG Case ID: **2116417**
 § Lower Court Case # Root: **16FH2022**
 § Lower Court Case Number: **16FH2022X**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. INVASION OF THE HOME Arrest: 11/28/2016	205.067.2	F	11/28/2016		
2. MALICIOUS DESTRUCTION OF PROPERTY	206.310	G	11/28/2016	Case Status:	10/09/2019 Closed

Statistical Closures

10/09/2019 Guilty Plea with Sentence (before trial) (CR)

Warrants

Bench Warrant - Dorsey, Denzel (Judicial Officer: Hardy, Joe)

11/08/2018 2:41 PM Returned - Served

07/17/2018 2:38 PM Active

Hold Without Bond

Bonds

Surety #IS6K-882246 \$6,000.00

4/18/2018 Exonerated

12/3/2016 Active

Counts: 1, 2

DATE**CASE ASSIGNMENT****Current Case Assignment**


Case Number C-17-323324-1
 Court Department 15
 Date Assigned 07/02/2018
 Judicial Officer Hardy, Joe

PARTY INFORMATION


		Lead Attorneys
Defendant	Dorsey, Denzel	Modafferi, Gary <i>Retained</i> 702-474-4222(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**






05/05/2017

 Criminal Bindover

05/09/2017

 Information
 Party: Plaintiff State of Nevada
Information

CASE SUMMARY
CASE NO. C-17-323324-1


05/25/2017	 Reporters Transcript <i>Reporter's Transcript of Preliminary Hearing May 2, 2017</i>
08/21/2017	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada <i>State's Notice of Witnesses and/or Expert Witnesses</i>
08/31/2017	 Order <i>Order Re: Discovery</i>
11/29/2017	 Motion to Withdraw As Counsel Filed By: Defendant Dorsey, Denzel <i>Motion To Withdraw Due To Conflict</i>
01/19/2018	 Ex Parte Order Filed By: Defendant Dorsey, Denzel <i>Ex-Parte Order to Appoint Counsel and to Waive Court Filing Fees</i>
03/09/2018	 Guilty Plea Agreement
04/26/2018	 Motion Filed By: Defendant Dorsey, Denzel <i>Motion to Place on Calendar to Address Custody Status and Hold</i>
04/27/2018	 PSI
06/06/2018	 Motion to Dismiss Counsel Party: Defendant Dorsey, Denzel <i>Motion to Dismiss Counsel</i>
06/06/2018	 Motion to Withdraw Plea Filed By: Defendant Dorsey, Denzel <i>Motion to Withdraw Plea</i>
06/14/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re State's Request for Entry of Plea March 13, 2018</i>
07/02/2018	Case Reassigned to Department 15 <i>Reassigned From Judge Johnson - Dept 22</i>
07/03/2018	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion to Withdraw Plea</i>
07/24/2018	 Motion to Quash Bench Warrant Filed By: Defendant Dorsey, Denzel <i>Motion to Quash Bench Warrant</i>
07/25/2018	 Bench Warrant <i>Bench Warrant</i>
12/05/2018	 Motion


CASE SUMMARY


CASE NO. C-17-323324-1


	<p>Filed By: Defendant Dorsey, Denzel <i>Motion for Expert Services (Investigator) Pursuant to Widdis</i></p>
01/09/2019	<p> Order Filed By: Defendant Dorsey, Denzel <i>Order Granting Motion for Expert Services (Investigator) Pursuant to Widdis</i></p>
02/15/2019	<p> Motion Filed By: Defendant Dorsey, Denzel <i>Defendant Denzel Dorsey's Motion to Withdraw Guilty Plea</i></p>
02/21/2019	<p> Notice Filed By: Plaintiff State of Nevada <i>State's Notice of Intent to Seek Punishment as a Habitual Criminal and Notice of Prior Burglary and/or Home Invasion Convictions</i></p>
02/21/2019	<p> Supplemental Filed by: Defendant Dorsey, Denzel <i>Supplemental Exhibit in Support of Defendant's Motion to Withdraw Guilty Plea</i></p>
03/19/2019	<p> Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Withdraw Guilty Plea</i></p>
03/28/2019	<p> Reply Filed by: Defendant Dorsey, Denzel <i>Reply to State's Opposition to Defendant's Motion to Withdraw Guilty Plea</i></p>
06/11/2019	<p> Notice of Motion Filed By: Plaintiff State of Nevada <i>State's Notice of Motion and Motion to Remand Defendant</i></p>
06/11/2019	<p> Clerk's Notice of Hearing <i>Notice of Hearing</i></p>
07/26/2019	<p> Recorders Transcript of Hearing <i>Recorder's Transcript Re: Evidentiary Hearing, Defendant Denzel Dorsey's Motion to Withdraw Guilty Plea 07-11-19</i></p>
08/06/2019	<p> Order <i>Order Denying Defendant's Motion to Withdraw Guilty Plea</i></p>
08/07/2019	<p> Notice of Entry of Order <i>Notice of Entry of Order</i></p>
09/23/2019	<p> Memorandum Filed By: Defendant Dorsey, Denzel <i>Defendant Denzel Dorsey's Sentencing Memorandum</i></p>
09/23/2019	<p> PSI - Supplemental PSI</p>
10/01/2019	<p> Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant Denzel Dorsey's Sentencing Memorandum</i></p>


CASE SUMMARY
CASE NO. C-17-323324-1


10/04/2019  **Motion**
Filed By: Defendant Dorsey, Denzel
Motion to Withdraw as Counsel


10/07/2019  **Clerk's Notice of Nonconforming Document**
Clerk's Notice of Nonconforming Document

10/08/2019  **Motion**
Filed By: Defendant Dorsey, Denzel
Motion to Withdraw as Counsel


10/08/2019  **Clerk's Notice of Hearing**
Notice of Hearing

10/09/2019  **Judgment of Conviction**
Judgment of Conviction (Plea of Guilty)


10/15/2019  **Notice of Appeal (criminal)**
Party: Defendant Dorsey, Denzel
Notice of Appeal

10/17/2019  **Case Appeal Statement**
Filed By: Defendant Dorsey, Denzel
Case Appeal Statement

HEARINGS

05/15/2017  **Initial Arraignment (10:00 AM)** (Judicial Officer: Hillman, Ralph R.)
Events: 05/05/2017 Criminal Bindover


MINUTES

 Criminal Bindover

Plea Entered;

Journal Entry Details:

Deputized Law Clerk, Alexander Vail, present on behalf of the State. DEFT. DORSEY ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. BOND 9/7/17 9:00 AM CALENDAR CALL (DEPT 22) 9/11/17 8:30 AM JURY TRIAL (DEPT 22) ;

09/07/2017  **Calendar Call (9:00 AM)** (Judicial Officer: Johnson, Susan)
Matter Heard;
Journal Entry Details:
Mr. Brower requested a continuance. Bench conference. Colloquy regarding discovery. No opposition by State to continue trial. Colloquy regarding scheduling conflicts. Counsel anticipated 3-4 days to try. COURT ORDERED, jury trial VACATED and RESET. BOND 11/30/2017 - 9:00 AM - CALENDAR CALL 12/04/2017 - 8:30 AM - JURY TRIAL;

09/11/2017 **CANCELED Jury Trial (8:30 AM)** (Judicial Officer: Johnson, Susan)
Vacated


11/30/2017 **Calendar Call (9:00 AM)** (Judicial Officer: Johnson, Susan)
Matter Heard;

11/30/2017 **Motion to Withdraw as Counsel (9:00 AM)** (Judicial Officer: Johnson, Susan)
Defendant's Motion to Withdraw Due to Conflict

CASE SUMMARY
CASE NO. C-17-323324-1

Motion Granted;

11/30/2017

 **All Pending Motions** (9:00 AM) (Judicial Officer: Johnson, Susan)

Matter Heard;

Journal Entry Details:


CALENDAR CALL...DEFENDANT'S MOTION TO WITHDRAW DUE TO CONFLICT Yi Zheng, Esq., also present. Mr. Brower requested to withdraw due to conflict. COURT ORDERED, Motion GRANTED. Ms. Zheng requested two weeks for a conflicts check and to confirm. COURT ORDERED, jury trial VACATED; matter SET for status check. Counsel anticipated one week to try. BOND 12/12/2017 - 8:30 AM - STATUS CHECK: TRIAL SETTING/CONFIRMATION OF COUNSEL;

12/04/2017

CANCELED Jury Trial (8:30 AM) (Judicial Officer: Johnson, Susan)

Vacated

12/12/2017

 **Status Check** (8:30 AM) (Judicial Officer: Johnson, Susan)

12/12/2017, 01/09/2018, 01/16/2018

Status Check: Confirmation of Counsel (Drew Christiansen)/Trial Setting

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Ms. McAmis CONFIRMED AS COUNSEL; advised she received discovery today; requested a custody status hearing. Court directed Ms. McAmis to file a motion and then a hearing could be set. Colloquy regarding scheduling conflicts. COURT ORDERED, matter SET for trial. Counsel anticipated 5 days to try. Court advised it would issue a Discovery Order. CUSTODY (COC)/BOND 4/18/2018 - 8:30 AM - CALENDAR CALL 4/23/2018 - 8:30 AM - JURY TRIAL;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Yi Zheng, Esq., also present. Ms. Zheng advised she could not confirm as counsel due to conflict and requested appointment. State requested Deft. be remanded into custody and to revoke bail. Colloquy regarding outstanding warrants and the procedural history of the case. COURT ORDERED, matter CONTINUED; Deft. REMANDED into custody, NO BAIL. Colloquy regarding contract attorneys and conflict. CUSTODY (BOND) CONTINUED TO 1/16/2018 - 8:30 AM;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date. BOND CONTINUED TO 1/09/2018 - 8:30 AM;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date. BOND CONTINUED TO 1/09/2018 - 8:30 AM;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date. BOND CONTINUED TO 1/09/2018 - 8:30 AM;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date. BOND CONTINUED TO 1/09/2018 - 8:30 AM;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date. BOND CONTINUED TO 1/09/2018 - 8:30 AM;

Continued;


Continued;

Matter Heard;

Journal Entry Details:

Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date. BOND CONTINUED TO 1/09/2018 - 8:30 AM;

03/13/2018

 **Request** (8:30 AM) (Judicial Officer: Johnson, Susan)

State's Request for Entry of Plea

Plea Entered;

Journal Entry Details:

Guilty Plea Agreement FILED IN OPEN COURT NEGOTIATIONS are as contained in the Guilty Plea Agreement. DEFT. DORSEY ARRAIGNED AND PLED GUILTY TO INVASION OF THE HOME (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P); trial dates VACATED; matter SET for sentencing. Ms. McAmis advised Deft. had previously posted bail and requested an own recognizance release. No objection by State. COURT FURTHER ORDERED, own recognizance release GRANTED. Court advised Deft. if he failed to appear for his future court date he would serve a minimum of 60 months to 120 months. O.R. 7/17/18 8:30 AM SENTENCING CLERK'S NOTE: Bond was neither addressed at the 1/9/18 hearing, nor was it addressed at the hearing when counsel confirmed on 1/16/18. Bond exonerated on 4/18/2018. kc/4-18-18;




04/17/2018

CANCELED Calendar Call (8:30 AM) (Judicial Officer: Johnson, Susan)

Vacated






CASE SUMMARY

CASE NO. C-17-323324-1

04/23/2018	CANCELED Jury Trial (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Vacated</i>
05/08/2018	 Motion (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Motion to Place on Calendar to Address Custody Status and Hold</i> Matter Heard; Journal Entry Details: <i>Colloquy regarding Presentence Investigation Report. Ms. McAmis advised Deft. had a California hold, so his Nevada cases needed to be resolved; requested Deft. be remanded on this case and to set sentencing in 30 days. Statement by Deft. COURT ORDERED, sentencing RESCHEDULED. O.R. 6/05/2018 - 8:30 AM - SENTENCING;</i>
06/05/2018	 Sentencing (8:30 AM) (Judicial Officer: Johnson, Susan) 06/05/2018, 06/12/2018, 06/28/2018 Continued; Continued; Set Status Check; Continued; Continued; Set Status Check; Continued; Continued; Set Status Check; Journal Entry Details: <i>Ms. McAmis advised they could not proceed today as the Deft. wanted to withdraw his plea and dismiss her as counsel of record. Deft. advised the Motions were filed approximately 10 days ago. Court advised it needed to see the Motion before rendering a decision and ORDERED, matter CONTINUED and SET for status check. O.R. (COC) 6/12/2018 - 8:30 AM - SENTENCING/STATUS CHECK: STATUS OF MOTIONS;</i>
06/12/2018	Status Check (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Status Check: Status of Motion Filing</i> Matter Heard;
06/12/2018	Motion to Dismiss (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Defendant's Motion to Dismiss Counsel</i> Motion Granted;
06/12/2018	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Susan) Matter Heard; Journal Entry Details: <i>SENTENCING...STATUS CHECK: STATUS OF MOTION FILING...DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL COURT ORDERED, Motion to Dismiss Counsel GRANTED; Mr. Hughes APPOINTED; matter SET for confirmation of counsel; sentencing CONTINUED. Court advised it wanted to see the transcript of the arraignment canvas. O.R. (COC) 6/28/2018 - 9:00 AM - SENTENCING/CONFIRMATION OF COUNSEL (ED HUGHES, ESQ.);</i>
06/28/2018	Motion to Withdraw Plea (9:00 AM) (Judicial Officer: Hardy, Joe) 06/28/2018, 07/17/2018 <i>Defendant's Motion to Withdraw Plea</i> Continued; Off Calendar; Continued; Off Calendar;
06/28/2018	Confirmation of Counsel (9:00 AM) (Judicial Officer: Hardy, Joe) 06/28/2018, 07/17/2018 <i>Confirmation of Counsel (Hughes, E)</i>

CASE SUMMARY

CASE NO. C-17-323324-1

	Continued; Off Calendar; Continued; Off Calendar;
06/28/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Johnson, Susan) Matter Heard; Journal Entry Details: <i>CONFIRMATION OF COUNSEL...DEFENDANT'S PRO PER MOTION TO WITHDRAW PLEA...SENTENCING Keith Brower, Esq. present. Mr. Brower advised he was notified about this matter yesterday, Mr. Hughes was out of the country, and he could not make any representations at this time due to preexisting conflicts; requested a continuance. COURT ORDERED, matters CONTINUED; matter SET for status check. O.R. 7/17/2018 - 8:30 AM - CONFIRMATION OF COUNSEL/DEFENDANT'S PRO PER MOTION TO WITHDRAW PLEA/STATUS CHECK: SENTENCING;</i>
07/17/2018	Status Check (8:30 AM) (Judicial Officer: Hardy, Joe) <i>Status Check: Sentencing</i> Bench Warrant Issued;
07/17/2018	 All Pending Motions (8:30 AM) (Judicial Officer: Hardy, Joe) Matter Heard; Journal Entry Details: <i>CONFIRMATION OF COUNSEL (HUGHES, E)...DEFENDANT'S MOTION TO WITHDRAW PLEA...STATUS CHECK: SENTENCING E. Hughes, Esq. present. Defendant having failed to appear, State requested the issuance of a bench warrant. Mr. Hughes appeared and stated that he did not have the Pre-Sentence Investigation Report (PSI), and had had no contact with the Defendant; therefore, he would be unable to proceed with sentencing, even if the Defendant happened to be present. Pursuant to the State's request, COURT ORDERED, BENCH WARRANT WILL ISSUE, NO BAIL. COURT FURTHER ORDERED Defendant's Motion to Withdraw Plea was hereby OFF CALENDAR. B.W. (O.R.);</i>
07/31/2018	 Motion to Quash Bench Warrant (8:30 AM) (Judicial Officer: Hardy, Joe) <i>Defendant's Motion to Quash Bench Warrant</i> Denied Without Prejudice; Journal Entry Details: <i>Carl Arnold, Esq. CONFIRMED as counsel of record for the Defendant. Mr. Arnold advised that Defendant was currently in custody in California, and requested the bench warrant be quashed in the instant case, in order to allow the Defendant to post bail in the California case. The State submitted on the pleadings. Mr. Arnold stated that the Defendant would be unable to post bail in California, with the bench warrant pending in the instant case. COURT ORDERED Defendant's Motion to Quash Bench Warrant was hereby DENIED WITHOUT PREJUDICE, FINDING that the bench warrant remaining in place, would ensure the Defendant's appearance in court subsequent to the resolution of his California case. B.W. (O.R.);</i>
11/08/2018	 Request (8:30 AM) (Judicial Officer: Hardy, Joe) <i>DA Request Re: Bench Warrant Return</i> Matter Heard; Journal Entry Details: <i>The State noted that Defendant had a fugitive hold out of California, and there was the possibility of additional charges being filed. Mr. Arnold requested thirty days to determine what was going on in the case. The State objected to a thirty day continuance, noting that the negotiations in this case called for the dismissal of Defendant's other case, which was set for a Preliminary Hearing. COURT ORDERED the sentencing date was hereby SET in two weeks. CUSTODY 11/27/18 8:30 AM SENTENCING;</i>
11/27/2018	 Sentencing (8:30 AM) (Judicial Officer: Hardy, Joe) 11/27/2018, 12/13/2018, 02/19/2019, 03/26/2019, 04/04/2019 Matter Continued; Continued;

CASE SUMMARY
CASE NO. C-17-323324-1

Continued;
Continued;
Vacate;
Matter Continued;
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Continued;
Continued;
Vacate;
Matter Continued;
Continued;
Continued;
Continued;
Vacate;

Journal Entry Details:

Mr. Modafferi indicated that he had spoken to Sandra DiGiacomo, DDA, and both parties agreed to continue the sentencing date, to allow the State to file a response to the Motion to Withdraw Guilty Plea. Upon Court's inquiry, Mr. Modafferi requested a thirty-day continuance. There being no opposition, COURT ORDERED the sentencing date was hereby CONTINUED. CUSTODY CONTINUED TO: 3/28/19 8:30 AM;

Matter Continued;
Continued;
Continued;
Continued;
Vacate;

Journal Entry Details:

Mr. Modafferi requested the sentencing date be continued to a date subsequent to the pending Motion for Expert Services, noting that the State did not object to the continuance. Additionally, Mr. Modafferi requested the Court make a ruling on the Motion for Expert Services during the instant hearing, so that an investigator could begin looking into the factual concerns. The Court noted that it would be unable to make a ruling on the Motion for Expert Services, as it had not yet reviewed the Motion. COURT ORDERED the sentencing date was hereby CONTINUED. CUSTODY CONTINUED TO: 2/5/19 8:30 AM;

Matter Continued;
Continued;
Continued;
Continued;
Vacate;

Journal Entry Details:

Mr. Modafferi requested a continuance; advised the parties would like to get up to speed on this matter. COURT ORDERED, MATTER CONTINUED. CUSTODY 12-13-18 8:30 AM SENTENCING (DEPT. XV);

01/03/2019



Motion (8:30 AM) (Judicial Officer: Hardy, Joe)

Defendant's Motion for Expert Services (Investigator) Pursuant to Widdis

Motion Granted;

Journal Entry Details:

Upon Court's inquiry, Mr. Modafferi indicated that the investigator was needed, to determine whether there were facts and circumstances that would warrant the withdrawal of Defendant's guilty plea. Upon further inquiry by the Court, Mr. Modafferi advised that the investigator would be interviewing the Defendant, as well as other witnesses. Regarding the cost of the investigator, Mr. Modafferi stated that an ROC would be submitted to Drew Christensen, which would allow the County Administrator to determine the amount of hours needed, and to supervise the payments. The State argued that, if the investigator was investigating based upon a potential withdrawal of plea, then the investigator would be limited to the plea canvass. COURT ORDERED the Defendant's Motion for Expert Services (Investigator) Pursuant to Widdis, was hereby GRANTED, FINDING that the Defendant was INDIGENT. Due to the Court's continuing reservations regarding the need for an investigator, as well as its questions regarding scope, COURT ORDERED a status check was hereby SET regarding the retention of the investigator, and the scope of the investigation. COURT FURTHER ORDERED the sentencing date would STAND. 1/17/19 8:30 AM STATUS CHECK: INVESTIGATOR;

01/17/2019



Status Check (8:30 AM) (Judicial Officer: Hardy, Joe)

CASE SUMMARY

CASE NO. C-17-323324-1

Status Check: Investigation

Matter Heard;

Journal Entry Details:

Mr. Modafferi advised that an application for appropriate investigator funds had been submitted to the Office of the County Manager, and provided the Court with a copy of said application. The Court noted that the application had been approved for \$500.00. Upon the Court's inquiry, Mr. Modafferi stated that the Court did not have to take any action at this time, and requested the pending sentencing date be reset to a date two weeks later than its current date. The State clarified that the investigator was being used solely to determine whether it would be appropriate for Defendant to withdraw his plea. Mr. Modafferi affirmed the State's representation. COURT ORDERED the sentencing date was hereby RESET. CUSTODY 2/19/19 8:30 AM SENTENCING;

02/26/2019



Motion (8:30 AM) (Judicial Officer: Hardy, Joe)

02/26/2019, 03/26/2019, 04/04/2019, 05/23/2019, 05/28/2019, 07/08/2019, 07/11/2019

Defendant Denzel Dorsey's Motion to Withdraw Guilty Plea

Continued;

Continued;

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Deferred Ruling;

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Deferred Ruling;

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CASE SUMMARY
CASE NO. C-17-323324-1

	Continued; Continued; Continued; Continued; Deferred Ruling; Journal Entry Details: <i>The instant Motion having previously been reset, but not rescheduled on the Court's docket, and the parties having agreed to a continuance date, COURT ORDERED Defendant Denzel Dorsey's Motion to Withdraw Guilty Plea, was hereby CONTINUED. COURT FURTHER ORDERED, Defendant's sentencing date, was hereby RESET to be heard on the same date as the Motion to Withdraw Guilty Plea. CUSTODY 3/26/19 8:30 AM DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA...SENTENCING;</i>
03/26/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Hardy, Joe) Matter Heard; Journal Entry Details: <i>DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA...SENTENCING Mr. Modafferi not present when the case was called. The State noted that the instant hearings were originally set to be heard on March 28, 2019, and they were moved to accommodate the State, which may account for Mr. Modafferi's absence. COURT ORDERED the instant hearings were hereby CONTINUED. CUSTODY CONTINUED TO: 4/4/19 8:30 AM CLERK'S NOTE: Mr. Modafferi was notified of the continuance date via e-mail. (KD 3/26/19);</i>
04/04/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Hardy, Joe) Matter Heard; Journal Entry Details: <i>The Court noted that an Evidentiary Hearing would be necessary. Mr. Modafferi indicated he would be bringing in Daniel Dorsey, who would be willing to testify that he was the individual who committed the crime. The State advised that, out of an abundance of caution, it felt that an Evidentiary Hearing should be held. Upon Court's inquiry, the State represented that two hours would be needed for the hearing. COURT ORDERED and Evidentiary Hearing was hereby SET, and the Motion to Withdraw Guilty Plea, was hereby CONTINUED to the date of the Evidentiary Hearing. CUSTODY 5/13/19 8:30 AM DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA...EVIDENTIARY HEARING;</i>
05/23/2019	Evidentiary Hearing (10:30 AM) (Judicial Officer: Hardy, Joe) 05/23/2019, 05/28/2019, 07/08/2019, 07/11/2019 Continued; Continued; Continued; Deferred Ruling; Continued; Continued; Continued; Deferred Ruling; Continued; Continued; Continued; Deferred Ruling; Continued; Continued; Continued; Deferred Ruling; Continued; Continued; Continued; Deferred Ruling;
05/23/2019	 All Pending Motions (10:30 AM) (Judicial Officer: Hardy, Joe) Matter Heard; Journal Entry Details: <i>EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA The Defendant not having been transported, COURT ORDERED the Motion and Evidentiary Hearing were hereby CONTINUED. CUSTODY CONTINUED TO: 5/28/19</i>

CASE SUMMARY
CASE NO. C-17-323324-1

10:30 AM;

05/28/2019



All Pending Motions (10:30 AM) (Judicial Officer: Hardy, Joe)

Matter Heard;

Journal Entry Details:

EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA The State advised that Defendant's brother, Davey Dorsey, who would allegedly be admitting to the subject crimes through testimony, would require independent counsel. Mr. Modafferi suggested the Court canvass Davey Dorsey, to determine whether he wished to retain counsel. *EXCLUSIONARY RULE INVOKED* by the State. The Court expressed its frustration with the State's failure to raise the independent counsel issue prior to the instant hearing. Matter trailed. Matter recalled. Having reviewed the law applicable to the issue raised by the State, *COURT ORDERED* that the Evidentiary Hearing would proceed as scheduled. The State noted that its investigator was currently out of the jurisdiction; therefore, the hearing may have to be bifurcated, to allow for the investigator to appear and testify. Testimony and exhibits presented (see worksheets). At Mr. Modafferi's request, the *COURT ORDERED* that it would consider the Preliminary Hearing transcripts, as they were already part of the record in the instant case. Additionally, the *COURT TOOK JUDICIAL NOTICE* of the handwritten briefs attached to the Motion to Withdraw Guilty Plea as exhibits A and B. Colloquy regarding scheduling. Mr. Modafferi indicated there was no objection to the hearing being continued to accommodate the State's investigator. *COURT ORDERED* the Evidentiary Hearing, as well as the Motion to Withdraw Guilty Plea, were hereby *CONTINUED*. *CUSTODY CONTINUED TO: 7/8/19 8:30 AM;*

06/25/2019



Motion to Remand (8:30 AM) (Judicial Officer: Hardy, Joe)

State's Notice of Motion and Motion to Remand Defendant

Motion Granted;

Journal Entry Details:

There being no Opposition, COURT ORDERED the State's Notice of Motion and Motion to Remand Defendant, was hereby *GRANTED, RETROACTIVE* to October 17, 2018. *CUSTODY;*

07/08/2019



All Pending Motions (10:30 AM) (Judicial Officer: Hardy, Joe)

Matter Heard;

Journal Entry Details:

EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA Mr. Modafferi advised he and Ms. Digiacoia agreed to continuance for later this week due to circumstances with other matters. *COURT ORDERED, matters CONTINUED* to 7/11/19. Upon Court's inquiry, Mr. Modafferi advised State has a testifying investigator. Mr. Rowles advised if there is problem with witness availability, he will notify opposing counsel and Chambers. *IN CUSTODY CONTINUED TO: 7/11/19 10:30 AM EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA* *CLERK'S NOTE: Minutes completed upon review of JAVS recording. /cd 8-13-19/;*

07/11/2019



All Pending Motions (10:30 AM) (Judicial Officer: Hardy, Joe)

Matter Heard;

Journal Entry Details:

EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA Testimony and exhibits presented (see worksheets). State *RESTED*. Due to the need to review the State's exhibit, which consisted of multiple telephone calls made by the Defendant from jail, the Court noted that it would hear arguments on this date, and would issue its decision via minute order. Mr. Modafferi argued in support of the Motion to Withdraw Guilty Plea, stating that the Court must look at the case under the permissive standard; Stevenson case cited. The State argued in opposition, stating that the Defendant had a long history of breaking and entering, and there was no information presented regarding the Defendant's brother possibly being the perpetrator, until the Defendant wished to withdraw his guilty plea. *COURT ORDERED* the ruling on the Evidentiary Hearing and the Motion to Withdraw Plea were hereby *DEFERRED*, and a status check regarding the Court's decision, and the setting of a sentencing date, or a trial date, was hereby *SET*. *CUSTODY 8/8/19 8:30 AM STATUS CHECK: COURT'S DECISION ON THE MOTION TO WITHDRAW PLEA / SENTENCING DATE / TRIAL DATE;*

08/08/2019



Status Check (8:30 AM) (Judicial Officer: Hardy, Joe)

CASE SUMMARY

CASE NO. C-17-323324-1

Status Check: Court's Decision on the Motion to Withdraw Plea / Sentencing Date / Trial Date
Matter Heard;

Journal Entry Details:

The Court noted that a trial date needed to be set, as the Motion to Withdraw Plea had been denied via a written Order. COURT ORDERED a sentencing date was hereby SET. COURT FURTHER ORDERED the preparation of a new Pre-Sentence Investigation Report (PSI). Mr. Modafferi advised that he was retained only through sentencing, and requested that appellate counsel be appointed for the Defendant prior to the preparation of the Judgment of Conviction. The State noted that, procedurally, Mr. Modafferi would need to complete sentencing prior to any other counsel being appointed. The Court directed counsel to raise the issue again when appropriate. CUSTODY 10/3/19 8:30 AM SENTENCING;

10/03/2019



Sentencing (8:30 AM) (Judicial Officer: Hardy, Joe)

Defendant Sentenced;

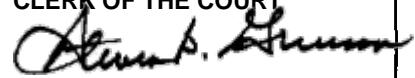
Journal Entry Details:

Mr. Modafferi requested the Court appoint appellant counsel for the Defendant post-sentencing. The State noted that it regained the right to argue, but would submit on the negotiations. Mr. Modafferi requested the maximum end of the potential sentence be reduced. Arguments regarding credit time served. Statements by the Defendant. DEFT DORSEY ADJUDGED GUILTY of COUNT 1 - INVASION OF THE HOME (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee, WAIVED as previously taken, \$3.00 DNA Collection fee, \$130.00 Restitution, payable to VC2191137, and \$1,200.00 Restitution, payable to VC2252568, Deft. SENTENCED under the SMALL HABITUAL CRIMINAL STATUTE to a MAXIMUM of ONE HUNDRED FIFTY (150) MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), with FOUR HUNDRED TWENTY-THREE (423) DAYS credit time served. COURT FURTHER ORDERED COUNT 2 was hereby DISMISSED. Regarding the request for appointment of appellate counsel, COURT ORDERED that said request was DENIED at this time, as it was unsure whether the request was appropriate. BOND, if any, EXONERATED. NDC;

10/22/2019

Motion to Withdraw as Counsel (8:30 AM) (Judicial Officer: Hardy, Joe)

Defendant's Motion to Withdraw as Counsel



1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 THE STATE OF NEVADA,
6 Plaintiff,

7 v.

8 DENZEL DORSEY,
9 Defendant.

CASE NO.: C-17-323324-1
DEPT NO.: XV

**ORDER DENYING
DEFENDANT'S MOTION TO
WITHDRAW GUILTY PLEA**

10
11 This matter came on for an evidentiary hearing on May 28, 2019, and July 11, 2019,
12 Defendant Denzel Dorsey ("Defendant") was present in custody, represented by counsel, Gary A.
13 Modafferi. Plaintiff State of Nevada ("State") represented by Steven B. Wolfson, Clark County
14 District Attorney, through Sandra K. Digiacomio, Chief Deputy District Attorney. The Court having
15 considered Defendant's moving papers, the opposition, the transcript of Defendant's plea canvass,
16 the written Guilty Plea Agreement ("GPA"), the arguments of counsel, the jail calls, as well as the
17 sworn testimony of the witnesses hereby denies Defendant's Motion to Withdraw Guilty Plea.

18 **I. STATEMENT OF FACTS**

19 On November 28, 2016, Kevin Nazareno ("Kevin") lived at 2731 Warm Rays in Henderson,
20 Clark County, Nevada with his parents, Florentino and Norma Nazareno ("Norma"), who own the
21 residence. See Preliminary Hearing Transcript ("PHT") at 4:16-5:6. On that date, Kevin was asleep
22 in his bed when he was awoken by the sound of the front doorbell ringing constantly, as someone
23 kept pushing the doorbell multiple times, would stop and then would press the button again multiple
24 times. *Id.* at 5:12-6:10. Annoyed someone was ringing the doorbell that much; Kevin got out of bed
25 and went to the front door. *Id.* at 6:13-22. The front doors were glass and as Kevin looked over the
26 stair railing from upstairs, Kevin could see a single African American male standing outside the
27 front door punching the glass with his fist. *Id.* at 6:23-7:14. Kevin could also hear banging on the
28 door itself. *Id.* at 7:20-22. Kevin saw the glass on the front door break, which left a round hole with

1 jagged edges. *Id.* at 8:1–8:24. Kevin stated that an African American male reached through the hole
2 in the glass to unlock the deadbolt with his left hand. *Id.* at 9:3–10. He also stated that the male was
3 wearing a jacket or clothing on his arm. *Id.* at 16:10–19. Kevin rushed forward to the door, grabbed
4 the deadbolt and kept it locked. *Id.* at 9:11–19. At this time, the male realized someone was home
5 and took his arm out of the glass and ran away. *Id.* at 9:23–25.

6 Kevin went outside of the house and chased after the male. *Id.* at 10:5–6. Kevin saw the male
7 get into a blue Suzuki, four door, on the driver's side. *Id.* at 10:7–20. Kevin was able to obtain the
8 license plate, 953LGM, before the male drove away. *Id.* Kevin did not observe anyone else in the
9 vehicle. *Id.* at 11:9–10. The male had the keys to the vehicle and started the ignition. *Id.* at 18:14–15.
10 Kevin then called the police at approximately 11:55 a.m. and gave them the license plate number. *Id.*
11 at 10:21–25.

12 Norma was at work on November 28, 2016, when she received a call from her husband
13 around noon, so she rushed home. *Id.* at 21:14–16. When she arrived, she saw that the glass on her
14 front door was broken, and that there was a big hole right by the doorknobs. *Id.* at 23:6–25. First,
15 Norma had to pay \$474.41 to have the door boarded up until the glass could be replaced. *Id.* at
16 24:16–25:5. Next, Norma paid \$723.72 to have the glass replaced in the door. *Id.* at 25:6–8.

17 Officer James McGeahy ("Officer McGeahy") of the Henderson Police Department, Problem
18 Solving Unit, was assigned this residential burglary on November 28, 2016. *Id.* at 30:18–24. He and
19 his squad began investigating immediately. *Id.* at 31:1–5. The plate, 953LGM, was run through their
20 database and returned to a rental car. *Id.* The rental car company was contacted and the officers
21 learned that it was rented to a female and had a GPS equipped on it; therefore, the rental car
22 company was able to provide officers with the exact location of the vehicle at that moment. *Id.* at
23 31:6–10. At that point, two officers went to the rental car company to have direct contact with the
24 person tracking the vehicle with the GPS. *Id.* at 31:23–25.

25 The GPS for the vehicle showed that it was located on the street of the residential burglary,
26 so officers wanted to make contact with the car. *Id.* at 32:11–12. Within a very short time of the
27 residential burglary, officers made contact with the vehicle at the Fashion Show Mall. *Id.* at 32:18–
28 19. Officers observed the vehicle in the parking garage picking up another person and then parked

1 the vehicle near Dillard's. *Id.* at 33:18–22. Officers contacted the vehicle and Defendant was
2 arrested. *Id.* at 36:20–25. Officer McGeahy made contact with Defendant to let him know he was
3 under arrest for the residential burglary at 2731 Warm Rays and noticed that the jacket Defendant
4 was wearing had several tears on his left arm that were fresh and frayed. *Id.* at 37:2–22. Defendant
5 also had injuries on his right hand with some dried blood and appeared to be fresh. *Id.* at 37:23–
6 38:10. During a search incident to arrest, the key to the Suzuki rental vehicle was found in
7 Defendant's pocket, along with one glove with some blood on it. *Id.* at 38:11–39:13. The other
8 matching glove was found in the vehicle. *Id.* at 39:13–39:18. Both the jacket and gloves were
9 booked into evidence. *Id.* at 40:5–9.

10 When Officer McGeahy told Defendant what he was being arrested for, he explained that the
11 rental car had a GPS tracker which placed him at the location of the crime; Defendant looked down
12 and said "ah shit." *See* Declaration of Arrest ("DOA") at 3, attached as Exhibit "4" to State's
13 Opposition to Defendant's Motion to Withdraw Guilty Plea. The GPS records for the vehicle
14 showed the following:

15 11:52 a.m.: the vehicle is stopped at 2727-2729 Warm Rays in Henderson
16 for 4 minutes
17 11:56 a.m.: the vehicle started traveling
18 12:01 p.m.: the vehicle was traveling 30 mph in the 10300-10532 block of
19 Eastern
(north of the victim's residence by the intersection of Coronado Center
20 and Eastern)
21 12:06 p.m.: the vehicle was traveling 67 mph on westbound I-215
22 12:11 p.m.: the vehicle was traveling 37 mph in Enterprise, NV
23 12:16 p.m.: the vehicle was traveling 54 mph near 5524-5698 S. Decatur
24 12:23 p.m.: the vehicle stopped at 3938-3980 S. Spitze Drive for 3
25 minutes
26 12:26 p.m.: the vehicle began traveling
27 12:31 p.m.: the vehicle stopped at 3800-3850 S. Lindell for 3 minutes
28 12:34 p.m.: the vehicle started traveling
12:39 p.m.: the vehicle stopped at 5801-5899 block of W. Viking for 3
minutes
12:43 p.m.: the vehicle started traveling
12:48 p.m.: the vehicle was traveling 26 mph near 5901-6099 W. Desert
Inn
12:53 p.m.: the vehicle stopped at 3300-3498 S. Ramuda Trl for 1 minute

1 See Vehicle Rental Agreement and History Printout for November 28, 2016, attached as Exhibit "5"
2 to State's Opposition to Defendant's Motion to Withdraw Guilty Plea.

3 The vehicle made no other stops and was on Fashion Show Drive at 1:43 p.m. and at 3231-
4 3299 Las Vegas Boulevard South ("Fashion Show Mall") at 1:44 p.m. *Id.*

5 **II. PROCEDURAL HISTORY**

6 On November 28, 2016, Defendant was arrested for Attempt Invasion of the Home and
7 Malicious Destruction of Property. Defendant was released after his arrest on a \$6,000 surety bond,
8 despite having four prior felony convictions in Nevada and California. Defendant was arraigned in
9 justice court on December 19, 2016, and a preliminary hearing was scheduled for February 15, 2017.
10 Because Defendant's attorney had to withdraw due to a conflict, the preliminary hearing was
11 continued to March 30, 2017.

12 On February 22, 2017, the State filed an Amended Criminal Complaint charging Defendant
13 with Invasion of the Home and Malicious Destruction of Property. On March 30, 2017, the defense
14 moved to continue the preliminary hearing because defense counsel had had no contact with
15 Defendant and it was reset for May 2, 2017. On May 2, 2017, the preliminary hearing was
16 conducted; at its conclusion, Defendant was held to answer in district court on both charges.¹
17 Further, the State filed a Notice of Prior Burglary and/or Home Invasion Convictions and Notice of
18 Intent to Seek Punishment as a Habitual Criminal in the Information listing Defendant's two
19 convictions from Nevada for Attempt Burglary in case number C-12-279732-1 and Invasion of the
20 Home in case number C-12-284308-1.

21 On May 15, 2017, Defendant pleaded not guilty and waived his speedy trial right. The trial
22 was scheduled for September 11, 2017. On September 7, 2017, the defense moved for a continuance,
23 which was not objected to by the State as it was the first trial setting. The trial was reset for
24 December 4, 2017. On November 30, 2017, Defendant's counsel moved to withdraw due to a
25 conflict and Defendant indicated he wished to hire private counsel; a status check was set for
26 December 12, 2017, and continued to January 9, 2018, to see if counsel would confirm.

27
28 ¹ Defendant did not present any witnesses at the preliminary hearing; *i.e.*, neither Davey Dorsey nor
Takiya Clemons testified.

1 In December 2017, an arrest warrant for Defendant was issued in 17F21598x for Invasion of
2 the Home, two counts of Burglary and Possession of Stolen Property. Defendant was booked on the
3 warrant in the beginning of January 2018. On January 9, 2018, private counsel was still unable to
4 confirm and the State moved to remand Defendant without bail for committing new crimes while out
5 of custody in this case. The court remanded Defendant with no bail and set a status check to appoint
6 counsel for January 16, 2018. On that date, new appointed counsel confirmed for Defendant and a
7 trial date was scheduled for April 23, 2018.

8 On March 13, 2018, Defendant pleaded guilty to Invasion of the Home pursuant to a guilty
9 plea agreement which stated, in part:

10 The State will retain the right to argue. Additionally, the State agrees not
11 to seek habitual criminal treatment. Further, the State will not oppose
12 dismissal of Count 2 and Case No. 17F21598X after rendition of sentence.
13 The State will not oppose standard bail after entry of plea. However, if I
14 fail to go to the Division of Parole & Probation, fail to appear at any future
15 court date or am arrested for any new offenses, I will stipulate to habitual
16 criminal treatment, to the fact that I have the requisite priors and to a
sentence of sixty (60) to one hundred twenty (120) months in the Nevada
Department of Corrections. Additionally I agree to pay full restitution
including for cases and counts dismissed. *See* GPA at 1–2.

17 Defendant stated during his plea canvass that he was pleading guilty on his own free will and that he
18 committed the instant offense. *See* Reporter's Transcript of Hearing Re State's Request for Entry of
19 Plea Filed June 14, 2018 ("RTH"), at 5–6. Pursuant to the terms of the agreement, Defendant was
20 released on his own recognizance due to his prior bail not having been exonerated. *Id.* at 6–7.

21 The Court also cautioned Defendant that if he failed to go to the Division of Parole and Probation, to
22 appear at any future court date, or was arrested on any new offenses, he would serve as a habitual
23 criminal. *Id.* at 7. A sentencing date was scheduled for July 17, 2018. *Id.*

24 On April 26, 2018, Defendant filed a Motion to Place on Calendar to Address Custody Status
25 and Hold. Defendant was on parole in California at the time he committed the crimes in this case
26 and 17F21598x; therefore, a hold was placed on him when he was arrested on the latter case. In the
27 motion, Defendant asked to be remanded and for his sentencing date to be moved to a sooner date.
28 The motion was heard on May 8, 2018, at which time the Court rescheduled Defendant's sentencing
to June 5, 2018; however, Defendant was not remanded.

1 On June 5, 2018, defense counsel stated that sentencing could not proceed as Defendant
2 wanted to withdraw his guilty plea and to dismiss her as counsel. Defendant stated he had filed the
3 motions previously but the court indicated it had not received them. The matter was continued to
4 June 12, 2018, for a status check regarding the motions and a new sentencing date. On June 6, 2018,
5 Defendant filed in pro per a Motion to Dismiss Counsel and a Motion to Withdraw Plea. On June 12,
6 2018, the court granted Defendant's Motion to Dismiss Counsel and set another status check for
7 confirmation of counsel for June 28, 2018. On June 28, 2018, all matters were continued to July 17,
8 2018. On July 3, 2018, the State filed an Opposition to Defendant's Pro Per Motion to Withdraw
9 Plea.

10 On July 11, 2018, Defendant was arrested just after midnight in California for Receiving
11 Stolen Property, as Defendant was in possession of property stolen from a residential burglary which
12 occurred earlier on July 10, 2018. Thus, on July 17, 2018, Defendant failed to appear and a bench
13 warrant was issued in the instant case and Defendant's Motion to Withdraw Plea was also taken off
14 calendar. On July 24, 2018, a Motion to Quash Bench Warrant was filed by Defendant's newly
15 retained counsel. The motion stated that Defendant was presently incarcerated in California but
16 would make all future court dates. On July 31, 2018, defense counsel asked for the bench warrant to
17 be quashed because Defendant could not post bail in his California case with the hold from this case.
18 The court denied the motion finding that the bench warrant remaining in place would ensure
19 Defendant's appearance in court subsequent to the resolution of his California case.

20 On November 8, 2018, Defendant appeared in custody on the bench warrant return and his
21 counsel requested thirty days to determine the status of Defendant's cases in California but the State
22 objected. The Court set a sentencing date for November 27, 2018. On November 27, 2018, newly
23 retained counsel substituted in and the matter was continued to December 13, 2018. On December
24 13, 2018, defense counsel requested a continuance because he filed a Motion for Expert Services
25 (Investigator) Pursuant to *Widdis* on December 5, 2018. The Motion for Expert Services was granted
26 by the Court on January 9, 2019, in a signed order. On January 17, 2019, it was confirmed the
27 investigator would only be working on information related to a motion to withdraw guilty plea and
28 the sentencing date was rescheduled for February 19, 2019.

1 On February 15, 2019, Defendant filed a Motion to Withdraw Guilty Plea. On February
2 19, 2019, the sentencing date was continued to March 28, 2019, to allow the State time to file an
3 opposition to the motion. That date was later changed by the parties and this Court to April 4, 2019.
4 On February 21, 2019, the State filed a Notice of Intent to Seek Punishment as a Habitual Criminal
5 and Notice of Prior Burglary and/or Home Invasion Convictions adding Defendant's two
6 convictions from California for Burglary, 1st Degree in case number MA058464-01 and Burglary,
7 1st Degree in case number MA066766- 01. Also on this date, Defendant filed a Supplemental
8 Exhibit in Support of Defendant's Motion to Withdraw Guilty Plea. The State filed an opposition on
9 March 19, 2019.

10 On April 4, 2019, the Court noted that an evidentiary hearing would be necessary and
11 scheduled the evidentiary hearing for May 13, 2019. On May 9, 2019, the evidentiary hearing was
12 rescheduled by the Court to May 23, 2019. On May 23, 2019, Defendant was not transported. Thus,
13 the evidentiary hearing was rescheduled to May 28, 2019.

14 On May 28, 2019, the Court heard sworn testimony from Defendant's brother, Davey Dorsey
15 ("Davey"), and Defendant's girlfriend, Takiya Clemons ("Takiya"). The evidentiary hearing was
16 continued to July 8, 2019, to accommodate the State's investigator, Officer McGeahy. On July 2,
17 2019, the parties agreed to continue the matter and it was rescheduled to July 11, 2019. On July 11,
18 2019, the Court heard testimony from Officer McGeahy. The State also presented multiple recorded
19 jail calls made by Defendant for the Court to consider. The recorded calls were admitted without
20 objection by the defense. Upon request by both parties, the Court considered all evidence attached to
21 the briefs as exhibits. The Court deferred ruling and this order follows.

22 **III. ARGUMENT**

23 Defendant requests to withdraw his guilty plea by arguing that he is factually innocent of the
24 charges he pled guilty to. The crux of Defendant's argument is that he entered into the plea
25 agreement to protect his minor brother, Davey who committed the residential burglary. To support
26 his assertion, Defendant offered written declarations from both Davey and Takiya that Defendant did
27 not commit the residential burglary. In addition, Davey and Takiya testified at the evidentiary
28 hearing. After reviewing all the evidence presented and under a totality of the circumstances, the

1 Court concludes that Defendant has not met his burden of proving by a preponderance of the
2 evidence that a credible fair and just reason exists to withdraw his guilty plea.

3 Nevada Revised Statutes § 176.165 provides that a defendant who has pleaded guilty may
4 petition the court to withdraw his plea “before sentence is imposed or imposition of sentence is
5 suspended.” NRS 176.165. A “district court may grant a defendant’s motion to withdraw his guilty
6 plea before sentencing for any reason where permitting withdrawal would be fair and just.”
7 *Stevenson v. State*, 354 P.3d 1277, 1281 (2015). When making this decision, a district court “must
8 consider the totality of the circumstances.” *Id.*

9 A plea of guilty is presumptively valid. *Jezierski v. State*, 107 Nev. 395, 397, 812 P.2d 355,
10 356 (1991). The defendant has the burden of proving that the plea was not entered knowingly or
11 voluntarily. *Wynn v. State*, 96 Nev. 673, 615 P.2d 946 (1980). Therefore, the defendant seeking to
12 withdraw a guilty plea must show good cause as to why a denial of the motion to withdraw plea
13 constitutes an injustice. *Wynn*, 96 Nev. at 675, 615 P.2d at 947 (citing *State v. Second Judicial Dist.*
14 *Court*, 85 Nev. 381, 385 (1969)).

15 In *Stevenson v. State*, the Nevada Supreme Court determined that the district court must
16 consider the totality of the circumstances to determine whether permitting withdrawal of a guilty
17 plea before sentencing would be fair and just. The court found that none of the reasons presented
18 warranted the withdrawal of Stevenson’s guilty plea, including allegations that the members of his
19 defense team lied about the existence of the video in order to induce him to plead guilty. *Stevenson*,
20 354 P.3d at 1281. The court found similarly unconvincing Stevenson’s contention that he was
21 coerced into pleading guilty based on the compounded pressures of the district court’s evidentiary
22 ruling, stand by counsel’s pressure to negotiate a plea, and time constraints. *Id.* As the court noted,
23 undue coercion occurs when a defendant is induced by promises or threats which deprive the plea of
24 a voluntary act. *Id.* (quoting *Doe v. Woodford*, 508 F.3d 563, 570 (9th Cir. 2007)).

25 The court also rejected Stevenson’s implied contention that withdrawal was warranted
26 because he made an impulsive decision to plead guilty without knowing definitively whether the
27 video could be viewed. *Id.* Stevenson did not move to withdraw his plea for several months. *Id.* The
28 court made clear that one of the goals of the fair and just analysis is to allow a hastily entered plea

1 made with unsure heart and confused mind to be undone, not to allow a defendant to make a tactical
2 decision to enter a plea, wait several weeks, and then obtain a withdrawal if he believes that he made
3 a bad choice in pleading guilty. *Id.* at 1281–82 (quoting *United States v. Alexander*, 948 F.2d 1002,
4 1004 (6th Cir. 1991)).

5 The court found that considering the totality of the circumstances, it had no difficulty in
6 concluding that Stevenson failed to present a sufficient reason to permit withdrawal of his plea. *Id.* at
7 1282. Permitting him to withdraw his plea under the circumstances would allow the solemn entry of
8 a guilty plea to become a mere gesture, a temporary and meaningless formality reversible at the
9 defendant’s whim, which the court would not allow. *Id.* (quoting *United States v. Baker*, 514 F.2d
10 208, 222 (D.C. Cir. 1975)).

11 Similar to *Stevenson*, this Court, after reviewing the evidence and circumstances, determines
12 none of the reasons presented by Defendant warrant a withdrawal of his guilty plea.

13 **A. Defendant’s plea was freely and voluntarily entered.**

14 Because the guilty plea is assumed to be valid, Defendant had the burden of proving his plea
15 was not entered freely and voluntarily. After reviewing the record and the totality of circumstances,
16 the Court determines that Defendant’s plea of guilty was and remains valid.

17 The evidence demonstrates that Defendant understood the terms of his guilty plea and the
18 consequences of his guilty plea. On March 13, 2018, Defendant signed the GPA which states that
19 Defendant was signing the plea agreement voluntarily, after consulting with his counsel, and was not
20 acting under duress, coercion, or by virtue of any promise of lenience except for what is outlined in
21 the agreement. *See* GPA at 5:12–14. Defendant’s counsel, under penalty of perjury, signed the
22 Certificate of Counsel certifying she explained to Defendant the allegations contained in the charges,
23 the penalties for each charge and possible restitution, and certified that all pleas of guilty offered by
24 Defendant pursuant to the agreement were consistent with the known facts. *Id.* at 6:2–18.

25 In addition to making the above representations by signing the GPA, Defendant was
26 extensively and thoroughly canvassed by the district court, with Defendant’s counsel present, when
27 he entered his plea on March 13, 2018. *See* RTH at 2–6. The court asked Defendant if anyone forced
28 him to plead guilty, and Defendant said “No, Your Honor.” *Id.* at 5:3. Defendant affirmed he was

1 pleading guilty on his own free will. *Id.* at 5:6–7. When asked by the court, Defendant affirmed he
2 understood the consequences of his guilty plea. RTH at 5:11–15. Before the plea was accepted, the
3 court repeated the facts of the case, including the allegation of his illegal and forceful entry into
4 2731 Warm Rays Ave, and Defendant affirmed the truthfulness of those facts. *Id.* at 6:10–19.

5 After reviewing the transcript of the entry of plea in this matter, the Court finds that the
6 transcript does not contain any information showing that Defendant did not enter into his plea freely
7 and voluntarily. Defendant knowingly waived his privilege against self-incrimination, the right to
8 trial by jury, and the right to confront his accusers. The plea was voluntary, was not coerced, and
9 was not the result of a promise of leniency. Defendant understood the consequences of his plea, and
10 the range of punishment, and the nature of the charge, *i.e.*, the elements of the crime.

11 **B. Defendant’s new representations are belied by the record.**

12 In *Stevenson*, the Nevada Supreme Court noted that the district court gave Stevenson
13 considerable leeway to demonstrate how his counsel lied to or misled him, yet Stevenson struggled
14 to articulate a cohesive response. *Stevenson*, 354 P.3d at 1281. Here, the Court gave Defendant much
15 leeway to bring forth evidence demonstrating how his plea was not valid and that Davey committed
16 the residential burglary. After reviewing the record and all evidence within, the Court finds that the
17 record does not support Defendant’s new representations.

18 **1. The Court warned Defendant not to commit any other crimes.**

19 During the canvass on March 13, 2018, the court explicitly warned Defendant that he
20 stipulated to be treated as a habitual criminal if he was “arrested on any new offenses,” and
21 Defendant affirmed he understood the consequences of a new arrest. RTH at 7:11–19. On July 10,
22 2018, the County of Los Angeles Sheriff’s Department responded to a residential burglary in
23 Lancaster, CA. *See* County of Los Angeles Sheriff’s Department Incident Report at 1, 4, attached as
24 Exhibit “3” to State’s Opposition to Defendant’s Motion to Withdraw Guilty Plea. On July 11, 2018,
25 Defendant allegedly committed several traffic violations during an attempt by Los Angeles County
26 officers to commence a traffic stop. *Id.* at 12. During the traffic stop, Defendant allegedly gave
27 officers two false identifications. *Id.* at 16. The officers also discovered Defendant had an
28 outstanding misdemeanor warrant and was driving while his license was suspended or revoked. *Id.*

1 at 12-13. Defendant was arrested for possession of stolen property, providing false identification,
2 and having an outstanding misdemeanor warrant. *Id.* at 12.

3 Because Defendant did not heed the Court's warning and was arrested, he violated the
4 conditions of his plea agreement and bail release. Thus, Defendant could be sentenced as a habitual
5 criminal and possibly face a longer prison sentence. It was only after Defendant violated the terms of
6 his plea and bail release that he offered to provide evidence proving that Davey committed the
7 residential burglary.

8 **2. The record shows that Defendant committed the crime.**

9 Defendant argues that he is factually innocent and that his younger brother, Davey,
10 committed the residential burglary. The evidence, however, shows that Defendant, not Davey,
11 committed the crime. Defendant, not Davey was arrested at Fashion Show Mall. PHT at 37-39.
12 Despite detectives observing Defendant exit the vehicle, Defendant denied being in the car, was
13 uncooperative, and falsely identified himself. DOA at 3. Officer McGeahy testified that Defendant
14 had the rental car's key in his pocket, wore a jacket with fresh tears on the left sleeve, had fresh
15 injuries with dried blood on his right hand, and a glove with blood on it was found in his pocket.
16 PHT at 37-39. When Officer McGeahy explained that the car's GPS system tracked his rental car to
17 the location of the crime, Defendant looked down and stated, "ah shit." DOA at 3. Because
18 Defendant, not Davey, committed the crime, the Court concludes that Defendant has not shown
19 good cause for why his plea should be withdrawn.

20 **C. The Court does not find Davey credible.**

21 The Court does not find Davey's testimony credible. During Davey's testimony, the Court
22 observed his demeanor—he was clearly frustrated when the district attorney questioned him as to the
23 details of the crime he allegedly committed.² In addition, Davey testified that Defendant was at
24 Takiya's apartment when he asked Defendant for the rental car keys on November 27, 2016.
25 Recorder's Transcript of Hearing Evidentiary Hearing and Defendant's Motion to Withdraw Guilty
26

27 ² The Court notes that Davey struggled to give even basic descriptions of the locations he visited
28 when he supposedly had the rental car including the 2731 Warm Rays Avenue. Davey stated he
could not remember the locations because he was high on Xanax the morning of November 28,
2016, and he could not remember what happened that day. See EHT at 22-23.

1 Plea ("EHT") at 9:8–11. Davey claimed Defendant did not know his plan to burglarize a home. *See*
2 *id.* at 13–14. Using a GPS, Davey claimed he drove alone to the Nazareno home 1:00 p.m. and 2:00
3 p.m. on November 28, 2016. *Id.* at 13:10–14. However, the car GPS showed the car at that location
4 at 11:55 a.m. This is also when Kevin notified the police of the burglary. Davey also testified that he
5 knocked on the front and back doors before breaking the door. In constrast, Kevin testified that at
6 the time of the burglary he was in bed when he heard the doorbell ring multiple times, got up
7 because of the constant ringing, and witnessed the front door being punched upon walking
8 downstairs. PHT at 5–6. Thus, Davey's admissions are belied by the record.

9 Again, Defendant, not Davey, was the one arrested for the residential burglary and then
10 pleaded guilty. Further, Davey testified that he told Defendant he was the one who committed the
11 residential burglary during a jail phone call with Defendant a few days after the arrest. *See* EHT at
12 31–33. After reviewing all jail phone calls, the Court finds that there are not any phone calls
13 between Defendant and Davey. *See* Jail Phone Calls ("JPC"). In other words, the evidence does not
14 support Davey's testimony. Because the Court concludes that Davey was less than truthful, Davey is
15 not a credible witness.

16 **D. The Court does not find Takiya credible.**

17 In supporting the assertion that Davey committed the crime, Defendant also presented
18 declarations and testimony from Takiya, his girlfriend since 2014 and mother of his child, as an
19 alibi. Takiya testified that on November 28, 2016, she and Defendant were sleeping at her apartment
20 and both woke up after 11:55 a.m. EHT at 62:17–19. However, the record shows that Defendant,
21 had an injured hand with dried blood and fresh tears on his jacket sleeve, when he was arrested at
22 Fashion Show Mall for the residential burglary. PHT at 37–39. Furthermore, Takiya told Defendant
23 during a jail phone call that Defendant would not get into trouble if he remained at home and only
24 focused on her and his hustle. *See* JPC at 10.92.0.21, Aug. 28, 2017, 2:19 a.m., 13577KB. Because
25 Takiya has a young child with Defendant, her boyfriend, it is reasonable to conclude she wants to
26 prevent Defendant from serving a long prison sentence. After reviewing the record and considering
27 all circumstances, the Court concludes that Takiya was less than truthful and thereby not a credible
28 witness.

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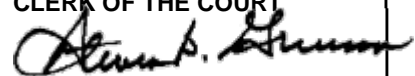
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1 NEOJ

2 DISTRICT COURT,

3 CLARK COUNTY, NEVADA

4 THE STATE OF NEVADA,

CASE NO: C-17-323324-1

DEPT NO: XV

5 Plaintiff,

6 v.

NOTICE OF ENTRY OF ORDER

7 DENZEL DORSEY,

8 Defendant.

9
10
11 TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

12 PLEASE TAKE NOTICE that an Order has been entered on the 6th day of August, 2019, in
13 the above-captioned matter. A copy of said Order is attached hereto as Exhibit A.

14 DATED this 7th day of August, 2019.

15
16 
JOE HARDY
DISTRICT COURT JUDGE

17
18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on the date e-filed, a copy of the foregoing was electronically served,
20 pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court
21 Electronic Filing Program.

22 *If indicated below, a copy of the foregoing was also*

23 ☐ Mailed by the U.S. Postal Service, postage prepaid, to the proper parties listed below at their
24 last known address(es):


25
26 
Judicial Executive Assistant

EXHIBIT “A”



1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4
5 **THE STATE OF NEVADA,**

6 **Plaintiff,**

7 **v.**

8 **DENZEL DORSEY,**

9 **Defendant.**

CASE NO.: C-17-323324-1
DEPT NO.: XV

ORDER DENYING
DEFENDANT'S MOTION TO
WITHDRAW GUILTY PLEA

10
11 This matter came on for an evidentiary hearing on May 28, 2019, and July 11, 2019,
12 Defendant Denzel Dorsey ("Defendant") was present in custody, represented by counsel, Gary A.
13 Modafferi. Plaintiff State of Nevada ("State") represented by Steven B. Wolfson, Clark County
14 District Attorney, through Sandra K. Digiacomio, Chief Deputy District Attorney. The Court having
15 considered Defendant's moving papers, the opposition, the transcript of Defendant's plea canvass,
16 the written Guilty Plea Agreement ("GPA"), the arguments of counsel, the jail calls, as well as the
17 sworn testimony of the witnesses hereby denies Defendant's Motion to Withdraw Guilty Plea.

18 **I. STATEMENT OF FACTS**

19 On November 28, 2016, Kevin Nazareno ("Kevin") lived at 2731 Warm Rays in Henderson,
20 Clark County, Nevada with his parents, Florentino and Norma Nazareno ("Norma"), who own the
21 residence. See Preliminary Hearing Transcript ("PHT") at 4:16-5:6. On that date, Kevin was asleep
22 in his bed when he was awoken by the sound of the front doorbell ringing constantly, as someone
23 kept pushing the doorbell multiple times, would stop and then would press the button again multiple
24 times. *Id.* at 5:12-6:10. Annoyed someone was ringing the doorbell that much; Kevin got out of bed
25 and went to the front door. *Id.* at 6:13-22. The front doors were glass and as Kevin looked over the
26 stair railing from upstairs, Kevin could see a single African American male standing outside the
27 front door punching the glass with his fist. *Id.* at 6:23-7:14. Kevin could also hear banging on the
28 door itself. *Id.* at 7:20-22. Kevin saw the glass on the front door break, which left a round hole with

1 jagged edges. *Id.* at 8:1–8:24. Kevin stated that an African American male reached through the hole
2 in the glass to unlock the deadbolt with his left hand. *Id.* at 9:3–10. He also stated that the male was
3 wearing a jacket or clothing on his arm. *Id.* at 16:10–19. Kevin rushed forward to the door, grabbed
4 the deadbolt and kept it locked. *Id.* at 9:11–19. At this time, the male realized someone was home
5 and took his arm out of the glass and ran away. *Id.* at 9:23–25.

6 Kevin went outside of the house and chased after the male. *Id.* at 10:5–6. Kevin saw the male
7 get into a blue Suzuki, four door, on the driver's side. *Id.* at 10:7–20. Kevin was able to obtain the
8 license plate, 953LGM, before the male drove away. *Id.* Kevin did not observe anyone else in the
9 vehicle. *Id.* at 11:9–10. The male had the keys to the vehicle and started the ignition. *Id.* at 18:14–15.
10 Kevin then called the police at approximately 11:55 a.m. and gave them the license plate number. *Id.*
11 at 10:21–25.

12 Norma was at work on November 28, 2016, when she received a call from her husband
13 around noon, so she rushed home. *Id.* at 21:14–16. When she arrived, she saw that the glass on her
14 front door was broken, and that there was a big hole right by the doorknobs. *Id.* at 23:6–25. First,
15 Norma had to pay \$474.41 to have the door boarded up until the glass could be replaced. *Id.* at
16 24:16–25:5. Next, Norma paid \$723.72 to have the glass replaced in the door. *Id.* at 25:6–8.

17 Officer James McGeahy ("Officer McGeahy") of the Henderson Police Department, Problem
18 Solving Unit, was assigned this residential burglary on November 28, 2016. *Id.* at 30:18–24. He and
19 his squad began investigating immediately. *Id.* at 31:1–5. The plate, 953LGM, was run through their
20 database and returned to a rental car. *Id.* The rental car company was contacted and the officers
21 learned that it was rented to a female and had a GPS equipped on it; therefore, the rental car
22 company was able to provide officers with the exact location of the vehicle at that moment. *Id.* at
23 31:6–10. At that point, two officers went to the rental car company to have direct contact with the
24 person tracking the vehicle with the GPS. *Id.* at 31:23–25.

25 The GPS for the vehicle showed that it was located on the street of the residential burglary,
26 so officers wanted to make contact with the car. *Id.* at 32:11–12. Within a very short time of the
27 residential burglary, officers made contact with the vehicle at the Fashion Show Mall. *Id.* at 32:18–
28 19. Officers observed the vehicle in the parking garage picking up another person and then parked

1 the vehicle near Dillard's. *Id.* at 33:18–22. Officers contacted the vehicle and Defendant was
2 arrested. *Id.* at 36:20–25. Officer McGeahy made contact with Defendant to let him know he was
3 under arrest for the residential burglary at 2731 Warm Rays and noticed that the jacket Defendant
4 was wearing had several tears on his left arm that were fresh and frayed. *Id.* at 37:2–22. Defendant
5 also had injuries on his right hand with some dried blood and appeared to be fresh. *Id.* at 37:23–
6 38:10. During a search incident to arrest, the key to the Suzuki rental vehicle was found in
7 Defendant's pocket, along with one glove with some blood on it. *Id.* at 38:11–39:13. The other
8 matching glove was found in the vehicle. *Id.* at 39:13–39:18. Both the jacket and gloves were
9 booked into evidence. *Id.* at 40:5–9.

10 When Officer McGeahy told Defendant what he was being arrested for, he explained that the
11 rental car had a GPS tracker which placed him at the location of the crime; Defendant looked down
12 and said "ah shit." *See* Declaration of Arrest ("DOA") at 3, attached as Exhibit "4" to State's
13 Opposition to Defendant's Motion to Withdraw Guilty Plea. The GPS records for the vehicle
14 showed the following:

15 11:52 a.m.: the vehicle is stopped at 2727-2729 Warm Rays in Henderson
16 for 4 minutes

17 11:56 a.m.: the vehicle started traveling

18 12:01 p.m.: the vehicle was traveling 30 mph in the 10300-10532 block of
19 Eastern

(north of the victim's residence by the intersection of Coronado Center
and Eastern)

12:06 p.m.: the vehicle was traveling 67 mph on westbound I-215

12:11 p.m.: the vehicle was traveling 37 mph in Enterprise, NV

12:16 p.m.: the vehicle was traveling 54 mph near 5524-5698 S. Decatur

12:23 p.m.: the vehicle stopped at 3938-3980 S. Spitze Drive for 3
minutes

12:26 p.m.: the vehicle began traveling

12:31 p.m.: the vehicle stopped at 3800-3850 S. Lindell for 3 minutes

12:34 p.m.: the vehicle started traveling

12:39 p.m.: the vehicle stopped at 5801-5899 block of W. Viking for 3
minutes

12:43 p.m.: the vehicle started traveling

12:48 p.m.: the vehicle was traveling 26 mph near 5901-6099 W. Desert
Inn

12:53 p.m.: the vehicle stopped at 3300-3498 S. Ramuda Trl for 1 minute

1 See Vehicle Rental Agreement and History Printout for November 28, 2016, attached as Exhibit "5"
2 to State's Opposition to Defendant's Motion to Withdraw Guilty Plea.

3 The vehicle made no other stops and was on Fashion Show Drive at 1:43 p.m. and at 3231-
4 3299 Las Vegas Boulevard South ("Fashion Show Mall") at 1:44 p.m. *Id.*

5 **II. PROCEDURAL HISTORY**

6 On November 28, 2016, Defendant was arrested for Attempt Invasion of the Home and
7 Malicious Destruction of Property. Defendant was released after his arrest on a \$6,000 surety bond,
8 despite having four prior felony convictions in Nevada and California. Defendant was arraigned in
9 justice court on December 19, 2016, and a preliminary hearing was scheduled for February 15, 2017.
10 Because Defendant's attorney had to withdraw due to a conflict, the preliminary hearing was
11 continued to March 30, 2017.

12 On February 22, 2017, the State filed an Amended Criminal Complaint charging Defendant
13 with Invasion of the Home and Malicious Destruction of Property. On March 30, 2017, the defense
14 moved to continue the preliminary hearing because defense counsel had had no contact with
15 Defendant and it was reset for May 2, 2017. On May 2, 2017, the preliminary hearing was
16 conducted; at its conclusion, Defendant was held to answer in district court on both charges.¹
17 Further, the State filed a Notice of Prior Burglary and/or Home Invasion Convictions and Notice of
18 Intent to Seek Punishment as a Habitual Criminal in the Information listing Defendant's two
19 convictions from Nevada for Attempt Burglary in case number C-12-279732-1 and Invasion of the
20 Home in case number C-12-284308-1.

21 On May 15, 2017, Defendant pleaded not guilty and waived his speedy trial right. The trial
22 was scheduled for September 11, 2017. On September 7, 2017, the defense moved for a continuance,
23 which was not objected to by the State as it was the first trial setting. The trial was reset for
24 December 4, 2017. On November 30, 2017, Defendant's counsel moved to withdraw due to a
25 conflict and Defendant indicated he wished to hire private counsel; a status check was set for
26 December 12, 2017, and continued to January 9, 2018, to see if counsel would confirm.

27
28 ¹ Defendant did not present any witnesses at the preliminary hearing; *i.e.*, neither Davey Dorsey nor
Takiya Clemons testified.

1 In December 2017, an arrest warrant for Defendant was issued in 17F21598x for Invasion of
2 the Home, two counts of Burglary and Possession of Stolen Property. Defendant was booked on the
3 warrant in the beginning of January 2018. On January 9, 2018, private counsel was still unable to
4 confirm and the State moved to remand Defendant without bail for committing new crimes while out
5 of custody in this case. The court remanded Defendant with no bail and set a status check to appoint
6 counsel for January 16, 2018. On that date, new appointed counsel confirmed for Defendant and a
7 trial date was scheduled for April 23, 2018.

8 On March 13, 2018, Defendant pleaded guilty to Invasion of the Home pursuant to a guilty
9 plea agreement which stated, in part:

10 The State will retain the right to argue. Additionally, the State agrees not
11 to seek habitual criminal treatment. Further, the State will not oppose
12 dismissal of Count 2 and Case No. 17F21598X after rendition of sentence.
13 The State will not oppose standard bail after entry of plea. However, if I
14 fail to go to the Division of Parole & Probation, fail to appear at any future
15 court date or am arrested for any new offenses, I will stipulate to habitual
16 criminal treatment, to the fact that I have the requisite priors and to a
sentence of sixty (60) to one hundred twenty (120) months in the Nevada
Department of Corrections. Additionally I agree to pay full restitution
including for cases and counts dismissed. *See* GPA at 1–2.

17 Defendant stated during his plea canvass that he was pleading guilty on his own free will and that he
18 committed the instant offense. *See* Reporter's Transcript of Hearing Re State's Request for Entry of
19 Plea Filed June 14, 2018 ("RTH"), at 5–6. Pursuant to the terms of the agreement, Defendant was
20 released on his own recognizance due to his prior bail not having been exonerated. *Id.* at 6–7.

21 The Court also cautioned Defendant that if he failed to go to the Division of Parole and Probation, to
22 appear at any future court date, or was arrested on any new offenses, he would serve as a habitual
23 criminal. *Id.* at 7. A sentencing date was scheduled for July 17, 2018. *Id.*

24 On April 26, 2018, Defendant filed a Motion to Place on Calendar to Address Custody Status
25 and Hold. Defendant was on parole in California at the time he committed the crimes in this case
26 and 17F21598x; therefore, a hold was placed on him when he was arrested on the latter case. In the
27 motion, Defendant asked to be remanded and for his sentencing date to be moved to a sooner date.
28 The motion was heard on May 8, 2018, at which time the Court rescheduled Defendant's sentencing
to June 5, 2018; however, Defendant was not remanded.

1 On June 5, 2018, defense counsel stated that sentencing could not proceed as Defendant
2 wanted to withdraw his guilty plea and to dismiss her as counsel. Defendant stated he had filed the
3 motions previously but the court indicated it had not received them. The matter was continued to
4 June 12, 2018, for a status check regarding the motions and a new sentencing date. On June 6, 2018,
5 Defendant filed in pro per a Motion to Dismiss Counsel and a Motion to Withdraw Plea. On June 12,
6 2018, the court granted Defendant's Motion to Dismiss Counsel and set another status check for
7 confirmation of counsel for June 28, 2018. On June 28, 2018, all matters were continued to July 17,
8 2018. On July 3, 2018, the State filed an Opposition to Defendant's Pro Per Motion to Withdraw
9 Plea.

10 On July 11, 2018, Defendant was arrested just after midnight in California for Receiving
11 Stolen Property, as Defendant was in possession of property stolen from a residential burglary which
12 occurred earlier on July 10, 2018. Thus, on July 17, 2018, Defendant failed to appear and a bench
13 warrant was issued in the instant case and Defendant's Motion to Withdraw Plea was also taken off
14 calendar. On July 24, 2018, a Motion to Quash Bench Warrant was filed by Defendant's newly
15 retained counsel. The motion stated that Defendant was presently incarcerated in California but
16 would make all future court dates. On July 31, 2018, defense counsel asked for the bench warrant to
17 be quashed because Defendant could not post bail in his California case with the hold from this case.
18 The court denied the motion finding that the bench warrant remaining in place would ensure
19 Defendant's appearance in court subsequent to the resolution of his California case.

20 On November 8, 2018, Defendant appeared in custody on the bench warrant return and his
21 counsel requested thirty days to determine the status of Defendant's cases in California but the State
22 objected. The Court set a sentencing date for November 27, 2018. On November 27, 2018, newly
23 retained counsel substituted in and the matter was continued to December 13, 2018. On December
24 13, 2018, defense counsel requested a continuance because he filed a Motion for Expert Services
25 (Investigator) Pursuant to *Widdis* on December 5, 2018. The Motion for Expert Services was granted
26 by the Court on January 9, 2019, in a signed order. On January 17, 2019, it was confirmed the
27 investigator would only be working on information related to a motion to withdraw guilty plea and
28 the sentencing date was rescheduled for February 19, 2019.

1 On February 15, 2019, Defendant filed a Motion to Withdraw Guilty Plea. On February
2 19, 2019, the sentencing date was continued to March 28, 2019, to allow the State time to file an
3 opposition to the motion. That date was later changed by the parties and this Court to April 4, 2019.
4 On February 21, 2019, the State filed a Notice of Intent to Seek Punishment as a Habitual Criminal
5 and Notice of Prior Burglary and/or Home Invasion Convictions adding Defendant's two
6 convictions from California for Burglary, 1st Degree in case number MA058464-01 and Burglary,
7 1st Degree in case number MA066766- 01. Also on this date, Defendant filed a Supplemental
8 Exhibit in Support of Defendant's Motion to Withdraw Guilty Plea. The State filed an opposition on
9 March 19, 2019.

10 On April 4, 2019, the Court noted that an evidentiary hearing would be necessary and
11 scheduled the evidentiary hearing for May 13, 2019. On May 9, 2019, the evidentiary hearing was
12 rescheduled by the Court to May 23, 2019. On May 23, 2019, Defendant was not transported. Thus,
13 the evidentiary hearing was rescheduled to May 28, 2019.

14 On May 28, 2019, the Court heard sworn testimony from Defendant's brother, Davey Dorsey
15 ("Davey"), and Defendant's girlfriend, Takiya Clemons ("Takiya"). The evidentiary hearing was
16 continued to July 8, 2019, to accommodate the State's investigator, Officer McGeahy. On July 2,
17 2019, the parties agreed to continue the matter and it was rescheduled to July 11, 2019. On July 11,
18 2019, the Court heard testimony from Officer McGeahy. The State also presented multiple recorded
19 jail calls made by Defendant for the Court to consider. The recorded calls were admitted without
20 objection by the defense. Upon request by both parties, the Court considered all evidence attached to
21 the briefs as exhibits. The Court deferred ruling and this order follows.

22 **III. ARGUMENT**

23 Defendant requests to withdraw his guilty plea by arguing that he is factually innocent of the
24 charges he pled guilty to. The crux of Defendant's argument is that he entered into the plea
25 agreement to protect his minor brother, Davey who committed the residential burglary. To support
26 his assertion, Defendant offered written declarations from both Davey and Takiya that Defendant did
27 not commit the residential burglary. In addition, Davey and Takiya testified at the evidentiary
28 hearing. After reviewing all the evidence presented and under a totality of the circumstances, the

1 Court concludes that Defendant has not met his burden of proving by a preponderance of the
2 evidence that a credible fair and just reason exists to withdraw his guilty plea.

3 Nevada Revised Statutes § 176.165 provides that a defendant who has pleaded guilty may
4 petition the court to withdraw his plea “before sentence is imposed or imposition of sentence is
5 suspended.” NRS 176.165. A “district court may grant a defendant’s motion to withdraw his guilty
6 plea before sentencing for any reason where permitting withdrawal would be fair and just.”
7 *Stevenson v. State*, 354 P.3d 1277, 1281 (2015). When making this decision, a district court “must
8 consider the totality of the circumstances.” *Id.*

9 A plea of guilty is presumptively valid. *Jezierski v. State*, 107 Nev. 395, 397, 812 P.2d 355,
10 356 (1991). The defendant has the burden of proving that the plea was not entered knowingly or
11 voluntarily. *Wynn v. State*, 96 Nev. 673, 615 P.2d 946 (1980). Therefore, the defendant seeking to
12 withdraw a guilty plea must show good cause as to why a denial of the motion to withdraw plea
13 constitutes an injustice. *Wynn*, 96 Nev. at 675, 615 P.2d at 947 (citing *State v. Second Judicial Dist.*
14 *Court*, 85 Nev. 381, 385 (1969)).

15 In *Stevenson v. State*, the Nevada Supreme Court determined that the district court must
16 consider the totality of the circumstances to determine whether permitting withdrawal of a guilty
17 plea before sentencing would be fair and just. The court found that none of the reasons presented
18 warranted the withdrawal of Stevenson’s guilty plea, including allegations that the members of his
19 defense team lied about the existence of the video in order to induce him to plead guilty. *Stevenson*,
20 354 P.3d at 1281. The court found similarly unconvincing Stevenson’s contention that he was
21 coerced into pleading guilty based on the compounded pressures of the district court’s evidentiary
22 ruling, stand by counsel’s pressure to negotiate a plea, and time constraints. *Id.* As the court noted,
23 undue coercion occurs when a defendant is induced by promises or threats which deprive the plea of
24 a voluntary act. *Id.* (quoting *Doe v. Woodford*, 508 F.3d 563, 570 (9th Cir. 2007)).

25 The court also rejected Stevenson’s implied contention that withdrawal was warranted
26 because he made an impulsive decision to plead guilty without knowing definitively whether the
27 video could be viewed. *Id.* Stevenson did not move to withdraw his plea for several months. *Id.* The
28 court made clear that one of the goals of the fair and just analysis is to allow a hastily entered plea

1 made with unsure heart and confused mind to be undone, not to allow a defendant to make a tactical
2 decision to enter a plea, wait several weeks, and then obtain a withdrawal if he believes that he made
3 a bad choice in pleading guilty. *Id.* at 1281–82 (quoting *United States v. Alexander*, 948 F.2d 1002,
4 1004 (6th Cir. 1991)).

5 The court found that considering the totality of the circumstances, it had no difficulty in
6 concluding that Stevenson failed to present a sufficient reason to permit withdrawal of his plea. *Id.* at
7 1282. Permitting him to withdraw his plea under the circumstances would allow the solemn entry of
8 a guilty plea to become a mere gesture, a temporary and meaningless formality reversible at the
9 defendant’s whim, which the court would not allow. *Id.* (quoting *United States v. Baker*, 514 F.2d
10 208, 222 (D.C. Cir. 1975)).

11 Similar to *Stevenson*, this Court, after reviewing the evidence and circumstances, determines
12 none of the reasons presented by Defendant warrant a withdrawal of his guilty plea.

13 **A. Defendant’s plea was freely and voluntarily entered.**

14 Because the guilty plea is assumed to be valid, Defendant had the burden of proving his plea
15 was not entered freely and voluntarily. After reviewing the record and the totality of circumstances,
16 the Court determines that Defendant’s plea of guilty was and remains valid.

17 The evidence demonstrates that Defendant understood the terms of his guilty plea and the
18 consequences of his guilty plea. On March 13, 2018, Defendant signed the GPA which states that
19 Defendant was signing the plea agreement voluntarily, after consulting with his counsel, and was not
20 acting under duress, coercion, or by virtue of any promise of lenience except for what is outlined in
21 the agreement. *See* GPA at 5:12–14. Defendant’s counsel, under penalty of perjury, signed the
22 Certificate of Counsel certifying she explained to Defendant the allegations contained in the charges,
23 the penalties for each charge and possible restitution, and certified that all pleas of guilty offered by
24 Defendant pursuant to the agreement were consistent with the known facts. *Id.* at 6:2–18.

25 In addition to making the above representations by signing the GPA, Defendant was
26 extensively and thoroughly canvassed by the district court, with Defendant’s counsel present, when
27 he entered his plea on March 13, 2018. *See* RTH at 2–6. The court asked Defendant if anyone forced
28 him to plead guilty, and Defendant said “No, Your Honor.” *Id.* at 5:3. Defendant affirmed he was

1 pleading guilty on his own free will. *Id.* at 5:6–7. When asked by the court, Defendant affirmed he
2 understood the consequences of his guilty plea. RTH at 5:11–15. Before the plea was accepted, the
3 court repeated the facts of the case, including the allegation of his illegal and forceful entry into
4 2731 Warm Rays Ave, and Defendant affirmed the truthfulness of those facts. *Id.* at 6:10–19.

5 After reviewing the transcript of the entry of plea in this matter, the Court finds that the
6 transcript does not contain any information showing that Defendant did not enter into his plea freely
7 and voluntarily. Defendant knowingly waived his privilege against self-incrimination, the right to
8 trial by jury, and the right to confront his accusers. The plea was voluntary, was not coerced, and
9 was not the result of a promise of leniency. Defendant understood the consequences of his plea, and
10 the range of punishment, and the nature of the charge, *i.e.*, the elements of the crime.

11 **B. Defendant’s new representations are belied by the record.**

12 In *Stevenson*, the Nevada Supreme Court noted that the district court gave Stevenson
13 considerable leeway to demonstrate how his counsel lied to or misled him, yet Stevenson struggled
14 to articulate a cohesive response. *Stevenson*, 354 P.3d at 1281. Here, the Court gave Defendant much
15 leeway to bring forth evidence demonstrating how his plea was not valid and that Davey committed
16 the residential burglary. After reviewing the record and all evidence within, the Court finds that the
17 record does not support Defendant’s new representations.

18 **1. The Court warned Defendant not to commit any other crimes.**

19 During the canvass on March 13, 2018, the court explicitly warned Defendant that he
20 stipulated to be treated as a habitual criminal if he was “arrested on any new offenses,” and
21 Defendant affirmed he understood the consequences of a new arrest. RTH at 7:11–19. On July 10,
22 2018, the County of Los Angeles Sheriff’s Department responded to a residential burglary in
23 Lancaster, CA. *See* County of Los Angeles Sheriff’s Department Incident Report at 1, 4, attached as
24 Exhibit “3” to State’s Opposition to Defendant’s Motion to Withdraw Guilty Plea. On July 11, 2018,
25 Defendant allegedly committed several traffic violations during an attempt by Los Angeles County
26 officers to commence a traffic stop. *Id.* at 12. During the traffic stop, Defendant allegedly gave
27 officers two false identifications. *Id.* at 16. The officers also discovered Defendant had an
28 outstanding misdemeanor warrant and was driving while his license was suspended or revoked. *Id.*

1 at 12-13. Defendant was arrested for possession of stolen property, providing false identification,
2 and having an outstanding misdemeanor warrant. *Id.* at 12.

3 Because Defendant did not heed the Court's warning and was arrested, he violated the
4 conditions of his plea agreement and bail release. Thus, Defendant could be sentenced as a habitual
5 criminal and possibly face a longer prison sentence. It was only after Defendant violated the terms of
6 his plea and bail release that he offered to provide evidence proving that Davey committed the
7 residential burglary.

8 **2. The record shows that Defendant committed the crime.**

9 Defendant argues that he is factually innocent and that his younger brother, Davey,
10 committed the residential burglary. The evidence, however, shows that Defendant, not Davey,
11 committed the crime. Defendant, not Davey was arrested at Fashion Show Mall. PHT at 37–39.
12 Despite detectives observing Defendant exit the vehicle, Defendant denied being in the car, was
13 uncooperative, and falsely identified himself. DOA at 3. Officer McGeahy testified that Defendant
14 had the rental car's key in his pocket, wore a jacket with fresh tears on the left sleeve, had fresh
15 injuries with dried blood on his right hand, and a glove with blood on it was found in his pocket.
16 PHT at 37–39. When Officer McGeahy explained that the car's GPS system tracked his rental car to
17 the location of the crime, Defendant looked down and stated, "ah shit." DOA at 3. Because
18 Defendant, not Davey, committed the crime, the Court concludes that Defendant has not shown
19 good cause for why his plea should be withdrawn.

20 **C. The Court does not find Davey credible.**

21 The Court does not find Davey's testimony credible. During Davey's testimony, the Court
22 observed his demeanor—he was clearly frustrated when the district attorney questioned him as to the
23 details of the crime he allegedly committed.² In addition, Davey testified that Defendant was at
24 Takiya's apartment when he asked Defendant for the rental car keys on November 27, 2016.
25 Recorder's Transcript of Hearing Evidentiary Hearing and Defendant's Motion to Withdraw Guilty
26

27 ² The Court notes that Davey struggled to give even basic descriptions of the locations he visited
28 when he supposedly had the rental car including the 2731 Warm Rays Avenue. Davey stated he
could not remember the locations because he was high on Xanax the morning of November 28,
2016, and he could not remember what happened that day. See EHT at 22–23.

1 Plea ("EHT") at 9:8–11. Davey claimed Defendant did not know his plan to burglarize a home. *See*
2 *id.* at 13–14. Using a GPS, Davey claimed he drove alone to the Nazareno home 1:00 p.m. and 2:00
3 p.m. on November 28, 2016. *Id.* at 13:10–14. However, the car GPS showed the car at that location
4 at 11:55 a.m. This is also when Kevin notified the police of the burglary. Davey also testified that he
5 knocked on the front and back doors before breaking the door. In contrast, Kevin testified that at
6 the time of the burglary he was in bed when he heard the doorbell ring multiple times, got up
7 because of the constant ringing, and witnessed the front door being punched upon walking
8 downstairs. PHT at 5–6. Thus, Davey's admissions are belied by the record.

9 Again, Defendant, not Davey, was the one arrested for the residential burglary and then
10 pleaded guilty. Further, Davey testified that he told Defendant he was the one who committed the
11 residential burglary during a jail phone call with Defendant a few days after the arrest. *See* EHT at
12 31–33. After reviewing all jail phone calls, the Court finds that there are not any phone calls
13 between Defendant and Davey. *See* Jail Phone Calls ("JPC"). In other words, the evidence does not
14 support Davey's testimony. Because the Court concludes that Davey was less than truthful, Davey is
15 not a credible witness.

16 **D. The Court does not find Takiya credible.**

17 In supporting the assertion that Davey committed the crime, Defendant also presented
18 declarations and testimony from Takiya, his girlfriend since 2014 and mother of his child, as an
19 alibi. Takiya testified that on November 28, 2016, she and Defendant were sleeping at her apartment
20 and both woke up after 11:55 a.m. EHT at 62:17–19. However, the record shows that Defendant,
21 had an injured hand with dried blood and fresh tears on his jacket sleeve, when he was arrested at
22 Fashion Show Mall for the residential burglary. PHT at 37–39. Furthermore, Takiya told Defendant
23 during a jail phone call that Defendant would not get into trouble if he remained at home and only
24 focused on her and his hustle. *See* JPC at 10.92.0.21, Aug. 28, 2017, 2:19 a.m., 13577KB. Because
25 Takiya has a young child with Defendant, her boyfriend, it is reasonable to conclude she wants to
26 prevent Defendant from serving a long prison sentence. After reviewing the record and considering
27 all circumstances, the Court concludes that Takiya was less than truthful and thereby not a credible
28 witness.

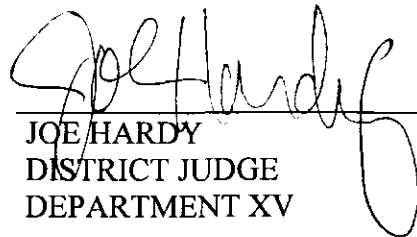
1 **IV. CONCLUSION**

2 After considering Defendant's arguments, as well as the testimony presented at the multiple
3 days of the evidentiary hearing and listening to the jail calls, the Court finds that Defendant entered
4 into his plea freely and voluntarily. In addition, the Court does not find Defendant's witnesses
5 credible because the record contradicts their testimony. Therefore, the Court having considered the
6 preponderance of the evidence and the totality of circumstances, and there being no fair and just
7 reason to permit the withdrawal of Defendant's guilty plea, Defendant's Motion to Withdraw Guilty
8 Plea is denied.

9 **ORDER**

10 **THEREFORE, IT IS HEREBY ORDERED** that Defendant's Motion to Withdraw Guilty
11 Plea is DENIED.

12 DATED this 16th day of August, 2019.

13
14 
15 JOE HARDY
16 DISTRICT JUDGE
17 DEPARTMENT XV

Steven D. Grierson

1 JOCP

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5 THE STATE OF NEVADA,

6 *Plaintiff,*

7 -vs-

8 DENZEL DORSEY
#2845569

9 *Defendant.*

CASE NO: C-17-323324-1

DEPT NO: XV

10
11 JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

12 The Defendant previously appeared before the Court with counsel and entered a plea of
13 guilty to the crime of COUNT 1 - INVASION OF THE HOME (Category B Felony) in violation of
14 NRS 205.067; thereafter, on the 3rd day of October, 2019, the Defendant was present in court for
15 sentencing with counsel GARY P. MODAFFERI, ESQ., and good cause appearing,

16 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense under the SMALL
17 HABITUAL Criminal Statute and, in addition to \$25.00 Administrative Assessment Fee, \$1,200.00
18 Restitution to VC2252568 and \$130.00 to VC2191137 plus the \$3.00 DNA Collection Fee, the
19 Defendant is sentenced to COUNT 1 - a MAXIMUM of ONE HUNDRED FIFTY (150) MONTHS
20 and a MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); with
21 FOUR HUNDRED TWENTY-THREE (423) DAYS credit for time served. As the \$150.00 DNA
22 Analysis Fee and Genetic Testing have been previously imposed, the Fee and Testing in the current
23 case are WAIVED. COUNT 2 – DISMISSED.

24 DATED this 8th day of October, 2019.

25 *Joe Hardy*
26 JOE HARDY
27 DISTRICT COURT JUDGE
28 *W*

<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	

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 15, 2017

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

May 15, 2017 10:00 AM Initial Arraignment

HEARD BY: Hillman, Ralph R. **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Elizabeth Vargas

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Brower, Keith Attorney
 Dorsey, Denzel Defendant

JOURNAL ENTRIES

- Deputized Law Clerk, Alexander Vail, present on behalf of the State.

DEFT. DORSEY ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

BOND

9/7/17 9:00 AM CALENDAR CALL (DEPT 22)

9/11/17 8:30 AM JURY TRIAL (DEPT 22)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 07, 2017

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

September 07, 2017 9:00 AM Calendar Call

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brower, Keith	Attorney
	Dorsey, Denzel	Defendant
	State of Nevada	Plaintiff
	Villegas, Victoria A.	Attorney

JOURNAL ENTRIES

- Mr. Brower requested a continuance. Bench conference. Colloquy regarding discovery. No opposition by State to continue trial. Colloquy regarding scheduling conflicts. Counsel anticipated 3-4 days to try. COURT ORDERED, jury trial VACATED and RESET.

BOND

11/30/2017 - 9:00 AM - CALENDAR CALL

12/04/2017 - 8:30 AM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 30, 2017

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

November 30, 2017 9:00 AM

All Pending Motions

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brower, Keith	Attorney
	Dorsey, Denzel	Defendant
	Moreo, Thomas Joseph	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CALENDAR CALL...DEFENDANT'S MOTION TO WITHDRAW DUE TO CONFLICT

Yi Zheng, Esq., also present. Mr. Brower requested to withdraw due to conflict. COURT ORDERED, Motion GRANTED. Ms. Zheng requested two weeks for a conflicts check and to confirm. COURT ORDERED, jury trial VACATED; matter SET for status check. Counsel anticipated one week to try.

BOND

12/12/2017 - 8:30 AM - STATUS CHECK: TRIAL SETTING/CONFIRMATION OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 12, 2017

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

December 12, 2017 8:30 AM Status Check

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Moreo, Thomas Joseph Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Ed Hughes, Esq., and Yi Zheng, Esq., present for Deft. Ms. Zheng requested a 30-day continuance as discovery was substantial. COURT SO ORDERED; advised Deft. needed to be present at the next hearing date.

BOND

CONTINUED TO 1/09/2018 - 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 09, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

January 09, 2018 8:30 AM Status Check

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Brower, Keith Attorney
 Digiacomo, Sandra K. Attorney
 Dorsey, Denzel Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Yi Zheng, Esq., also present. Ms. Zheng advised she could not confirm as counsel due to conflict and requested appointment. State requested Deft. be remanded into custody and to revoke bail. Colloquy regarding outstanding warrants and the procedural history of the case. COURT ORDERED, matter CONTINUED; Deft. REMANDED into custody, NO BAIL. Colloquy regarding contract attorneys and conflict.

CUSTODY (BOND)

CONTINUED TO 1/16/2018 - 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 16, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

January 16, 2018 8:30 AM Status Check

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	McAmis, Caitlyn	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. McAmis CONFIRMED AS COUNSEL; advised she received discovery today; requested a custody status hearing. Court directed Ms. McAmis to file a motion and then a hearing could be set. Colloquy regarding scheduling conflicts. COURT ORDERED, matter SET for trial. Counsel anticipated 5 days to try. Court advised it would issue a Discovery Order.

CUSTODY (COC)/BOND

4/18/2018 - 8:30 AM - CALENDAR CALL

4/23/2018 - 8:30 AM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 13, 2018**

C-17-323324-1 State of Nevada
vs
Denzel Dorsey

March 13, 2018 8:30 AM Request

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer
Lauren Kidd

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	McAmis, Caitlyn	Attorney
	State of Nevada	Plaintiff
	Villegas, Victoria A.	Attorney

JOURNAL ENTRIES

- Guilty Plea Agreement FILED IN OPEN COURT

NEGOTIATIONS are as contained in the Guilty Plea Agreement. DEFT. DORSEY ARRAIGNED AND PLED GUILTY TO INVASION OF THE HOME (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P); trial dates VACATED; matter SET for sentencing. Ms. McAmis advised Deft. had previously posted bail and requested an own recognizance release. No objection by State. COURT FURTHER ORDERED, own recognizance release GRANTED. Court advised Deft. if he failed to appear for his future court date he would serve a minimum of 60 months to 120 months.

O.R.

7/17/18 8:30 AM SENTENCING

CLERK'S NOTE: Bond was neither addressed at the 1/9/18 hearing, nor was it addressed at the hearing when counsel confirmed on 1/16/18. Bond exonerated on 4/18/2018. kc//4-18-18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 08, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

May 08, 2018

8:30 AM

Motion

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:

Dorsey, Denzel
McAmis, Caitlyn
Niman, John T.
State of Nevada

Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Colloquy regarding Presentence Investigation Report. Ms. McAmis advised Deft. had a California hold, so his Nevada cases needed to be resolved; requested Deft. be remanded on this case and to set sentencing in 30 days. Statement by Deft. COURT ORDERED, sentencing RESCHEDULED.

O.R.

6/05/2018 - 8:30 AM - SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 05, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

June 05, 2018

8:30 AM

Sentencing

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	McAmis, Caitlyn	Attorney
	Niman, John T.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. McAmis advised they could not proceed today as the Deft. wanted to withdraw his plea and dismiss her as counsel of record. Deft. advised the Motions were filed approximately 10 days ago. Court advised it needed to see the Motion before rendering a decision and ORDERED, matter CONTINUED and SET for status check.

O.R. (COC)

6/12/2018 - 8:30 AM - SENTENCING/STATUS CHECK: STATUS OF MOTIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 12, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

June 12, 2018

8:30 AM

All Pending Motions

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:

McAmis, Caitlyn
Niman, John T.
State of Nevada

Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- SENTENCING...STATUS CHECK: STATUS OF MOTION FILING...DEFENDANT'S PRO PER
MOTION TO DISMISS COUNSEL

COURT ORDERED, Motion to Dismiss Counsel GRANTED; Mr. Hughes APPOINTED; matter SET
for confirmation of counsel; sentencing CONTINUED. Court advised it wanted to see the transcript
of the arraignment canvas.

O.R. (COC)

6/28/2018 - 9:00 AM - SENTENCING/CONFIRMATION OF COUNSEL (ED HUGHES, ESQ.)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 28, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

June 28, 2018

9:00 AM

All Pending Motions

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK:

Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:

Dorsey, Denzel
State of Nevada
Villegas, Victoria A.

Defendant
Plaintiff
Attorney

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL...DEFENDANT'S PRO PER MOTION TO WITHDRAW
PLEA...SENTENCING

Keith Brower, Esq. present. Mr. Brower advised he was notified about this matter yesterday, Mr. Hughes was out of the country, and he could not make any representations at this time due to preexisting conflicts; requested a continuance. COURT ORDERED, matters CONTINUED; matter SET for status check.

O.R.

7/17/2018 - 8:30 AM - CONFIRMATION OF COUNSEL/DEFENDANT'S PRO PER MOTION TO
WITHDRAW PLEA/STATUS CHECK: SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 17, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

July 17, 2018

8:30 AM

All Pending Motions

HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT: Pandelis, Christopher P. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL (HUGHES, E)...DEFENDANT'S MOTION TO WITHDRAW PLEA...STATUS CHECK: SENTENCING

E. Hughes, Esq. present.

Defendant having failed to appear, State requested the issuance of a bench warrant. Mr. Hughes appeared and stated that he did not have the Pre-Sentence Investigation Report (PSI), and had had no contact with the Defendant; therefore, he would be unable to proceed with sentencing, even if the Defendant happened to be present. Pursuant to the State's request, COURT ORDERED, BENCH WARRANT WILL ISSUE, NO BAIL.

COURT FURTHER ORDERED Defendant's Motion to Withdraw Plea was hereby OFF CALENDAR.

B.W. (O.R.)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 08, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

November 08, 2018 8:30 AM Request

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Arnold, Carl E.	Attorney
	Digiacomio, Sandra K.	Attorney
	Dorsey, Denzel	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- The State noted that Defendant had a fugitive hold out of California, and there was the possibility of additional charges being filed. Mr. Arnold requested thirty days to determine what was going on in the case. The State objected to a thirty day continuance, noting that the negotiations in this case called for the dismissal of Defendant's other case, which was set for a Preliminary Hearing. COURT ORDERED the sentencing date was hereby SET in two weeks.

CUSTODY

11/27/18 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 27, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

November 27, 2018 8:30 AM Sentencing

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Phyllis Irby

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Modafferi requested a continuance; advised the parties would like to get up to speed on this matter. COURT ORDERED, MATTER CONTINUED.

CUSTODY

12-13-18 8:30 AM SENTENCING (DEPT. XV)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 13, 2018

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

December 13, 2018 8:30 AM Sentencing

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff
	Waters, Steven L	Attorney

JOURNAL ENTRIES

- Mr. Modafferi requested the sentencing date be continued to a date subsequent to the pending Motion for Expert Services, noting that the State did not object to the continuance. Additionally, Mr. Modafferi requested the Court make a ruling on the Motion for Expert Services during the instant hearing, so that an investigator could begin looking into the factual concerns. The Court noted that it would be unable to make a ruling on the Motion for Expert Services, as it had not yet reviewed the Motion. COURT ORDERED the sentencing date was hereby CONTINUED.

CUSTODY

CONTINUED TO: 2/5/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 03, 2019**

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

January 03, 2019 8:30 AM Motion

HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff
	Villegas, Victoria A.	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Modafferi indicated that the investigator was needed, to determine whether there were facts and circumstances that would warrant the withdrawal of Defendant's guilty plea. Upon further inquiry by the Court, Mr. Modafferi advised that the investigator would be interviewing the Defendant, as well as other witnesses. Regarding the cost of the investigator, Mr. Modafferi stated that an ROC would be submitted to Drew Christensen, which would allow the County Administrator to determine the amount of hours needed, and to supervise the payments. The State argued that, if the investigator was investigating based upon a potential withdrawal of plea, then the investigator would be limited to the plea canvass. COURT ORDERED the Defendant's Motion for Expert Services (Investigator) Pursuant to Widdis, was hereby GRANTED, FINDING that the Defendant was INDIGENT. Due to the Court's continuing reservations regarding the need for an investigator, as well as its questions regarding scope, COURT ORDERED a status check was hereby SET regarding the retention of the investigator, and the scope of the investigation. COURT FURTHER ORDERED the sentencing date would STAND.

C-17-323324-1

1/17/19 8:30 AM STATUS CHECK: INVESTIGATOR

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 17, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

January 17, 2019 8:30 AM Status Check

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff
	Stephens, Robert	Attorney

JOURNAL ENTRIES

- Mr. Modafferi advised that an application for appropriate investigator funds had been submitted to the Office of the County Manager, and provided the Court with a copy of said application. The Court noted that the application had been approved for \$500.00. Upon the Court's inquiry, Mr. Modafferi stated that the Court did not have to take any action at this time, and requested the pending sentencing date be reset to a date two weeks later than its current date. The State clarified that the investigator was being used solely to determine whether it would be appropriate for Defendant to withdraw his plea. Mr. Modafferi affirmed the State's representation. **COURT ORDERED** the sentencing date was hereby **RESET**.

CUSTODY

2/19/19 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 19, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

February 19, 2019 8:30 AM Sentencing

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Modafferi indicated that he had spoken to Sandra DiGiacomo, DDA, and both parties agreed to continue the sentencing date, to allow the State to file a response to the Motion to Withdraw Guilty Plea. Upon Court's inquiry, Mr. Modafferi requested a thirty-day continuance. There being no opposition, COURT ORDERED the sentencing date was hereby CONTINUED.

CUSTODY

CONTINUED TO: 3/28/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

February 26, 2019 8:30 AM Motion

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan
Dara Yorke

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Kern, Samuel R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- The instant Motion having previously been reset, but not rescheduled on the Court's docket, and the parties having agreed to a continuance date, COURT ORDERED Defendant Denzel Dorsey's Motion to Withdraw Guilty Plea, was hereby CONTINUED. COURT FURTHER ORDERED, Defendant's sentencing date, was hereby RESET to be heard on the same date as the Motion to Withdraw Guilty Plea.

CUSTODY

3/26/19 8:30 AM DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA...SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 26, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

March 26, 2019 8:30 AM All Pending Motions

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT: Digiacomo, Sandra K. Attorney
 Dorsey, Denzel Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA...SENTENCING

Mr. Modafferi not present when the case was called. The State noted that the instant hearings were originally set to be heard on March 28, 2019, and they were moved to accommodate the State, which may account for Mr. Modafferi's absence. COURT ORDERED the instant hearings were hereby CONTINUED.

CUSTODY

CONTINUED TO: 4/4/19 8:30 AM

CLERK'S NOTE: Mr. Modafferi was notified of the continuance date via e-mail. (KD 3/26/19)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 04, 2019

C-17-323324-1 State of Nevada
vs
Denzel Dorsey

April 04, 2019

8:30 AM

All Pending Motions

HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Digiacomio, Sandra K.	Attorney
	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- The Court noted that an Evidentiary Hearing would be necessary. Mr. Modafferi indicated he would be bringing in Daniel Dorsey, who would be willing to testify that he was the individual who committed the crime. The State advised that, out of an abundance of caution, it felt that an Evidentiary Hearing should be held. Upon Court's inquiry, the State represented that two hours would be needed for the hearing. COURT ORDERED and Evidentiary Hearing was hereby SET, and the Motion to Withdraw Guilty Plea, was hereby CONTINUED to the date of the Evidentiary Hearing.

CUSTODY

5/13/19 8:30 AM DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA...EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 23, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

May 23, 2019 10:30 AM All Pending Motions

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT: Digiacomo, Sandra K. Attorney
 Modafferi, Gary Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW
GUILTY PLEA

The Defendant not having been transported, COURT ORDERED the Motion and Evidentiary
Hearing were hereby CONTINUED.

CUSTODY

CONTINUED TO: 5/28/19 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 28, 2019**

C-17-323324-1 State of Nevada
vs
Denzel Dorsey

May 28, 2019**10:30 AM****All Pending Motions****HEARD BY:** Hardy, Joe**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Kristin Duncan**RECORDER:** Matt Yarbrough**REPORTER:****PARTIES**

PRESENT:	Digiacombo, Sandra K.	Attorney
	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW
GUILTY PLEA

The State advised that Defendant's brother, Davey Dorsey, who would allegedly be admitting to the subject crimes through testimony, would require independent counsel. Mr. Modafferi suggested the Court canvass Davey Dorsey, to determine whether he wished to retain counsel. EXCLUSIONARY RULE INVOKED by the State. The Court expressed its frustration with the State's failure to raise the independent counsel issue prior to the instant hearing. Matter trailed.

Matter recalled. Having reviewed the law applicable to the issue raised by the State, COURT ORDERED that the Evidentiary Hearing would proceed as scheduled. The State noted that its investigator was currently out of the jurisdiction; therefore, the hearing may have to be bifurcated, to allow for the investigator to appear and testify. Testimony and exhibits presented (see worksheets). At Mr. Modafferi's request, the COURT ORDERED that it would consider the Preliminary Hearing

transcripts, as they were already part of the record in the instant case. Additionally, the COURT TOOK JUDICIAL NOTICE of the handwritten briefs attached to the Motion to Withdraw Guilty Plea as exhibits A and B. Colloquy regarding scheduling. Mr. Modafferi indicated there was no objection to the hearing being continued to accommodate the State's investigator. COURT ORDERED the Evidentiary Hearing, as well as the Motion to Withdraw Guilty Plea, were hereby CONTINUED.

CUSTODY

CONTINUED TO: 7/8/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 25, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

June 25, 2019 8:30 AM Motion to Remand

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Rubina Feda

REPORTER:

PARTIES

PRESENT: Digiacomo, Sandra K. Attorney
 Dorsey, Denzel Defendant
 Modafferi, Gary Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- There being no Opposition, COURT ORDERED the State's Notice of Motion and Motion to Remand Defendant, was hereby GRANTED, RETROACTIVE to October 17, 2018.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 08, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

July 08, 2019 10:30 AM All Pending Motions

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Haly Pannullo
 Christopher Darling

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	Rowles, William C.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA

Mr. Modafferi advised he and Ms. Digiacomo agreed to continuance for later this week due to circumstances with other matters. COURT ORDERED, matters CONTINUED to 7/11/19. Upon Court's inquiry, Mr. Modafferi advised State has a testifying investigator. Mr. Rowles advised if there is problem with witness availability, he will notify opposing counsel and Chambers.

IN CUSTODY

CONTINUED TO: 7/11/19 10:30 AM EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA

CLERK'S NOTE: Minutes completed upon review of JAVS recording. /cd 8-13-19/

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 11, 2019**

C-17-323324-1 State of Nevada
vs
Denzel Dorsey

July 11, 2019 10:30 AM All Pending Motions

HEARD BY: Hardy, Joe**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Kristin Duncan**RECORDER:** Matt Yarbrough**REPORTER:****PARTIES**

PRESENT:	Digiacombo, Sandra K.	Attorney
	Dorsey, Denzel	Defendant
	Modafferri, Gary	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- EVIDENTIARY HEARING...DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA

Testimony and exhibits presented (see worksheets). State RESTED. Due to the need to review the State's exhibit, which consisted of multiple telephone calls made by the Defendant from jail, the Court noted that it would hear arguments on this date, and would issue its decision via minute order. Mr. Modafferri argued in support of the Motion to Withdraw Guilty Plea, stating that the Court must look at the case under the permissive standard; Stevenson case cited. The State argued in opposition, stating that the Defendant had a long history of breaking and entering, and there was no information presented regarding the Defendant's brother possibly being the perpetrator, until the Defendant wished to withdraw his guilty plea. COURT ORDERED the ruling on the Evidentiary Hearing and the Motion to Withdraw Plea were hereby DEFERRED, and a status check regarding the Court's decision, and the setting of a sentencing date, or a trial date, was hereby SET.

CUSTODY

8/8/19 8:30 AM STATUS CHECK: COURT'S DECISION ON THE MOTION TO WITHDRAW PLEA
/ SENTENCING DATE / TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 08, 2019

C-17-323324-1 State of Nevada
 vs
 Denzel Dorsey

August 08, 2019 8:30 AM Status Check

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Digiacomio, Sandra K.	Attorney
	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- The Court noted that a trial date needed to be set, as the Motion to Withdraw Plea had been denied via a written Order. COURT ORDERED a sentencing date was hereby SET. COURT FURTHER ORDERED the preparation of a new Pre-Sentence Investigation Report (PSI).

Mr. Modafferi advised that he was retained only through sentencing, and requested that appellate counsel be appointed for the Defendant prior to the preparation of the Judgment of Conviction. The State noted that, procedurally, Mr. Modafferi would need to complete sentencing prior to any other counsel being appointed. The Court directed counsel to raise the issue again when appropriate.

CUSTODY

10/3/19 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 03, 2019**

C-17-323324-1 State of Nevada
vs
Denzel Dorsey

October 03, 2019**8:30 AM****Sentencing****HEARD BY:** Hardy, Joe**COURTROOM:** RJC Courtroom 11D**COURT CLERK:** Kristin Duncan**RECORDER:** Matt Yarbrough**REPORTER:****PARTIES**

PRESENT:	Digiacomio, Sandra K.	Attorney
	Dorsey, Denzel	Defendant
	Modafferi, Gary	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Modafferi requested the Court appoint appellant counsel for the Defendant post-sentencing. The State noted that it regained the right to argue, but would submit on the negotiations. Mr. Modafferi requested the maximum end of the potential sentence be reduced. Arguments regarding credit time served. Statements by the Defendant. DEFT DORSEY ADJUDGED GUILTY of COUNT 1 - INVASION OF THE HOME (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee, WAIVED as previously taken, \$3.00 DNA Collection fee, \$130.00 Restitution, payable to VC2191137, and \$1,200.00 Restitution, payable to VC2252568, Deft. SENTENCED under the SMALL HABITUAL CRIMINAL STATUTE to a MAXIMUM of ONE HUNDRED FIFTY (150) MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC), with FOUR HUNDRED TWENTY-THREE (423) DAYS credit time served. COURT FURTHER ORDERED COUNT 2 was hereby DISMISSED.

Regarding the request for appointment of appellate counsel, COURT ORDERED that said request was DENIED at this time, as it was unsure whether the request was appropriate.

BOND, if any, EXONERATED.

NDC

EXHIBIT(S) LIST

Case No.: **C323324**

Hearing Date: **May 28, 2019**

Dept. No.: **XV**

Judge: **Joe Hardy**

Plaintiff: **STATE OF NEVADA**

Court Clerk: **Kristin Duncan**

Recorder: **Matt Yarbrough**

Counsel for Plaintiff: **Sandra DiGiacomo, DDA**

vs.

Defendant: **DORSEY, DENZEL**

Counsel for Defendant: **Gary Modafferi, Esq.**

EVIDENTIARY HEARING BEFORE THE COURT

STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1.	Compact Disc - Jail Calls	7/11/19	No	7/11/19

EXHIBIT(S) LIST

Case No.: **C323324**

Hearing Date: **May 28, 2019**

Dept. No.: **XV**

Judge: **Joe Hardy, Jr.**

Court Clerk: **Kristin Duncan**

Plaintiff: **STATE OF NEVADA**

Recorder: **Matt Yarbrough**

Counsel for Plaintiff: **Sandra Digiacomio, DDA**

vs.

Defendant: **DENZEL DORSEY**

Counsel for Defendant: **Gary Modafferi, Esq.**

EVIDENTIARY HEARING BEFORE THE COURT

DEFENDANT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
A.	Declaration of Takiya Clemons			
B.	Declaration of Davey Dorsey			

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; ORDER DENYING DEFENDANT'S MOTION TO WITHDRAW GUILTY
PLEA; NOTICE OF ENTRY OF ORDER; JUDGMENT OF CONVICTION (PLEA OF GUILTY);
DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

DENZEL DORSEY,

Defendant(s).

Case No: C-17-323324-1

Dept No: XV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 17 day of October 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

