

IN THE SUPREME COURT OF THE STATE OF NEVADA

DENZEL DORSEY,	)		Electronically Filed
#1099468,	)		Jun 10 2020 03:09 p.m.
	)		Elizabeth A. Brown
Appellant,	)	CASE NO.: 79845	Clerk of Supreme Court
v.	)	E-FILE	
STATE OF NEVADA,	)	D.C. Case No.: C-17-323324-1	
Respondent.	)	Dept.: XV	
_____)		

APPELLANT'S APPENDIX VOLUME I of II

This is an Appeal from a Judgment of Conviction After a Guilty Plea

Eighth Judicial District Court, Clark County

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...

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Counsel for Respondent

MASTER INDEX

Case No.: 79845

Document (<u>file stamp date in parenthesis</u>) [hearing date in brackets]	Volume	Page No.
Amended Criminal Complaint (<u>02/22/2017</u>)	I	001 - 002
Defendant's Motion to Withdraw Guilty Plea (<u>02/15/2019</u>) With Exhibits	I	131 - 199
Guilty Plea Agreement (<u>03/09/2018</u>)	I	055 - 064
Information (<u>05/09/2017</u>)	I	003 - 006
Judgment of Conviction [Plea of Guilty] (<u>10/09/2019</u>)	II	384
Minutes: All Pending Motions (<u>06/12/2018</u>)	I	082
Minutes: All Pending Motions (<u>06/28/2018</u>)	I	093
Minutes: All Pending Motions (<u>07/17/2018</u>)	I	104
Minutes: All Pending Motions (<u>04/04/2019</u>)	II	293
Minutes: All Pending Motions (<u>05/23/2019</u>)	II	294
Minutes: All Pending Motions (<u>05/28/2019</u>)	II	295
Minutes: DA Request: Bench Warrant Return (<u>11/08/2018</u>)	I	106
Minutes: Defendant's Motion for Expert Svcs. (<u>01/03/2019</u>)	I	128
Minutes: Def.'s Motion to Withdraw Guilty Plea (<u>2/26/2019</u>)	I	210

Motion to Dismiss Counsel (<u>06/06/2018</u>)	I	072 - 075
Motion for Expert Services (Investigator) (<u>12/05/2018</u>)	I	108 - 126
Minutes: Motion to Place on Calendar (<u>05/08/2018</u>)	I	070
Minutes: Motion to Quash Bench Warrant (<u>07/31/2018</u>)	I	105
Minutes: Motion to Withdraw as Counsel (<u>10/22/2019</u>)	II	387
Minutes: Sentencing (<u>06/05/2018</u>)	I	071
Minutes: Sentencing (<u>11/27/2018</u>)	I	107
Minutes: Sentencing (<u>12/13/2018</u>)	I	127
Minutes: Sentencing (<u>02/19/2019</u>)	I	200
Minutes: Sentencing (<u>10/03/2019</u>)	II	379
Minutes: Status Check: Investigation (<u>01/17/2019</u>)	I	130
Minutes: State's Request for Entry of Plea (<u>03/13/2018</u>)	I	065
Motion to Place on Calendar/Address Custody (<u>04/26/2018</u>)	I	066 - 069
Motion to Withdraw as Counsel (<u>10/08/2019</u>)	II	380 - 383
Motion to Withdraw Due to Conflict (<u>11/29/2017</u>)	I	052 - 054
Motion to Withdraw Plea <i>Pro Per</i> (<u>06/06/2018</u>)	I	076 - 081
Notice of Appeal (<u>10/15/2019</u>)	II	385 - 386
Notice of Entry of Order (<u>08/07/2019</u>)	II	352
Order Denying Motion to Withdraw Guilty Plea (<u>08/06/2019</u>)	II	339 - 351

Order Granting Motion for Expert Services (<u>01/09/2019</u>)	I	129
Preliminary Hearing Transcript [5-2-2017] (<u>05/25/2017</u>)	I	007 - 051
Reply to State's Opposition to Withdraw Plea (<u>03/28/2019</u>)	II	277 - 292
Sentencing Memorandum (<u>09/23/2019</u>)	II	353 - 370
State's Notice of Intent to Seek Punishment as a Habitual Criminal & Notice of Prior Burglary &/or Home Invasion Convictions	I	201 - 203
State's Notice of Motion and Motion (<u>06/11/2019</u>) to Remand Defendant	II	296 - 301
State's Opposition to Defendant's Motion to Withdraw Guilty Plea [3-26-2019] (<u>03/19/2019</u>)	I	211 - <u>250</u>
State's Opposition to Defendant's Motion to Withdraw Guilty Plea, <i>continued</i> [3-26-2019] (<u>03/19/2019</u>)	II	251 - 276
State's Opposition to Defendant's <i>Pro Per</i> Motion to Withdraw Plea [7-17-2018] (<u>07/03/2018</u>)	I	094 - 103
State's Response to Defendant Sentencing Memo (<u>10/01/2019</u>)	II	371 - 378
Supplemental Exhibit in Support of Defendant's (<u>02/21/2019</u>) Motion to Withdraw Guilty Plea	I	204 - 209
Transcript - Evidentiary Hearing [7-11-2019] (<u>07/26/2019</u>)	II	302 - 338

...

Transcript - State's Request for Entry of Plea

I 083 - 092

[3-13-2018] (06/14/2018)

Transcript - Evidentiary Hearing: Defendant's Motion to

II 388 - 482

Withdraw Guilty Plea [5-28-2019] (06/09/2020)

CERTIFICATE OF SERVICE

I certify I am an assistant to Terrence M. Jackson, Esquire; a person competent to serve papers, not a party to the above-entitled action and on the 10th day of June, 2020, I served a copy of the foregoing: Appellant's Opening Brief and the Appendix and Index, Volume I and II, as follows:

[X] Via Electronic Service to the Nevada Supreme Court, to the Eighth Judicial District Court, and by U. S. mail with first class postage affixed to the Nevada Attorney General and the Petitioner/Appellant as follows:

STEVEN B. WOLFSON
Clark County District Attorney
steven.wolfson@clarkcountynvda.com

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Nevada Attorney General
100 North Carson Street
Carson City, NV 89701

SANDRA DIGIACOMO
Chief Deputy District Attorney - Criminal
sandra.digiacom@clarkcountynvda.com

DENZEL DORSEY
ID# 5899606
Terminal Annex- P.O. Box # 86164
Los Angeles, CA 90086

By: /s/ Ila C. Wills
Assistant to T. M. Jackson, Esq.

JUSTICE COURT, HENDERSON TOWNSHIP
CLARK COUNTY, NEVADA

HENDERSON JUSTICE COURT
FILED IN OPEN COURT
2-28-17

THE STATE OF NEVADA,

Plaintiff,

-vs-

DENZEL DORSEY #2845569,

Defendant.

CASE NO: 16FH2022X

DEPT NO:

AMENDED

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435) and MALICIOUS DESTRUCTION OF PROPERTY (Gross Misdemeanor - NRS 206.310, 193.155 - NOC 50905), in the manner following, to-wit: That the said Defendant, on or about the 28th day of November, 2016, at and within the County of Clark, State of Nevada,

COUNT 1 - INVASION OF THE HOME

did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit: 2731 Warm Rays, Henderson, Clark County, Nevada, without permission of the owner, resident, or lawful occupant, to wit: NORMA NAZARENO, by breaking a glass door window, putting his arm through the window and unlocking the deadbolt, in an attempt to gain entry.

COUNT 2 - MALICIOUS DESTRUCTION OF PROPERTY

did willfully, unlawfully, or maliciously destroy and/or injure the real and/or personal property of another, to-wit: a glass door window, owned by NORMA NAZARENO, located at 2731 Warm Rays, Henderson, Clark County, Nevada, by breaking said glass door window at said residence, the value of said damage being \$250.00 or more and less than \$5,000.00.

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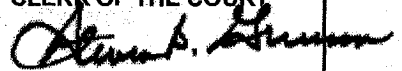
AA 0001

1 All of which is contrary to the form, force and effect of Statutes in such cases made and
2 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
3 this declaration subject to the penalty of perjury.

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6 02/16/2017
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27 16FH2022X/erg/L-5
28 HPD EV# 1621448
(TK)

AA 0002



1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **SANDRA K. DIGIACOMO**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #006204**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

7 I.A. 5/15/17
8 10:00 A.M.
9 K. BROWER, ESQ.

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DENZEL DORSEY,
13 #2845569

14 Defendant.

CASE NO: C-17-323324-1

DEPT NO: XXII

INFORMATION

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

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

20 That DENZEL DORSEY, the Defendant(s) above named, having committed the crimes
21 of **INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435)** and
22 **MALICIOUS DESTRUCTION OF PROPERTY (Gross Misdemeanor - NRS 206.310,**
23 **193.155 - NOC 50905)**, on or about the 28th day of November, 2016, within the County of
24 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
25 and provided, and against the peace and dignity of the State of Nevada,

26 ///

27 ///

28 ///

AA 0003

1 COUNT 1 - INVASION OF THE HOME

2 did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit:
3 2731 Warm Rays, Henderson, Clark County, Nevada, without permission of the owner,
4 resident, or lawful occupant, to wit: FLORENTINO and/or NORMA NAZARENO, by
5 breaking a glass door window, putting his arm through the window and unlocking the deadbolt,
6 in an attempt to gain entry.

7 COUNT 2 - MALICIOUS DESTRUCTION OF PROPERTY

8 did willfully, unlawfully, or maliciously destroy and/or injure the real and/or personal
9 property of another, to wit: a glass door window, owned by FLORENTINO and/or NORMA
10 NAZARENO, located at 2731 Warm Rays, Henderson, Clark County, Nevada, by breaking
11 said glass door window at said residence, the value of said damage being \$250.00 or more and
12 less than \$5,000.00.

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

15 BY

16 SANDRA K. DIGIACOMO
17 Chief Deputy District Attorney
Nevada Bar #006204

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

20 <u>NAME</u>	21 <u>ADDRESS</u>
22 CUSTODIAN OF RECORDS	Henderson Detention Center Communications
23 CUSTODIAN OF RECORDS	Henderson Detention Center Records
24 CUSTODIAN OF RECORDS	HPD COMMUNICATIONS
25 CUSTODIAN OF RECORDS	HPD RECORDS
26 GROSS, K.	C/O CCDA'S OFFICE
27 GUTIERREZ, C.	HPD P# 1695
28 HAYEK, GHASSAN	Global Auto, 1525 E. Sunset Rd., LV, NV

///

1 MCGEAHY, J.

HPD P# 1411

2 NAZARENO, KEVIN

2731 Warm Rays Ave., Henderson, NV

3 NAZARENO, NORMA

2731 Warm Rays Ave., Henderson, NV

4 WARD, R.

HPD P# 1701

5 **DO NOT READ TO THE JURY**

6 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
7 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
8 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

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

10 The State of Nevada hereby places Defendant DENZEL DORSEY on notice that in the
11 event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion conviction
12 pursuant to NRS 205.067 in the above-entitled action, he/she will not be eligible for probation
13 as Defendant DENZEL DORSEY has already suffered one (1) prior Burglary and/or Home
14 Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment as a Habitual
Criminal," said notice being incorporated by this reference as though fully set forth herein.

15 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
16 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
17 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

18 **NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL**
19 **CRIMINAL**

20 The State of Nevada hereby places Defendant DENZEL DORSEY on notice of the
21 State's intent to seek punishment of Defendant DENZEL DORSEY pursuant to the provisions
22 of NRS 207.010 as a habitual criminal in the event of a felony conviction in the above-entitled
action.

23 The State will seek punishment as a habitual criminal based upon the following felony
24 convictions, to wit:

25 ///

26 ///

27 ///

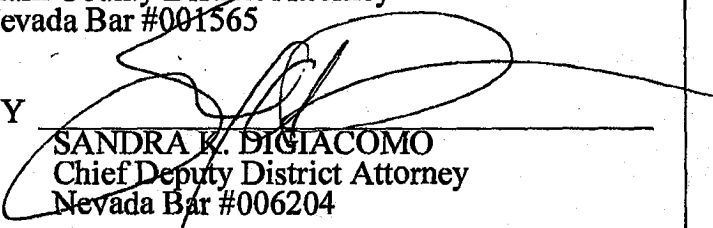
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1 1. That in 2012, the Defendant was convicted in the Eighth Judicial District
2 Court, County of Clark, State of Nevada, for the crime of Invasion of Home, in Case No.
3 C-12-284308-1.

4 2. That in 2012, the Defendant was convicted in the Eighth Judicial District
5 Court, County of Clark, State of Nevada, for the crime of Attempt Burglary, in Case No.
6 C-12-279732-1.

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

10 BY

11 
12 SANDRA K. DIGIACOMO
13 Chief Deputy District Attorney
14 Nevada Bar #006204

15 **DO NOT READ TO THE JURY**

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27 DA#16FH2022X/erg/L-5
28 HPD EV#1621448
 (TK)

Steven D. Grierson

12:00AM

1 TRAN

2 CASE NO. C323324

3

4 IN THE JUSTICE'S COURT OF HENDERSON TOWNSHIP

12:00AM

5 COUNTY OF CLARK, STATE OF NEVADA

6

7 STATE OF NEVADA,)

8 Plaintiff,)

9 vs.)

10 CASE NO. 16FH2022X

12:00AM

11 DENZEL DORSEY,)

12 Defendant.)

13

14 REPORTER'S TRANSCRIPT

15 OF

12:00AM

16 PRELIMINARY HEARING

17 BEFORE THE HONORABLE SAMUEL G. BATEMAN

18 JUSTICE OF THE PEACE

19

20 TUESDAY, MAY 2, 2017

21

22 APPEARANCES:

12:00AM

23

24 For the State: SANDRA DIGIACOMO
Chief Deputy District Attorney

25

26 For the Defendant: KEITH BROWER, ESQ.

27

12:00AM

28 Reported by: Lisa Brenske, CCR #186

12:00AM

1

W I T N E S S E S

2

KEVIN NAZARENO

3

Direct Examination by Ms. DiGiacomo

4

Cross-Examination by Mr. Brower

14

4

NORMA CORDERO NAZARENO

12:00AM

5

Direct Examination by Ms. DiGiacomo

20

Cross-Examination by Mr. Brower

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6

JAMES MCGEAHY

7

Direct Examination by Ms. DiGiacomo

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Cross-Examination by Mr. Brower

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12:00AM 1 HENDERSON, NEVADA, MAY 2, 2017
2
3 * * * * *
4
12:12PM 5 THE COURT: Denzel Dorsey, 16FH2022X.
6 Is the prelim going forward?
7 MR. BROWER: It is, Judge.
8 THE COURT: Any motion on witnesses?
9 MR. BROWER: I'd ask to invoke the
12:12PM 10 exclusionary rule at this point in time.
11 THE COURT: Do we have anybody here that's
12 a witness, Sandy?
13 MS. DIGIACOMO: Yes. I have four.
14 THE COURT: Are we good? We got those
12:12PM 15 guys out?
16 Call your first witness.
17 MS. DIGIACOMO: State calls Kevin
18 Nazareno.
19 THE COURT: Sir, come up here to the
12:14PM 20 podium and remain standing and raise your right hand
21 for me.
22 THE CLERK: Do you solemnly swear that the
23 testimony that you are about to give will be the truth,
24 the whole truth and nothing but the truth, so help you
12:14PM 25 God?

12:14PM 1 THE WITNESS: I solemnly swear.
2 THE CLERK: Please be seated.
3 Please state your first and last name and
4 spell each for the record.

12:15PM 5 THE WITNESS: My name is Kevin Nazareno.
6 K-E-V-I-N. N-A-Z-A-R-E-N-O.

7 THE COURT: All right. Go ahead, State.

8 MS. DIGIACOMO: Thank you.
9

12:15PM 10 **KEVIN NAZARENO,**
11 having been first duly sworn, did testify as follows:

12 DIRECT EXAMINATION

13 BY MS. DIGIACOMO:

14 Q. Sir, how old are you?

12:15PM 15 A. Twenty-one years old.

16 Q. And do you live or did you last November
17 live at 2731 Warm Rays in Henderson, Clark County,
18 Nevada?

19 A. Yes. I still currently live there to this
12:15PM 20 day.

21 Q. Who do you live there with?

22 A. I live with my mom, my dad and a couple
23 of -- no. One cousin and his girlfriend who are
24 staying in a room at my house.

12:15PM 25 Q. Now, who owns the house?

15PM 1 A. My father.

2 Q. And who is your father?

3 A. Florentino Nazareno.

4 Q. And does his wife also own the residence,

16PM 5 your mom?

6 A. I think, yes.

7 Q. And her name is Norma?

8 A. Yes.

9 Q. So on November 28, 2016 were you home at

16PM 10 approximately noon?

11 A. Yes. I had been there the whole day.

12 Q. What were you doing at about a little bit

13 before noon on that date?

14 A. I was still in bed asleep.

16PM 15 Q. Did something wake you up?

16 A. Yes. The doorbells. Constant ringing of

17 the doorbells. Multiple doorbell ringings.

18 Q. Was that the front doorbell that was

19 ringing?

6PM 20 A. Yes.

21 Q. And you said it would ring multiple times?

22 A. Yeah. Multiple times.

23 Q. So would it be that somebody would ring it

24 multiple --

6PM 25 A. Yeah, yeah, yeah.

16PM 1 Q. Let me finish because she's taking
2 everything down.
3 A. Okay.
4 Q. So they would ring it a bunch of times
16PM 5 like keep pushing the button?
6 A. Yes, that is correct.
7 Q. And then would it stop and then the
8 doorbell ringing would start occurring again?
9 A. Yes. I heard that at least multiple
17PM 10 times. Multiple ringings, stopping and then multiple
11 ringings again.
12 Q. And what did you do when you heard this?
13 A. I was still in bed. I was getting kind of
14 annoyed that someone would ring that much.
17PM 15 Q. Did you eventually get up from your bed
16 and go to the front door?
17 A. Yes.
18 Q. Now, was your bedroom upstairs or
19 downstairs?
7PM 20 A. It was upstairs.
21 Q. So you came down the stairs?
22 A. Yes.
23 Q. The front doors, can you describe what
24 they looked like on that date?
7PM 25 A. They were glass doors that I could see

17PM

17PM

8PM

8PM

8PM

8PM

3PM

1 clearly through.

2 Q. And when you come down the stairs, can you
3 see the front doors from the staircase?

4 A. Yes, I can. Since there's this -- the
5 stairways lead downwards and when I peek over the
6 railings, I can look straight into the doorway and see
7 whoever is there.

8 Q. So on this date back in November when you
9 looked over the railing, did you see anybody standing
10 outside the front door?

11 A. Yes.

12 Q. And who did you see?

13 A. I saw a black male and I saw them punching
14 and I heard banging on the door itself.

15 Q. Let me stop you. Did you see more than
16 one black male?

17 A. No. Just one.

18 Q. Just one black male?

19 A. Yes.

20 Q. And when you said you heard banging, did
21 it sound like somebody was trying to break the glass?

22 A. Yes. Correct.

23 Q. So when you got down to the bottom of the
24 stairs, could you still hear this banging on the glass?

25 A. Yes. And then --

18PM

1 Q. What did you see then?

2 A. I saw the glass break and there was just a
3 hole in the glass now and then I saw the male trying to
4 reach through the door and unlock the deadbolt.

19PM

5 Q. Let's back up a little bit. You kept
6 making a motion as you were talking about the banging
7 on the glass of the front door. You had your right
8 hand balled like a fist and you were punching your left
9 hand. Is that what you were just doing?

19PM

10 A. What do you mean by that?

11 THE COURT: For the record that's what he
12 was doing.

13 BY MS. DIGIACOMO:

14 Q. When you heard the glass being hit, could
15 you see what the black male was trying to hit the glass
16 with? Was it his fist?

17 A. Yes.

18 Q. Was he able to break through the glass
19 with his fist?

9PM

20 A. Yes.

21 Q. And then did it leave a round sized hole?

22 A. Yes. Correct.

23 Q. And was the glass kind of jagged, the hole
24 that he broke?

9PM

25 A. I'd say so. It was, yeah, like that.

19PM 1 Q. So it wasn't a perfectly smooth hole?
2 A. No.
3 Q. And then you said that you saw this black
4 male stick his hand through the glass?
20PM 5 A. Yes.
6 Q. Into your house?
7 A. Yes.
8 Q. And what was he trying to do?
9 A. He was trying to unlock the deadbolt that
20PM 10 was there.
11 Q. So when you see his hand through the door
12 and he's unlocking the deadbolt, what do you do?
13 A. I rushed forward towards the door and I
14 blocked him and kept it locked.
20PM 15 Q. And when you blocked him, how did you do
16 that?
17 A. I just --
18 Q. So you grabbed the deadbolt?
19 A. Yeah, and I kept it there.
20PM 20 Q. Did you do anything to try and hit his
21 hand away from the deadbolt?
22 A. I don't recall.
23 Q. And what did he do when you protected the
24 deadbolt?
PM 25 A. He ran away.

20PM 1 Q. Did he take his arm out of the glass?
2 A. Yes.
3 Q. And he takes off?
4 A. Yes.
20PM 5 Q. What did you do when you saw him leave?
6 A. I chased after him of course.
7 Q. So you chased after him. Where did you
8 see him go?
9 A. To his car parked right in front of my
21PM 10 house.
11 Q. Did you see what kind of car it was?
12 A. Yes. It was a blue Suzuki.
13 Q. And were you able to get the license
14 plate?
21PM 15 A. Yes. I did.
16 Q. Do you remember the license plate as you
17 sit here today?
18 A. Yes.
19 Q. What was the license plate?
1PM 20 A. 953LGM.
21 Q. Did you tell the police that information?
22 A. Yes. I told the dispatcher the license
23 plate as soon as I called them.
24 Q. And did you call the police right away?
1PM 25 A. Yes. Yes, I did.

11

21PM 1 Q. Did the police respond?

2 A. Yes.

3 Q. Now, the person that you saw that was at

4 your front door, you said you saw him run and get into

21PM 5 this car, the Suzuki right in front of your house?

6 A. Yes.

7 Q. Did you see which door he got into?

8 A. The driver's side.

9 Q. Could you see anybody else in the car?

21PM 10 A. No.

11 Q. Just him?

12 A. Yes.

13 Q. Now, can you describe what he looked like

14 for the Court?

21PM 15 A. He was a tall black male, bigger than me

16 at least.

17 Q. How tall are you?

18 A. 5-foot-6 and with shoes 5-foot-7.

19 Q. You held your hand about an inch or so

2PM 20 above your head. Was he a little taller than you?

21 A. Yeah. I'd say around 5-foot-10 to 6 feet.

22 Q. Do you remember what he was wearing?

23 A. No.

24 Q. But you know it was a black male?

2PM 25 A. Yes.

12

22PM 1 Q. Do you remember if he was heavy-set,
2 skinny?

3 A. It's hard to remember.

4 Q. Do you think you'd recognize him if you
22PM 5 saw him again?

6 A. Yes.

7 Q. Now, you've been sitting in court all
8 morning. Have you seen the same person that you saw
9 try and break into your house on November 28th, 2016
22PM 10 here in court?

11 A. I think.

12 Q. You think. Is that person still here in
13 court?

14 A. I don't know actually.

22PM 15 Q. Well, let me ask you. The person that you
16 thought you saw that kind of looked familiar, do you
17 see him in the courtroom as you sit here right now?

18 A. No, I don't think so.

19 Q. So I am going to point to a person. This
3PM 20 gentleman that's seated at counsel table wearing
21 glasses, you don't recognize him?

22 A. Could he take his glasses off?

23 MS. DIGIACOMO: For the record the
24 defendant just took his glasses off.

3PM 25 MR. BROWER: So did I since we are both

23PM 1 sitting at the table wearing glasses.

2 MS. DIGIACOMO: I'm sorry. I'm standing
3 behind Mr. Brower.

4 THE COURT: I don't think you match the
23PM 5 description, Mr. Brower.

6 BY MS. DIGIACOMO:

7 Q. Does he look familiar to you?

8 A. Yes, I think so.

9 Q. Without the glasses?

23PM 10 A. Yes. Without the glasses.

11 Q. So he appears to look like the person that
12 was at your house that day in November?

13 A. Yeah.

14 Q. Can you say with like a percentage of
23PM 15 certainty like 10 percent, 50 percent?

16 A. 85 percent sure.

17 MS. DIGIACOMO: Now, this person that I
18 just pointed to for the record was the defendant, your
19 Honor.

4PM 20 THE COURT: Record will reflect
21 identification that you're talking about the defendant.

22 BY MS. DIGIACOMO:

23 Q. Did you know him before November 28th?

24 A. No, I have no idea who they are.

4PM 25 Q. So you did not give him permission to come

24PM 1 into your house on November 28th, 2016?

2 A. No.

3 MS. DIGIACOMO: I have nothing further.

4 THE COURT: Mr. Brower.

5

6 CROSS-EXAMINATION

7 BY MR. BROWER:

8 Q. Kevin, when you looked around the
9 courtroom a moment ago and you didn't identify my
24PM 10 client, did you see any other black people in the
11 courtroom?

12 A. No.

13 Q. But there's a couple black females,
14 correct?

24PM 15 A. Yes.

16 Q. But no other black males, correct?

17 A. Yes.

18 Q. And only after the prosecutor pointed to
19 the sole black male in the courtroom were you able to
4PM 20 say possibly it was him, correct?

21 A. Yes.

22 Q. So, Kevin, I am going to go back and ask
23 you a couple other questions.

24 A. Okay.

4PM 25 Q. You were talking about somebody trying to

24PM 1 punch through the glass on your door of your house. Is
2 your glass frosted?

3 A. What do you mean by that?

4 Q. Well, is it clear glass on the front door
25PM 5 or is it frosted glass?

6 A. What do you mean by that?

7 Q. Are the panels totally clear or do they
8 have lines or etchings or snowflakes or anything in
9 them? Is it like a clear glass that you can see
25PM 10 through like glasses or is it --

11 A. It was clear enough that I could see him
12 through the glass.

13 Q. So there's nothing to distort your vision
14 through there?

25PM 15 A. No.

16 Q. What color jacket was the person wearing?

17 A. I couldn't remember.

18 Q. Was the person wearing gloves?

19 A. I do not remember.

5PM 20 Q. So when you saw a hand come through the
21 window, can you describe were their rings on it?

22 A. I don't remember.

23 Q. Can you describe whether the fingernails
24 had nail polish or anything else?

6PM 25 A. No.

16

26PM 1 Q. Because you don't remember or because you
2 didn't see?

3 A. Because I don't remember.

4 Q. And you don't remember if there was a
26PM 5 glove?

6 A. No.

7 Q. Do you remember the color -- was the arm
8 that came through the window -- was the arm bare?

9 A. No.

26PM 10 Q. So it had clothing on it?

11 A. Yes.

12 Q. But you don't know if it was a jacket
13 or --

14 A. No.

26PM 15 Q. Do you know if it was leather or if it was
16 cloth?

17 A. Probably leather.

18 Q. Probably leather but you're not sure?

19 A. Not sure.

6PM 20 Q. But you don't remember if the arm had a
21 glove on it?

22 A. No.

23 Q. How about a watch; did you see a watch?

24 A. No.

5PM 25 Q. And you ran outside afterwards and saw the

17

26PM 1 person get into the driver's side of a car?

2 A. Yes.

3 Q. Were they wearing a hat?

4 A. No, I don't think so.

27PM 5 Q. Can you describe their hair to me?

6 A. Very short hair.

7 Q. Were they wearing glasses?

8 A. No, I don't think so.

9 Q. Not even sunglasses?

27PM 10 A. No.

11 Q. Describe the vehicle to me.

12 A. It was a blue Suzuki.

13 Q. Two door or four door?

14 A. Four door.

27PM 15 Q. Do you know what kind of wheels it had?

16 A. Probably the stock wheels.

17 Q. You don't remember?

18 A. The stock wheels.

19 Q. Can you describe the weight of the person?

7PM 20 A. Average to slim.

21 Q. So you are going to have to help me out,

22 Kevin. I don't know what average to slim means to you.

23 A. I'd say around 180 pounds to 200.

24 Q. 180 to 200 and you described him as

3PM 25 between 5-foot-10 and 6 feet?

28PM 1 A. Yes. Or a bit taller than 6 feet.

2 Q. Were you wearing shoes when you ran

3 outside?

4 A. No. I went in barefoot.

28PM 5 Q. How far did you chase the person?

6 A. I chased him to the sidewalk at which I

7 looked at his license plate because his car was right

8 there.

9 Q. Well, the car you saw the person get into

28PM 10 was right there, right?

11 A. Yes.

12 Q. Do you know if it was their car?

13 A. Yes.

14 Q. How do you know it was their car?

28PM 15 A. Because they had the keys and started the

16 ignition to start the car.

17 Q. So if you drive your parents' car with

18 their keys, is it your car or your parents' car?

19 A. It's my parents' car obviously.

8PM 20 Q. But if I saw you get in it, wouldn't I be

21 inaccurate to say it was your car?

22 A. No.

23 Q. I wouldn't?

24 A. I mean, if you saw me with my car, then

PM 25 obviously it's my car. But if you see me with my

29PM 1 parents' car, then it's my parents' car.

2 Q. That you're driving?

3 A. Yes.

4 Q. Kevin, was it the right hand or left hand

29PM 5 that came into the door?

6 A. I'm pretty sure it was the left hand I
7 think.

8 Q. And you didn't see any watches?

9 A. No.

29PM 10 Q. Was it sunny out that day?

11 A. Yes. It was in broad daylight.

12 Q. So it wasn't raining or anything?

13 A. No.

14 Q. It wasn't overcast?

29PM 15 A. No.

16 MR. BROWER: I'll pass the witness, Judge.

17 THE COURT: Anything else?

18 MS. DIGIACOMO: No.

19 THE COURT: Thank you, sir.

0PM 20 Is he free to go?

21 MS. DIGIACOMO: Yes.

22 THE COURT: You can jump down. You're
23 free to leave. Thank you for your testimony.

24 THE WITNESS: Thank you, your Honor.

PM 25 THE COURT: Next witness.

30PM

1

MS. DIGIACOMO: Norma Nazareno.

2

THE COURT: Good morning, ma'am. Remain

3

standing and raise your right hand for me.

4

THE CLERK: Do you solemnly swear that the

30PM

5

testimony that you are about to give will be the truth,

6

the whole truth and nothing but the truth, so help you

7

God?

8

THE WITNESS: Yes, I do.

9

THE CLERK: Please be seated.

30PM

10

Please state your first and last name and

11

spell each for the record.

12

THE WITNESS: Norma Cordero Nazareno.

13

THE COURT: Can you spell that for us.

14

THE WITNESS: N-O-R-M-A. Last name

31PM

15

N-A-Z-A-R-E-N-O.

16

THE COURT: Thank you. Grab a seat.

17

Go ahead, State.

18

MS. DIGIACOMO: Thank you.

19

1PM

20

NORMA CORDERO NAZARENO,
having been first duly sworn, did testify as follows:

21

22

DIRECT EXAMINATION

23

BY MS. DIGIACOMO:

24

Q. Ma'am, do you live or own 2731 Warm Rays?

1PM

25

A. Yes, I do. For the last 16 years.

31PM 1 Q. And do you own that with your husband
2 Florentino?

3 A. Yes, I do.

4 Q. Do you know the person who just left the
31PM 5 courtroom, Kevin?

6 A. That's my son.

7 Q. And he lives there as well?

8 A. Yes.

9 Q. And all of you lived there last
31PM 10 November 28th of 2016?

11 A. Yes, ma'am. Me and my husband and my son.

12 Q. Did anything happen that day that caused
13 you to go home?

14 A. Well, I was at work right around 12,
31PM 15 that's when he called me at work and I had to rush home
16 to see what happened.

17 Q. Who called you?

18 A. My son.

19 Q. Kevin?

32PM 20 A. As soon as he called 9-1-1 he called me
21 right away. Actually he find out -- my husband found
22 out so my husband called me to go home. So I went home
23 right away.

24 Q. And when you got home, did your house look
2PM 25 different than it had when you left for work?

32PM 1 A. It's just the door that's broken, the
2 glass was broke.

3 Q. What time did you leave for work that day?

4 A. As soon as I could. Like around 12:15.

32PM 5 Q. No. What time did you --

6 A. 12:30.

7 THE COURT: Okay. Just let her finish the
8 question and then you answer because this lady down
9 here is typing everything down. So if you guys talk
32PM 10 over each other, it doesn't get down very well.

11 So go ahead.

12 BY MS. DIGIACOMO:

13 Q. I meant what time did you leave the house
14 that day to go to work?

32PM 15 A. That was a Monday. Normally I leave like
16 around between six to 6:15 because I start seven
17 o'clock on a Monday.

18 Q. So you had been at work for awhile before
19 you got the call?

32PM 20 A. Yes, ma'am.

21 Q. And you got home at 12:30?

22 A. I left work around 12:30 maybe.

23 Q. How long did it take you to get home?

24 A. Normally about 30 minutes.

3PM 25 Q. When you got home, you said something was

33PM 1 wrong with the front door?

2 A. Yeah. Well, that's exactly what's already
3 given to me, the description of what was wrong and why
4 I had to go home.

33PM 5 Q. Tell me what you saw when you got home.

6 A. I saw -- because I have two sides of the
7 door. One side was broken like there's a big hole in
8 there and the hole kind of shattered but not completely
9 down but there was a big hole right there by the
33PM 10 doorknobs.

11 Q. And when you said there was two sides, do
12 you have two front doors?

13 A. Yeah. There's a left and a right-hand
14 side.

33PM 15 Q. And they're both glass?

16 A. Yes.

17 Q. And do they also have another design in
18 the glass?

19 A. Yes, there is. Like a metal in between so
33PM 20 they're like different design on it.

21 Q. But on one side of the glass there was a
22 hole in it?

23 A. Yes. So there's no metal so that's why
24 there was -- that's where the broken glass was.

33PM 25 Q. And you didn't give anyone permission to

24

34PM 1 break your door that day?

2 A. No, ma'am. We just left it the way it is

3 until later on then we needed a replacement door. So

4 they just took that door and took it to the shop and

34PM 5 replaced the glass.

6 Q. How much did it cost to repair the glass

7 door?

8 A. Well, first of all the first day that it

9 was broken we needed to be safe that day so I called

34PM 10 the insurance and they referred me to a construction

11 which is the Hopster --

12 THE COURT: I'm sorry. They referred you

13 to what?

14 THE WITNESS: To a construction company.

34PM 15 THE COURT: Okay.

16 THE WITNESS: So they replaced the wood

17 for the whole glass door and got the whole frame.

18 BY MS. DIGIACOMO:

19 Q. So what you mean is they put wood up until

44PM 20 you could get the glass fixed?

21 A. Yes.

22 Q. So nobody else could break in?

23 A. Exactly.

24 Q. How much did that cost?

4PM 25 A. That was about 400-something-dollars. I

34PM 1 have it on here.

2 Q. For the record you're referring to your
3 receipts?

4 A. Yes. I have the receipts. That cost me
35PM 5 \$474.41.

6 Q. And then how much did it cost to repair
7 the glass?

8 A. \$723.72. And I have the receipt.

9 Q. How long did it take to repair that glass?

35PM 10 A. Well, we had to order the door so we
11 waited like almost two weeks to have it replaced.

12 Q. And did your insurance cover the repair?

13 A. No, it did not because the temporary door
14 wasn't a thousand dollars. It was only 700. So they
5PM 15 couldn't -- because we had to pay deductible and we
16 haven't done that yet.

17 Q. So your deductible is a thousand dollars?

18 A. Yes.

19 Q. So you had to pay the \$723.72 yourself?

5PM 20 A. Yes.

21 Q. As well as the \$474.41 to put up the wood
22 door?

23 A. Yes, ma'am.

24 MS. DIGIACOMO: I don't have anything
6PM 25 further.

36PM 1 THE COURT: Anything, Mr. Brower?

2

3

CROSS-EXAMINATION

4

BY MR. BROWER:

36PM 5 Q. Ma'am, the glass on your door -- can you
6 describe the glass that was on your door? Is it
7 see-through, is it frosted?

8

9

36PM 10 A. It's kind of frosted but there's some area
11 where just like a clear one with like a diamond shape,
12 that's a clear, and the rest are all frosty. Like in
13 between has frost and then clear.

14

15

16

Q. So when you look out your door, can you
visibly see what's on the other side?

17

18

A. Absolutely.

36PM 19 Q. And the door that was broke, are they two
20 doors side by side or just one door?

21

22

23

A. It's two door side by side.

Q. Which door was broke, the right or left
door?

36PM 24 A. If I was facing the front door from the
25 outside, it'll be on the left-hand side with the
doorknob is.

26

27

Q. And where would your deadbolt be?

6PM 28 A. On the left-hand side. It's on the same
side where the latch is.

36PM 1 Q. So the latch isn't in the center of the
2 two doors, it's actually on the side?

3 A. Well, actually it's on that one door on
4 the left-hand side.

37PM 5 Q. But there's two doors. Do they open --

6 A. Yeah. The other one is just -- there's
7 this latch up on the top and the bottom --

8 Q. And the doors --

9 A. -- to keep it staying --

37PM 10 THE COURT: Ma'am, let him finish because
11 we're talking over each other.

12 BY MR. BROWER:

13 Q. So the right-hand door, if I'm standing at
14 the front door, the right-hand door has a latch that's
37PM 15 at the top and bottom --

16 A. Yes.

17 Q. -- so it doesn't open with a knob?

18 A. No.

19 Q. It opens with the two latches?

37PM 20 A. Right.

21 Q. When the door is closed, does each door
22 hook to each other?

23 A. It's just the doorknob that has the lock.
24 That's the only thing that's there.

7PM 25 Q. Hooks to the other door, correct?

37PM 1 A. Yes.

2 Q. So from where the hole in the window was,

3 if I stick my hand through that hole --

4 A. Yeah, it's about this much --

38PM 5 THE COURT: Hang on. Hang on. Hang on.

6 Finish your question, Mr. Brower.

7 THE WITNESS: Go ahead.

8 BY MR. BROWER:

9 Q. So when I stick my hand through that hole,

38PM 10 do I reach my hand to the right or to the left to

11 unlock the door if I'm standing in front?

12 A. You would go going -- so the door is right

13 here so you would be going this way.

14 THE COURT: For the record she's using her

38PM 15 left arm and turning it to her right.

16 BY MR. BROWER:

17 Q. So I would reach in and go to my right?

18 A. Yeah.

19 MR. BROWER: Thank you, Judge.

38PM 20 THE COURT: Is that it?

21 MR. BROWER: That's it with me, Judge.

22 THE COURT: Okay. Anything else, State?

23 MS. DIGIACOMO: No.

24 THE COURT: Ma'am, you're excused.

8PM 25 Is this witness free to go?

38PM 1 MS. DIGIACOMO: Yes.

2 THE COURT: Thank you for your testimony.

3 You're free to go today.

4 Does anybody want copies of her receipts?

38PM 5 MS. DIGIACOMO: I have them and I made

6 copies and I'll get them to Mr. Brower.

7 THE COURT: Next witness, State.

8 MS. DIGIACOMO: State calls Officer

9 McGeahy.

39PM 10 THE COURT: Is it officer?

11 THE WITNESS: Sure.

12 THE COURT: What is your assignment?

13 THE WITNESS: I'm with PSU.

14 THE COURT: Come on up, remain standing

39PM 15 and raise your right hand.

16 THE CLERK: Do you solemnly swear that the

17 testimony that you are about to give will be the truth,

18 the whole truth and nothing but the truth, so help you

19 God?

39PM 20 THE WITNESS: I do.

21 THE CLERK: Please be seated.

22 Please state your first and last name and

23 spell each for the record.

24 THE WITNESS: My name is James McGeahy.

.9PM 25 J-A-M-E-S. M-C-G-E-A-H-Y.

39PM

1

THE COURT: Thank you, sir.

2

Go ahead.

3

4

JAMES MCGEAHY,
having been first duly sworn, did testify as follows:

39PM

5

6

DIRECT EXAMINATION

7

BY MS. DIGIACOMO:

8

Q. How are you employed?

9

A. I'm a police officer with the Henderson

39PM

10

Police Department.

11

Q. How long have you been so employed?

12

A. Ten years and about eight months now.

13

Q. Directing your attention to November 28,

14

2016 at approximately noon were you so employed and

40PM

15

working?

16

A. Yes.

17

Q. What was your assignment on that date?

18

A. I'm assigned to PSU, Problem Solving Unit.

19

Q. Now, did a report come in about a home

40PM

20

invasion at 2731 Warm Rays Avenue in which a license

21

plate was obtained?

22

A. Yes.

23

Q. And did you get assigned that case?

24

A. Yes.

0PM

25

Q. What happened when you got the assignment?

10PM 1 A. As a squad we started immediately
2 investigating. Took our initial information which was
3 the license plate and ran that through our NCIC data
4 base, got back a hit that it was a rental car,
40PM 5 contacted the rental company.

6 Q. And when you contacted the rental company,
7 what information were they able to provide you?

8 A. They were able to provide us with who the
9 renter was, the type of vehicle it was and that it had
40PM 10 GPS.

11 Q. Now, was it rented to a Marquisha Powell?

12 A. I believe that was the name, yes.

13 Q. So it was rented to a female?

14 A. Yes.

41PM 15 Q. And you said that it was equipped with
16 GPS?

17 A. Yes.

18 Q. Was anybody at the car rental place able
19 to get you the location of that car right then?

41PM 20 A. Yes.

21 Q. Based upon giving the GPS what did you and
22 your other officers do?

23 A. At that point we had two other officers
24 head down to the Global Autos and that way they had
41PM 25 direct contact with the management there who was

41PM 1 looking at the screen and actively following the GPS.
2 And then we relayed that information over to the other
3 officers who were out in the field attempting to locate
4 the vehicle.

41PM 5 Q. Okay. Did you ever see the GPS or was
6 there other officers that were there seeing the
7 location of the car?

8 A. I was just being told the GPS locations
9 and then I was emailed the paperwork of the actual
42PM 10 locations.

11 Q. The GPS for this car, did it show it was
12 present on Warm Rays?

13 A. Yes, it did.

14 Q. And so that's why you followed this car?

42PM 15 A. Yes.

16 Q. So when you are able to find the vehicle,
17 where was it?

18 A. Once we caught up with the vehicle it was
19 at the Fashion Show Mall on Las Vegas Boulevard.

42PM 20 Q. And do you know approximately what time
21 that was?

22 A. It was around noon. I don't remember the
23 exact time.

24 Q. So it's within a very short time period
2PM 25 from the call coming in about the home invasion and

42PM 1 finding the car?

2 A. Correct.

3 Q. When you get to the Fashion Show, do you
4 ever actually see this vehicle?

42PM 5 A. I did not. The detectives on scene did.

6 Q. Who were the detectives on scene?

7 A. I believe it was Max Pilz was there and
8 actually he's the one that located it. I don't
9 remember who else was with him. But I know he's the
42PM 10 one that actually located the vehicle.

11 Q. And that's P-I-L-Z for the record?

12 A. Yes. P-I-L-Z.

13 Q. When the vehicle was located, was it the
14 same vehicle with the license plate number that had
43PM 15 been reported by the victim?

16 A. Yes.

17 Q. What happened at that point?

18 A. I believe that they observed the vehicle
19 in the parking garage and then pick up another person
43PM 20 and then they drove to the exit of the parking garage
21 and parked on the exterior near Dillard's. Which is
22 where they were contacted.

23 Q. And so it was Detective Pilz that stopped
24 the car?

43PM 25 A. Yes. It was actually Jonathan Ashcroft

43PM 1 that was with him. I'm sorry.

2 Q. Ashcroft?

3 A. Yes.

4 Q. So the car was stopped and then you

43PM 5 arrived on scene?

6 A. Yes.

7 Q. And when you arrived, had you been

8 informed whether or not the individuals had been

9 Mirandized?

44PM 10 A. I believe so, yes, they were Mirandized.

11 Q. So when you come on scene, what do you do?

12 A. I didn't do anything because I was advised

13 that they were not talking. So I didn't speak to any

14 of them, although I did speak to this gentleman here

14PM 15 and advised him what he was under arrest for.

16 Q. You said this gentleman here. Can you
17 point to the person you're referring to and describe
18 what he's wearing right now.

19 A. Denzel Dorsey wearing a black shirt and
4PM 20 glasses.

21 MS. DIGIACOMO: Your Honor, would the
22 record reflect identification of the defendant?

23 THE COURT: Record will reflect
24 identification.

25

44PM 1 BY MS. DIGIACOMO:

2 Q. All right. So Mr. Dorsey was in the car
3 that was stopped?

4 A. Yes.

44PM 5 MR. BROWER: Judge, calls for speculation.
6 I don't think he was there.

7 MS. DIGIACOMO: I can rephrase.

8 THE COURT: Why don't you rephrase. I
9 don't know if he's speculating, it's personal
44PM 10 knowledge. If he saw it, was he --

11 BY MS. DIGIACOMO:

12 Q. When you got to the scene of the car that
13 was involved in the home invasion where it was stopped,
14 were there other officers present?

44PM 15 A. Yes. Metro was there as well as other
16 detectives working the case.

17 Q. Were there any individuals there that were
18 not officers?

19 A. There was him and then there was another
5PM 20 subject that was with him. I don't recall his name.

21 Q. So when you say him, you're talking about
22 Mr. Dorsey?

23 A. Yes.

24 Q. So he was there with all these officers by
5PM 25 the car?

45PM 1 A. Yes.

2 Q. And you didn't see --

3 A. When I got there, the other subject

4 actually was under arrest and was being at that point

45PM 5 transported and leaving to go to jail at CCDC. He had

6 several warrants for his arrest. I don't recall.

7 Q. So the second passenger of this car is

8 gone?

9 A. Yes.

45PM 10 Q. And it's just Mr. Dorsey with the vehicle

11 and all the officers?

12 A. He's sitting down actually over by one of

13 our cars.

14 Q. Correct. But he's in the vicinity of this

45PM 15 car?

16 A. Yes.

17 Q. And everyone else there is officers

18 investigating?

19 A. Yes.

45PM 20 Q. So based upon what you had said earlier

21 you went over and contacted Mr. Dorsey to let him know

22 he was under arrest?

23 A. And I advised him what the charges were

24 for.

16PM 25 Q. What did you tell him he was under arrest

46PM 1 for?

2 A. Home invasion and damage to the property.

3 Q. And that was the home invasion that

4 occurred at 2731 Warm Rays?

46PM 5 A. Correct.

6 Q. Now, when you contacted Mr. Dorsey, did
7 you notice anything about his appearance?

8 A. Yes. He was wearing a suit jacket that on
9 his left arm had several tears in it that were pretty
46PM 10 fresh. And also --

11 Q. Wait. So you're pointing to the left arm,
12 your left arm, and you started kind of at the wrist and
13 went up to the elbow?

14 A. Yeah, I believe there was a few tears, one
6PM 15 was down here and I think there was a couple up in here
16 that were torn and they were frayed so you could tell
17 they were fresh, they weren't something that was old.
18 And the jacket was fairly new, it looked like a new
19 suit jacket.

6PM 20 Q. And there was only these tears and fraying
21 on the left arm?

22 A. On the left arm, correct.

23 Q. Did you notice anything else about his
24 physical appearance?

6PM 25 A. He had like some injuries on his right

46PM 1 hand. I don't recall exactly what they were, but they
2 were on his knuckle. Some dry blood.

3 Q. So on his right hand his knuckles had dry
4 blood?

47PM 5 A. Yes.

6 Q. But did those appear to be fresh injuries
7 or was it scabbed?

8 A. Yes. They appeared to be fresh.

9 Q. Anything else about his appearance?

47PM 10 A. No.

11 Q. Now, did you do a search incident to
12 arrest of him?

13 A. Yes.

14 Q. And anything found during the search?

47PM 15 A. The key to the vehicle.

16 Q. What vehicle are you referring to?

17 A. The vehicle that he was driving. It was a
18 Suzuki rental car.

19 MR. BROWER: Judge, this calls for
17PM 20 speculation. We don't know that he was driving the
21 vehicle.

22 THE COURT: Well, hang on. His testimony
23 was that he was driving it. If he can't testify that
24 he was driving it --

7PM 25 MS. DIGIACOMO: He testified he had the

47PM 1 key.

2 THE COURT: Your testimony is that he had
3 the key to the vehicle?

4 THE WITNESS: Yes. I apologize. Yes, he
47PM 5 had the key to the vehicle in his pocket.

6 BY MS. DIGIACOMO:

7 Q. And you said it was a Suzuki?

8 A. Yeah, I believe it was a Suzuki.

9 And he also had a glove in his pocket that
18PM 10 had some blood on it and then -- that was it.

11 Q. So he had one glove in his pocket?

12 A. One glove in his pocket and the car key.

13 Q. And did you ever find the other glove?

14 A. Yeah. We found the other glove in the

8PM 15 vehicle.

16 Q. And in the vehicle you're talking about is
17 the Suzuki?

18 A. Yes.

19 Q. And that's the one with the license plate

8PM 20 953LGM that was reported we've been talking about the
21 whole time?

22 A. Correct.

23 MS. DIGIACOMO: I have nothing further.

24 THE COURT: Mr. Brower.

3PM 25

CROSS-EXAMINATION

BY MR. BROWER:

Q. Officer, did you impound the jacket that you just talked about?

A. Yes, we did.

Q. And you have that in evidence?

A. Yes.

Q. Okay. And did you impound the gloves?

A. Yes.

Q. What kind of gloves were they?

A. They looked almost like mittens. They were cotton gloves.

Q. So were they gloves or mittens?

A. I don't know. Is there a difference?

Q. One has fingers and one has --

A. It had fingers, so sure. They were like cotton gloves.

Q. Sorry. I run a ski team. Big difference.

But you didn't see Mr. Dorsey driving the vehicle?

A. No, I did not.

Q. What race was the other person in the vehicle?

A. African American as well.

Q. Do you know how tall they were?

49PM 1 A. If I remember I want to say he was like
2 6-foot.

3 Q. Do you remember his weight?

4 A. He was thin.

49PM 5 Q. Thin like Mr. Dorsey or thinner?

6 A. I want to say thinner. But my interaction
7 with him was limited so I don't recall too much.

8 Q. Did you do any showups or lineups with
9 Kevin Nazareno?

50PM 10 A. No.

11 Q. You've never shown personally Kevin any
12 pictures of the other individual?

13 A. I don't understand your question.

14 Q. You singled out Mr. Dorsey as the person
50PM 15 you believe committed this crime. I'm trying to figure
16 out what you did with the other individual to show that
17 they didn't commit this crime?

18 A. We didn't do anything with him because we
19 saw him get picked up at the mall.

0PM 20 Q. But that was after the fact, correct?

21 A. Yes.

22 THE COURT: I'm confused. Picked up by
23 officers or picked up --

24 THE WITNESS: No. He was picked up by
0PM 25 Denzel in the parking garage.

50PM 1 MS. DIGIACOMO: And by Denzel you mean the
2 defendant?

3 THE WITNESS: Yes.

4 BY MR. BROWER:

50PM 5 Q. So you say that you saw the car pull into
6 the parking lot, never stop or do anything else and go
7 pick up the other individual?

8 A. The other detective did, Max Pilz. He saw
9 him pick up -- I believe pick him up inside the parking
51PM 10 garage.

11 Q. Did you guys call out any forensic
12 examination to the Warm Rays house?

13 A. Yes.

14 MR. BROWER: Judge, I'll pass the witness.

51PM 15 THE COURT: Anything else, Miss DiGiacomo?

16 MS. DIGIACOMO: No, Your Honor.

17 THE COURT: All right. Is this witness
18 free to go?

19 MS. DIGIACOMO: Yes.

1PM 20 THE COURT: Thank you so much, officer.

21 THE WITNESS: Thank you.

22 MS. DIGIACOMO: With that the State rests.

23 THE COURT: Any motion on anything
24 regarding the complaint?

2PM 25 MS. DIGIACOMO: Oh, yeah, I'm sorry.

52PM 1 Thank you. I need to move to amend lines 17 and 22 to
2 reflect Florentino and/or Norma Nazareno as the owners.

3 MR. BROWER: Submit it, Judge.

4 THE COURT: Is that it?

52PM 5 Mr. Brower.

6 MR. BROWER: Judge, my client is aware of
7 his right to testify at a preliminary hearing. I
8 believe he is going to follow my advice and not testify
9 before your Honor, but I know you have to canvas him.

52PM 10 THE COURT: Is that correct, Mr. Denzel
11 Dorsey? You have the right to testify at your own
12 preliminary hearing. However, it can't be held against
13 you if you don't testify. Are you taking your
14 attorney's advice and not testifying at this time?

52PM 15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you have any witnesses
17 otherwise you'd like to call?

18 MR. BROWER: We don't, Judge.

19 THE COURT: Waive and reserve, State?

2PM 20 MS. DIGIACOMO: Yes.

21 THE COURT: Mr. Brower.

22 MR. BROWER: Judge, I am going to submit
23 it on what you've already heard.

24 THE COURT: All right. The testimony was
3PM 25 that the arm went through the door, broke through the

53PM 1 door, attempted to open the door and that Kevin saw an
2 African American male, watched him go out to the car
3 with that particular license plate. That license plate
4 was on the vehicle ultimately a short time later found
53PM 5 by the officers. And while we didn't have direct
6 testimony, the key was in Mr. Dorsey's pocket a short
7 time later. So to the extent there's any issues with
8 the identification, the circumstantial evidence
9 suggests that probable cause was met and that Denzel
53PM 10 Dorsey committed the crimes of attempt invasion of the
11 home and malicious destruction of private property. I
12 think the testimony on the malicious destruction of
13 property was 1097.

14 So, Mr. Dorsey, I find probable cause has
53PM 15 been met at this time on Count 1 and Count 2 so I am
16 going to bind you over to District Court to answer
17 those two charges.

18 I granted the motion to add Florentino to
19 line 17 and line 21 to include an and/or with Norma
54PM 20 Nazareno.

21 So do we have a date for District Court.

22 MR. BROWER: Judge, I know that she's
23 going to give me the 11th but I am asking for the
24 15th.

4PM 25 THE CLERK: I remember. May 15,

54PM 1 10:00 a.m. lower level.

2 THE COURT: We were operating off of an
3 amended. Are you aware of that?

4 MR. BROWER: I am, Judge.

55PM 5 THE COURT: I just wanted to make sure
6 that we were clear that we were binding him over on the
7 Amended Criminal Complaint of invasion of the home, not
8 attempt invasion of the home. Thank you.

9
55PM 10 (The proceedings concluded.)
11

12 * * * * *

13
14 ATTEST: Full, true and accurate
5PM 15 transcript of proceedings.
16

17 /S/Lisa Brenske

18 LISA BRENSKE, CSR No. 186
19
20
21
22
23
24
25



1 Keith C. Brower, Esq.
2 Nevada Bar #007288
3 The Law Offices Of Keith C. Brower, LLC
4 8275 South Eastern Suite 200
5 Las Vegas, NV 89123
6 (702) 451-4921
7 Attorney For The Defendant

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

10 STATE OF NEVADA,
11 Plaintiff,
12 vs.
13 DENZEL DORSEY,
14 ID# 2845569
15 Defendant

) Case No.: C-17-323324-1
) Dept. No.: XXII
)
)
)
)

16 **MOTION TO WITHDRAW DUE TO CONFLICT**

17 Defendant Denzel Dorsey, by and through his attorney Keith C. Brower, Esq.,
18 respectfully requests that this Court allow Keith C. Brower, Esq. to withdraw as attorney of
19 record for Mr. Dorsey and that this Court appoint independent counsel for Mr. Dorsey due to
20 a conflict of interest.

21 This Motion is made based upon the papers and pleadings on file, the attached
22 Declaration Of Counsel, as well as any oral argument this Court may entertain at the hearing
23 on this Motion.

24 DATED this 29th day of November 2017.

25 /s/ Keith C. Brower
26 Keith C. Brower, Esq.
27 Nevada Bar#7288
28 8275 South Eastern #200
Las Vegas, Nevada 89123

DECLARATION OF COUNSEL

Keith C. Brower, Esq. makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada.
2. That a conflict regarding my representation of Mr. Dorsey has arisen in this case.
3. That this conflict stems from my appointment in November to Dajae Germany's Henderson Justice Court Case Number 17FH1906B.
4. That pursuant to confidential communications with Mr. Germany and the discovery tendered following my appointment to Mr. Germany's case I learned that I would have a conflict continuing to represent Mr. Dorsey in this case.
5. This conflict also necessitated the withdrawal of my continued representation of Mr. Germany and my withdrawal in his case was granted on November 15, 2017.
6. That this conflict involving Mr. Dorsey cannot be resolved.
7. That the effective representation of Mr. Dorsey requires that I step down from this case.
8. Therefore, I request that this Court allow me to withdraw as the attorney of record in this case and that this Court appoint independent counsel to represent Mr. Dorsey from this point forward.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

DATED this 29th day of November 2017.

/s/ Keith C. Brower

Keith C. Brower, Esq.

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DATED this 29h day of November 2017.

Certificate Of Service

Clark County District Attorney's Office Keith Brower

By /s/ Keith C. Brower
Keith C. Brower, Esq.
Nevada Bar# 7288 - Attorney For Defendant
The Law Offices Of Keith, C Brower, LLC
8275 South Eastern #200
Las Vegas, NV 89123

ORIGINAL

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

MAR 09 2018

BY Keri Cromer
KERI CROMER, DEPUTY

1. **GPA**
2. **STEVEN B. WOLFSON**
3. **Clark County District Attorney**
4. **Nevada Bar #001565**
5. **SANDRA K. DIGIACOMO**
6. **Chief Deputy District Attorney**
7. **Nevada Bar #006204**
8. **200 Lewis Avenue**
9. **Las Vegas, NV 89155-2212**
10. **(702) 671-2500**
11. **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DENZEL DORSEY,
#2845569

Defendant.

CASE NO: C-17-323324-1

DEPT NO: XXII

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **COUNT 1 - INVASION OF THE HOME**
(Category B Felony - NRS 205.067 - NOC 50435), as more fully alleged in the charging
document attached hereto as Exhibit "1".

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

The State will retain the right to argue. Additionally, the State agrees not to seek
habitual criminal treatment. Further, the State will not oppose dismissal of Count 2 and Case
No. 17F21598X after rendition of sentence. The State will not oppose standard bail after entry
of plea. However, if I fail to go to the Division of Parole & Probation, fail to appear at any
future court date or am arrested for any new offenses, I will stipulate to habitual 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.

C-17-323324-1
GPA
Guilty Plea Agreement
4728985

AA 0055



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

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

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

15 CONSEQUENCES OF THE PLEA

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

18 As to Count 1, I understand that as a consequence of my plea of guilty the Court must
19 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term
20 of not less than ONE (1) year and a maximum term of not more than TEN (10) years. The
21 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of
22 imprisonment. I understand that I may also be fined up to \$10,000.00. I understand that the
23 law requires me to pay an Administrative Assessment Fee.

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

28 ///

1 **As to Count 1, I understand that I am not eligible for probation for the offense to which**
2 **I am pleading guilty.**

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

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

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

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

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

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

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

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

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

///

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

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

WAIVER OF RIGHTS

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

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

///

111

VOLUNTARINESS OF PLEA

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

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

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

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


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

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

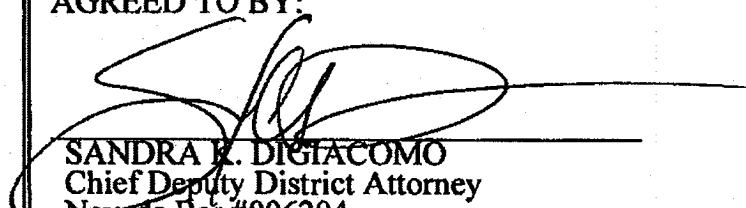
I am not now under the influence of any intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

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

DATED this 13th day of March, 2018.


DENZEL DORSEY
Defendant

AGREED TO BY:


SANDRA E. DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204

1 CERTIFICATE OF COUNSEL:

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

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

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

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

Dated: This 13th day of March, 2018.


ATTORNEY FOR DEFENDANT

erg/L-5

Steven D. Grierson

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 SANDRA K. DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

7 I.A. 5/15/17
10:00 A.M.
8 K. BROWER, ESQ.

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DENZEL DORSEY,
13 #2845569

14 Defendant.

CASE NO: C-17-323324-1

DEPT NO: XXII

INFORMATION

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

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

20 That DENZEL DORSEY, the Defendant(s) above named, having committed the crimes
21 of INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435) and
22 MALICIOUS DESTRUCTION OF PROPERTY (Gross Misdemeanor - NRS 206.310,
23 193.155 - NOC 50905), on or about the 28th day of November, 2016, within the County of
24 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
25 and provided, and against the peace and dignity of the State of Nevada,

26 ///

27 ///

28 ///

AA 0061

1 COUNT 1 - INVASION OF THE HOME

2 did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit:
3 2731 Warm Rays, Henderson, Clark County, Nevada, without permission of the owner,
4 resident, or lawful occupant, to wit: FLORENTINO and/or NORMA NAZARENO, by
5 breaking a glass door window, putting his arm through the window and unlocking the deadbolt,
6 in an attempt to gain entry.

7 COUNT 2 - MALICIOUS DESTRUCTION OF PROPERTY

8 did willfully, unlawfully, or maliciously destroy and/or injure the real and/or personal
9 property of another, to wit: a glass door window, owned by FLORENTINO and/or NORMA
10 NAZARENO, located at 2731 Warm Rays, Henderson, Clark County, Nevada, by breaking
11 said glass door window at said residence, the value of said damage being \$250.00 or more and
12 less than \$5,000.00.

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

16 BY

SANDRA K. DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204

17
18 Names of witnesses known to the District Attorney's Office at the time of filing this
19 information are as follows:

20 <u>NAME</u>	<u>ADDRESS</u>
21 CUSTODIAN OF RECORDS	Henderson Detention Center Communications
22 CUSTODIAN OF RECORDS	Henderson Detention Center Records
23 CUSTODIAN OF RECORDS	HPD COMMUNICATIONS
24 CUSTODIAN OF RECORDS	HPD RECORDS
25 GROSS, K.	C/O CCDA'S OFFICE
26 GUTIERREZ, C.	HPD P# 1695
27 HAYEK, GHASSAN	Global Auto, 1525 E. Sunset Rd., LV, NV

28 ///

1 MCGEAHY, J.

HPD P# 1411

2 NAZARENO, KEVIN

2731 Warm Rays Ave., Henderson, NV

3 NAZARENO, NORMA

2731 Warm Rays Ave., Henderson, NV

4 WARD, R.

HPD P# 1701

5 **DO NOT READ TO THE JURY**

6 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
7 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
8 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

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

10 The State of Nevada hereby places Defendant DENZEL DORSEY on notice that in the
11 event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion conviction
12 pursuant to NRS 205.067 in the above-entitled action, he/she will not be eligible for probation
13 as Defendant DENZEL DORSEY has already suffered one (1) prior Burglary and/or Home
14 Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment as a Habitual
15 Criminal," said notice being incorporated by this reference as though fully set forth herein.

16 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
17 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
18 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

19 **NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL**
20 **CRIMINAL**

21 The State of Nevada hereby places Defendant DENZEL DORSEY on notice of the
22 State's intent to seek punishment of Defendant DENZEL DORSEY pursuant to the provisions
23 of NRS 207.010 as a habitual criminal in the event of a felony conviction in the above-entitled
24 action.

25 The State will seek punishment as a habitual criminal based upon the following felony
26 convictions, to wit:

27 ///

28 ///

///

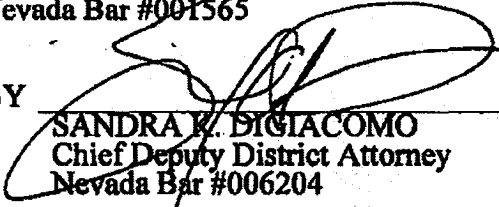
///

1 1. That in 2012, the Defendant was convicted in the Eighth Judicial District
2 Court, County of Clark, State of Nevada, for the crime of Invasion of Home, in Case No.
3 C-12-284308-1.

4 2. That in 2012, the Defendant was convicted in the Eighth Judicial District
5 Court, County of Clark, State of Nevada, for the crime of Attempt Burglary, in Case No.
6 C-12-279732-1.

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

10 BY

11 
12 SANDRA E. DIGIACOMO
13 Chief Deputy District Attorney
14 Nevada Bar #006204

15 **DO NOT READ TO THE JURY**

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27 DA#16FH2022X/erg/L-5
28 HPD EV#1621448
 (TK)

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 08:30 AM State's Request for Entry of Plea

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

COURT CLERK: Cromer, Keri; Kidd, Lauren

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Caitlyn McAmis	Attorney for Defendant
Denzel Dorsey	Defendant
State of Nevada	Plaintiff
Victoria A. Villegas	Attorney for Plaintiff

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



MOT
CAITLYN MCAMIS, ESQ.
Nevada Bar No. 012616
THE LAW OFFICES OF KRISTINA WILDEVELD
550 E. Charleston Blvd., Suite A
Las Vegas, NV 89104
Phone (702) 222-0007
Fax (702) 222-0001
Attorney for Defendant, DENZEL DORSEY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)	
	)	CASE NO. C-17-323324-1
Plaintiff,	)	DEPT. NO. XXII
)	
vs.)	
)	
DENZEL DORSEY,)	
)	
Defendant.)	

MOTION TO PLACE ON CALENDAR TO ADDRESS CUSTODY STATUS AND HOLD

COMES NOW the Defendant, DENZEL DORSEY, by and through his attorney, CAITLYN MCAMIS, ESQ., and respectfully moves to place this matter on calendar to address Mr. Dorsey's custody status in this case while he is subject to an out-of-state hold.

This motion is made and based upon all of the papers and pleadings on file herein, the attached Declaration in support hereof, as well as oral argument at the time of hearing.

DATED this 25th day of April, 2018.

Respectfully Submitted by:

/s/: Caitlyn McAmis
CAITLYN MCAMIS, ESQ.
Nevada Bar No. 012616
Attorney for Defendant, DENZEL DORSEY

1 **NOTICE OF MOTION**

2 TO: STATE OF NEVADA, Plaintiff; and,

3 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff;

4 TO: SANDRA DIGIACOMO, Chief Deputy District Attorney;

5 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the Defendant will
6 bring the foregoing **MOTION TO PLACE ON CALENDAR TO ADDRESS CUSTODY**
7 **STATUS AND HOLD** on for hearing on the ___ day of May 8, 2018 at the
8 hour of 8:30 am .m., in Department 22 of the Eighth Judicial District Court, or as soon
9 thereafter as the matter can be heard before the Court.

10 DATED this 25th day of April, 2018.

11 Respectfully submitted by:

12 /s/: Caitlyn McAmis

13 CAITLYN MCAMIS, ESQ.

14 Nevada Bar No. 012616

15 550 E. Charleston Blvd., Suite A

16 Las Vegas, NV 89104

17 (702) 222-0007

18 Attorney for Defendant, DENZEL DORSEY
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I make this declaration upon information and belief under penalty of perjury under the laws of the State of Nevada this 25th day of April, 2018.

AA 0068

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SANDRA DIGIACOMO, ESQ.
E-mail: *sandra.digiacom@clarkcountyda.com*
E-mail: *Motions@clarkcountyda.com*

-4-

Felony/Gross Misdemeanor

COURT MINUTES

May 08, 2018

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

May 08, 2018 08:30 AM Motion to Place on Calendar to Address Custody Status and Hold

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

COURT CLERK: Cromer, Keri

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Caitlyn McAmis	Attorney for Defendant
Denzel Dorsey	Defendant
John T. Niman	Attorney for Plaintiff
State of Nevada	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 08:30 AM Sentencing

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

COURT CLERK: Cromer, Keri

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Caitlyn McAmis	Attorney for Defendant
Denzel Dorsey	Defendant
John T. Niman	Attorney for Plaintiff
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

191

Steven D. Grierson

DENZEL DORSEY
#2845569, CCDC, NVC
330 S. CASINO Center Blvd.
LAS Vegas, Nevada 89101

District Court
Clark County, Nevada

The State of Nevada
Plaintiff

-VS-

#2845569

Case No. # C-¹⁷323324-1
Dept. No. # 22 ~~XXII~~

Denzel Dorsey
Defendant

Date: 06/28/18 Time: 9:00 AM

Motion To Dismiss Counsel

Comes now, defendant, Denzel Dorsey, in Pro Se, moves
this Honorable Court for a Motion To Dismiss Counsel.
This motion is made and based upon all papers, pleadings, and
documents on file with the clerk of the Court. The Points and
Authorities, and the argument contained therein.

Dated this 27 day of MAY 2018

Respectfully Submitted
Denzel Dorsey #2845569
[Signature]

In Pro Se, CCDC NVC
330 S. Casino Center Blvd
Las Vegas, Nevada 89101

MC
DA
PP
AOR-
Caitlyn
McAmis

CLERK OF THE COURT

JUN 06 2018

RECEIVED

CLERK OF THE COURT

MAY 31 2018

RECEIVED

Points AND Authorities Argument

Nev. Rev. Stat. 7.855 provides that:

An Attorney who has been discharged by his client shall, upon demand... immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client

In this case, defendant was appointed counsel, and counsel simply not filing the requested Pre sentence motion to withdraw guilty plea, addressing Nev. Rev. Stat. 176.165 to where the defendant can move to withdraw his plea. and also wherein counsel has failed to comply with Rule 401-4, under the Nevada Rules of professional conduct, by failing to carry out defendants interest in his court proceedings whereas counsel (1) not reasonably informing defendant about the status of his case matters (2) failing to communicate with the defendant as ordered by counsel (3) mis informing defendant of various court proceedings on counsel's behalf (4) by not filing various motions that defendant has requested

wherefore, defendant has filed this motion to Dismiss Counsel to be heard, and formally requested that Counsel be Dismissed,

Certificate of Service by Mailing

I, Denzel Dorsey, do declare pursuant to N.R.C.P 5(b) that on this day 27 of May 2018 I sent a copy of Motion to Dismiss Counsel and notice of Motion to;

The Clerk of the Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

Steven Wolfson
District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101

Kristina Wildeveld, Esq.
Attorney at Law [Court appointed]
550 E. Charleston Blvd Suite A
Las Vegas, NV 89104

Dated this 27 day of May 2018

Respectfully Submitted,

Denzel Dorsey



In Pro Se, CCDC NVC
330 S. Casino Center Blvd
Las Vegas, Nevada 89101

Denzel Daisey #2845569
CCDC, NV
330 S. Casino Center Blvd
Las Vegas, NV 89101

LAS VEGAS NV 890

29 MAY 2018 PM 4 FOREVER



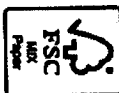
CCDC - 330 S. CASINO CENTER

Attn: Clerk of the Court
Dept. ~~XVII~~ (22)
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89101

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



AA 0075

29

Steven D. Grierson

Denzel Dorsey
#2845569, CCDC, NVC
330 S. Casino Center Blvd
Las Vegas, Nevada 89101

District Court
Clark County, Nevada

The State of Nevada
Plaintiff, -

-VS-

Denzel Dorsey #2845569
Defendant,

Case NO # C-17-323324-1
Dept. NO # 22 XXII

Date: 06/28/18 Time: 9:00 AM

Motion To WITHDRAW PLEA

Comes now, defendant, Denzel Dorsey, in-pro se,
moves this honorable Court for a Motion To WITHDRAW PLEA.
This motion is made and based upon all papers,
pleadings and documents on file with the Clerk of the Court,
the points and authorities, and the argument contained
therein.

Dated this 27 day of May 2018

Respectfully Submitted
Denzel Dorsey #2845569

[Signature]
IN Pro Se, CCDC, NVC
330 S. CASINO Center Blvd
Las Vegas, Nevada 89101

RECEIVED

(1)

AA 0076

MC
DA
PP
ADR-
Carlynn
McAmis

CLERK OF THE COURT

JUN 06 2018

RECEIVED

CLERK OF THE COURT

MAY 30 2018

28

Points and Authorities ^{Argument}

In this case, defendant, was appointed counsel and counsel ignored defendant's request to reasonably investigate, and now defendant asserts that his guilty plea was not knowingly, voluntarily, and intelligently entered because counsel led him to believe his case was indefensible **Strickland v. Washington**.

Defendant has explained his favorable facts in which counsel ignored the defendant request to investigate, wherein counsel told the defendant that because of his extensive criminal history and since there was drugs in the vehicle, the jury would shame upon him, that the defendant was to lose his trial and become convicted under the habitual criminal act. regardless of the defendant's favorable facts that now I submit to rise. The defendant was advised by counsel to take the states plea offer or there would be no other deal but to become habitualize under a 5-20 year sentence. **Cripps v. State.**

The defendant was also expecting his first child to be born at the time he had entered the guilty plea, wherein counsel has told the defendant that the only way to get rid of this to move on with life and to see his first child be born, was to sign the plea agreement with the stipulation that the defendant was to remain out of custody, that his bail was to be re-instated in this case and get an OR in case NO. 17F21598X for dismissal after rendition of sentence. The defendant

1 ask his counsel to had put a motion to adjust his custody
2 status wherein counsel said that the defendant wouldn't
3 get a bail and the only way was to sign the plea agree-
4 ment. The defendant told counsel that he may have a fugitive
5 debitor in the state of California, wherein counsel stated
6 that he would be released within 30 days from the state
7 of Nevada's custody upon entering the plea agreement. The
8 defendant has not seen his relief in being released from
9 Nevada's custody, wherein now the state has placed a
10 informal hold on the defendant until the full resolution of
11 local charges, which the defendant has entered the plea
12 with the knowledge of promise that he was to remain
13 out of custody until sentencing as told by counsel.

14 Crawford v. State

15 Therefore, counsel was ineffective for failing to reason-
16 ably investigate, failing to explain the strength and weak-
17 nesses of the evidence, failing to inform him of the con-
18 sequences of the plea, failing to provide an adequate
19 defense and failing to ensure defendant understood
20 the sentencing scheme.

21 wherefore with the defendant's belief that he had no
22 viable defense and therefore no choice than to accept
23 the state's plea bargain, and that there is new evidence
24 that could relieve the defendant of guilt and persecution,
25 the defendant moves to submit his declarations and
26 withdraw his plea addressing NRS 176.165.

Declarations by:
Denzel Dorsey

I, Denzel Dorsey, Hereby State:

1) THAT the true suspect Davey Dorsey has given his confession through an affidavit which relieves defendant of guilt and persecution in this case

2) THAT I am a 5'9 165 LB Black male which the true suspect is about 6'1 195 LB and is also a Black male which positively identifies him as the true suspect given by victim in this case.

3) That the victim never positively identifies the defendant within his court proceedings.

4) That after the occurrence of incident the vehicle (953L 6M) made two separate stops (1) S. LindellSt, which where the defendant were present, and (2) VikingSt, which the defendant dropped true suspect off without knowledge of the incident that occurred previously.


5) Defendant were present on the block of RochelleSt. Lindell AT the time of the incident

6.) I AM A Layman Not trained in Law.

7.) MY Full Name IS Denzel Dorsey; Date of Birth 09/24/93; SOCIAL SECURITY #620685408

I, Denzel Dorsey state that the fore mentioned declarations is true to be factual to the best of my knowledge under the penalty of perjury

Dated this 27 day of May 2018

 #2845569
DENZEL DORSEY

(4)

Certificate Of service By mailing

I, Denzel Dorsey, do declare pursuant to N.R.C.P
5 (b) that on the 27 day of May 2018 I
Sent a copy of Motion To WITHDRAW PLEA, AND NOTICE
of motion to;

The Clerk of the Court
Regional Justice Center
200 Lewis Avenue
LAS Vegas, Nev 200 89101

Steven Wolfson
District Attorney
200 Lewis Avenue
LAS Vegas, Nevada 89101

Kristina WILDEVELD, Esq. [Cathryn McAMIS]
Attorney AT LAW [Court appointed]
550 E. CHARLESON Blvd suite A
LAS Vegas, Nevada 89104

Dated this 27 day of May 2018

Respectfully Submitted
Denzel Dorsey
R/R #2845569
In PRO SE, CCDC, NVC
330 S. CASINO Center Blvd
LAS Vegas, Nevada 89101

Daniel Darsey #2845569
CCDC, NVG
330 S. Casino Center Blvd
Las Vegas, NV 89101

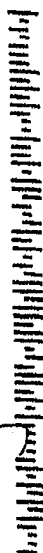
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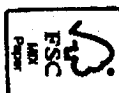
Attn: Clerk of the Court
Dept. XXII (22)
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89101

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SENT FROM CCDC

AA 0081

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 08:30 AM All Pending Motions

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

COURT CLERK: Cromer, Keri

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Caitlyn McAmis Attorney for Defendant

John T. Niman Attorney for Plaintiff

State of Nevada 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.)



1 TRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6
7 STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 DENZEL DORSEY,

11 Defendant.

CASE NO. C323324-1

DEPT. XXII

12 BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE

13 MARCH 13, 2018

14
15 **RECORDER'S TRANSCRIPT OF HEARING RE**

16 **STATE'S REQUEST FOR ENTRY OF PLEA**
17
18
19

20 **APPEARANCES:**

21 For the Plaintiff:

VICTORIA VILLEGAS, ESQ.
Deputy District Attorney

22
23 For the Defendant:

CAITLYN L. MCAMIS, ESQ.

24
25 RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 TUESDAY, MARCH 13, 2018 AT 8:53:16 A.M.

2
3 THE COURT: Okay. State of Nevada versus Denzel Dorsey, case number
4 C323324-1. Would you announce your appearances for the record, please?

5 MS. MCAMIS: Good morning, Your Honor. Caitlyn McAmis, bar number
6 12616 on behalf of Denzel Dorsey who is present in custody.

7 MS. VILLEGAS: Victoria Villegas on behalf of the State.

8 THE COURT: And this is State's Request for Entry of Plea.

9 MS. MCAMIS: That's correct. Your Honor, I do have the signed guilty plea
10 agreement. I apologize that I didn't have time to file it before court. I'm asking for
11 permission to file it in open court. This matter is resolved.

12 THE COURT: Okay. Go ahead.

13 MS. MCAMIS: If I may approach.

14 THE COURT: You may approach.

15 MS. MCAMIS: Thank you. All right. Your Honor, I believe you now have the
16 filed guilty plea agreement in front of you. Today Mr. Dorsey is prepared to admit
17 and plead guilty to Count 1, Invasion of the Home, a Category B Felony which is
18 based on the plea agreement as follows. The State will retain the right to argue.
19 Additionally, the State agrees not to seek habitual criminal treatment. Further, the
20 State will not oppose dismissal of Count 2 in this case and dismissal of the Las
21 Vegas Justice Court case number 17F21598X after rendition of sentence. The
22 State will also not oppose standard bail after entry of plea, however if he fails to
23 interview with the department – or excuse me, Division of Parole and Probation or if
24 he fails to appear at any future court date or is arrested for any new offense he will
25 be stipulating to small habitual criminal treatment. That would be a stipulated

1 sentence of 60 months to 120 months in the Nevada Department of Corrections.
2 And finally, he agrees to pay full restitution for this case and counts dismissed. And
3 there's a forfeiture agreement as well to the extent there was anything seized.

4 THE COURT: Okay.

5 MS. VILLEGAS: That is correct, Your Honor.

6 THE COURT: Okay. Mr. Dorsey, I need you in front of the microphone. You
7 might need a little help from your neighbor there, all right? Okay. I need to be able
8 to hear you so please project for me, all right?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. I do have a guilty plea agreement which was filed in
11 open court just a few seconds ago indicating that you had agreed to plead guilty to
12 committing the crime of Count 1, Invasion of the Home, a Category B Felony in
13 violation of NRS 205.061. Sir, did you sign this agreement?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Prior to signing the agreement, did you have an opportunity to
16 review the agreement? Did you review it and understand the terms?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Is anyone forcing you to plead guilty?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: You're pleading guilty of your own free will?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Is Denzel Dorsey your true name?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay. By the way, are you able to hear him?

25 THE COURT RECORDER: No.

1 THE COURT: Okay. Did you ever have a coach in high school?
2 THE DEFENDANT: I used to box so, yes.
3 THE COURT: Okay. Project like your coach voice, all right? Okay.
4 THE DEFENDANT: Yes, Your Honor.
5 THE COURT: Okay. Say it again.
6 THE DEFENDANT: Yes, Your Honor.
7 THE COURT: All right. Say it just like that, all right? All right. Is Denzel
8 Dorsey your true name, sir?
9 THE DEFENDANT: Yes, Your Honor.
10 THE COURT: All right. How old are you?
11 THE DEFENDANT: 24.
12 THE COURT: All right. How far did you go in school?
13 THE DEFENDANT: I graduated high school.
14 THE COURT: What high school?
15 THE DEFENDANT: In the Department of Corrections.
16 THE COURT: I'm sorry?
17 THE DEFENDANT: In the Department of Corrections.
18 THE COURT: Did you get a GED or did you actually go to high school there?
19 THE DEFENDANT: No, I just completed it High Desert.
20 THE COURT: At High Desert. Okay. Well, you speak very well. Do you
21 read, write and understand the English language?
22 THE DEFENDANT: Yes, Your Honor.
23 THE COURT: All right. Are you a United States Citizen?
24 THE DEFENDANT: Yes, Your Honor.
25 THE COURT: Okay. And just so that I am clear because we couldn't hear

1 that well, sir, did you have an opportunity to review the guilty plea agreement? Did
2 you review it and understand the terms?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. Is anyone forcing you to plead guilty?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: You're pleading guilty of your own free will?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Okay. Sir, just so that I am clear. Do you understand the
9 penalty range for this crime?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. You understand that as a consequence of your guilty
12 plea the Court must sentence you to imprisonment in the Nevada Department of
13 Corrections for a minimum term of not less than one year and a maximum term of
14 not more than ten years?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you also understand that you could be fined up to \$10,000?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you also understand that sentencing is strictly up to the
19 Court, that one can promise you probation, leniency or other special treatment?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you also understand that no one could promise you a
22 particular sentence even though this guilty plea agreement says agreement and
23 stipulations and all that stuff that I as the Judge do not necessarily have to follow
24 this deal?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you also understand that you are giving up certain
2 constitutional rights which are listed in the guilty plea agreement?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: I take it that you did discuss your case and your rights with your
5 lawyer?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you have any questions regarding your rights or the
8 negotiations?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Okay. So – just so that I am clear – let me get there. You are
11 pleading guilty because in truth and in fact on or about the 28th day of November
12 2016 within the County of Clark, state of Nevada, contrary to the form, force and
13 effect of statutes in such cases made and provided and against the peace and
14 dignity of the state of Nevada that you willfully, unlawfully, feloniously and forcibly
15 entered an inhabited dwelling to wit: 2731 Warm Rays, Henderson, Clark County,
16 Nevada without permission of the owner, resident or lawful occupant to wit:
17 Florentino and/or Norma Nazareno by breaking a glass window, putting your arm
18 through the window and unlocking the deadbolt in an attempt to gain entry.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. Is the State satisfied with that canvass?

21 MS. VILLEGAS: Yes, Your Honor.

22 THE COURT: Okay. Okay. The Court conditionally accepts your plea as
23 being freely and voluntarily given. And we need to give this gentleman a sentencing
24 date.

25 MS. MCAMIS: Your Honor, I would point out that pursuant to the negotiations

1 the State does not oppose standard bail after entry of plea. He has entered his bail
2 and I would like to direct the Court's attention. He actually posted a \$7,000 bail in
3 this case. He was out on bail and then was picked up after a new case. So, we are
4 asking for the Court to – and I believe the \$7,000 bond bail was not exonerated, I
5 believe it's still in place. So, we are asking for him to actually be released pending
6 sentencing.

7 MS. VILLEGAS: That's fine, Your Honor.

8 THE COURT: Okay. I will go ahead and allow him to be released on this bail.
9 But, sir, I just want to caution you. Part of the deal is the State does not oppose
10 standard bail after entry of plea which I guess the standard bail is \$7,000, however,
11 if you fail to go to the Division of Parole and Probation, if you fail to appear at any
12 future court date or are arrested on any new offenses, that you have stipulated that
13 you would serve habitual criminal treatment, meaning that you are stipulating to a
14 sentence of a minimum of 60 month to a maximum of 120 months to be served in
15 the Nevada Department of Corrections. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: That's quite a hammer. So, (1) you gotta stay out of trouble
18 and you gotta cooperate with the division, you understand?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. All right. I will go ahead and allow him to be released.
21 And let's get him a date.

22 THE COURT CLERK: July 17th, 8:30 a.m.

23 THE COURT: July 17th at 8:30 a.m. You understand?

24 [No audible response from the defendant]

25 MS. MCAMIS: Your Honor, would it be possible to go just 30 days beyond

1 that?

2 THE COURT: Why?

3 MS. MCAMIS: He actually has a new born child. He's trying to prepare
4 himself and get everything in order and take of a death in the family and then be
5 able to come back and be subject to his remand and serve his prison sentence. So,
6 he's just asking for an additional 30 days.

7 THE COURT: Any objection to that?

8 MS. VILLEGAS: Well, Your Honor, it's already like four months away so –

9 THE COURT: When is the baby due?

10 MS. MCAMIS: The baby was actually already due. The baby is already born.
11 Excuse me.

12 THE COURT: Okay.

13 MS. MCAMIS: The baby's been born so it's a brand new baby.

14 THE COURT: Okay. So, why can't we sentence in July?

15 MS. MCCAMISH: I was just asking for an additional date because for the
16 additional time to be able to prepare and go serve his prison sentence, but we would
17 submit it to the Court.

18 THE COURT: Well, additional time to serve. I'm not understand – to prepare.

19 MS. MCAMIS: Right. He has a number of things that he needs to get in order
20 including taking care of his fiancé, taking care of his baby and then taken care of the
21 recent death in the family.

22 THE DEFENDANT: I have estate issues with my family so I have to go
23 [indecipherable]

24 THE COURT: Okay. I'm having really – I'm having a tough time hearing you,
25 sir. Could you project, please?

1 THE DEFENDANT: I have estate issues, you know, that I have to go and
2 settle with my family. Property –

3 THE COURT: Who passed away?

4 THE DEFENDANT: My grandfather.

5 THE COURT: Okay. And you have to take care of this?

6 THE DEFENDANT: Well, he left me some property and some other things
7 that I'm entitled to that I have to take care of.

8 THE COURT: I see no reason why you can't get it done in four months, okay?
9 So, July 17th at 8:30.

10 MS. MCAMIS: Thank you, Your Honor.

11 THE COURT: Okay. Thank you.

12 MS. MCAMIS: Oh, and just to confirm the calendar call and jury trial dates will
13 be vacated, correct?

14 THE COURT: Thank you for reminding me.

15 MS. MCAMIS: Thank you –

16 THE COURT: The calendar –

17 MS. MCAMIS: -- so much.

18 THE COURT: -- call of April 17 will be vacated as well as the jury trial of April
19 23rd of 2018.

20 * * * * *

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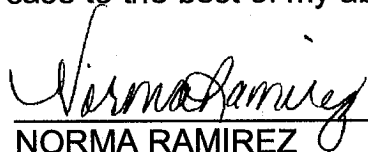
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MS. MCAMIS: Thank you.

[Proceedings concluded at 9:03:37 a.m.]

* * * * *

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



NORMA RAMIREZ
Court Recorder
District Court Dept. XXII
702 671-0572

C-17-323324-1

**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 09:00 AM All Pending Motions

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

COURT CLERK: Cromer, Keri

RECORDER: Ramirez, Norma

REPORTER:

PARTIES PRESENT:

Denzel Dorsey	Defendant
State of Nevada	Plaintiff
Victoria A. Villegas	Attorney for Plaintiff

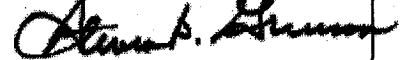
JOURNAL ENTRIES

**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**



1 **OPPS**

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

5 JOHN T. NIMAN
6 Deputy District Attorney
7 Nevada Bar #014408
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 DENZEL DORSEY,
16 #2845569

17 Defendant.

CASE NO: C-17-323324-1

DEPT NO: XV

18 **STATE'S OPPOSITION TO DEFENDANT'S**
19 **PRO PER MOTION TO WITHDRAW PLEA**

20 DATE OF HEARING: JULY 17, 2018
21 TIME OF HEARING: 8:30 A.M.

22 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
23 District Attorney, through JOHN T. NIMAN, Deputy District Attorney, and hereby submits
24 the attached Points and Authorities in Opposition to Defendant's Pro Per Motion to Withdraw
25 Plea.

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

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AA 0094

1 **POINTS AND AUTHORITIES**

2 **PROCEDURAL HISTORY**

3 Denzel Dorsey ("Defendant") was charged, by way of Information, with one count of
4 Invasion of the Home, and one count of Malicious Destruction of Property. Information,
5 May 9, 2017. Defendant was arraigned and pleaded not guilty on May 15, 2017. After several
6 trial settings, Defendant entered into a Guilty Plea Agreement wherein he agreed to plead
7 guilty to one count of Invasion of the Home. Guilty Plea Agreement, March 9, 2018. Pursuant
8 to the Guilty Plea Agreement, the State retained the right to argue, but agreed not to seek
9 habitual criminal treatment, agreed to dismiss the Malicious Destruction of Property charge,
10 and agreed to dismiss case 17F21598X after rendition of sentence. Id. at 1. Additionally, the
11 State agreed not to oppose standard bail after entry of plea. Id. Defendant agreed that if he
12 failed to report to the Division of Parole and Probation, failed to appear for any future Court
13 dates, or was arrested on any new charges, he would be adjudicated as a habitual criminal with
14 a stipulated sentence of 60-120 months in the Nevada Department of Corrections. Id.
15 Defendant additionally agreed to pay restitution, including in cases and counts dismissed. Id.

16 On March 13, 2018, this Court canvassed Defendant, and Defendant entered his guilty
17 plea. Recorder's Transcript of Hearing Re State's Request for Entry of Plea March 13, 2018
18 ("Transcript"). Defendant was to be sentenced on June 5, 2018. Minutes, June 5, 2018.
19 However, Defendant's counsel informed the Court that Defendant had filed Motions to
20 withdraw counsel and to withdraw his guilty plea, though they had not yet been received by
21 the Court. Id. These Motions were received on June 6, 2018. On June 12, 2018, this Court
22 granted Defendant's Motion to Withdraw Counsel and appointed Ed Hughes as Defendant's
23 counsel, but continued the sentencing and set a status check for confirmation of counsel on
24 June 28, 2018. Minutes, June 12, 2018. On June 28, 2018, the Court continued the Sentencing
25 until July 17, 2018, so Mr. Hughes could be present, and for the State to file an Opposition to
26 Defendant's Motion to Withdraw Guilty Plea. The State's Opposition follows.

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POINTS AND AUTHORITIES

A Defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and "a District Court may grant a Defendant's Motion to withdraw his guilty plea before sentencing for any reason where permitting withdrawal would be fair and just," Stevenson v. State, 131 Nev. , 354 P.3d 1277, 1281 (2015). To this end, the Nevada Supreme Court has disavowed the standard previously announced in Crawford v. State, 117 Nev. 718, 30 P.3d 1123 (2001), which focused exclusively on whether the plea was knowingly, voluntarily, and intelligently made, and affirmed that "the District Court must consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just." Stevenson, 131 Nev. at , 354 P.3d at 1281. However, Nevada law clearly establishes that a plea of guilty is presumptively valid and the burden is on the defense to show that the plea was not voluntarily entered. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 367 (1986); Wingfield v. State, 91 Nev. 336, 337, 535 P.2d 1295, 1295 (1975).

The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense." The United States Supreme Court has long recognized that "the right to counsel is the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993).

To prevail on a claim of ineffective assistance of trial counsel, a Defendant must prove he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865 P.2d at 323. Under the Strickland test, a Defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test). "[T]here is no reason for a Court deciding an ineffective assistance claim to

1 approach the inquiry in the same order or even to address both components of the inquiry if
2 the Defendant makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct.
3 at 2069.

4 The Court begins with the presumption of effectiveness and then must determine
5 whether the Defendant has demonstrated by a preponderance of the evidence that counsel was
6 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
7 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
8 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
9 537 P.2d 473, 474 (1975).

10 Counsel cannot be ineffective for failing to make futile objections or arguments. See
11 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
12 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
13 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
14 (2002).

15 Based on the above law, the role of a Court in considering allegations of ineffective
16 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
17 whether, under the particular facts and circumstances of the case, trial counsel failed to render
18 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
19 (1978). This analysis does not mean that the Court should “second guess reasoned choices
20 between trial tactics nor does it mean that defense counsel, to protect himself against
21 allegations of inadequacy, must make every conceivable Motion no matter how remote the
22 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
23 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
24 cannot create one and may disserve the interests of his client by attempting a useless charade.”
25 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

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AA 0097

1 "There are countless ways to provide effective assistance in any given case. Even the
2 best criminal defense attorneys would not defend a particular client in the same way."
3 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after
4 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,
5 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
6 P.2d 951, 953 (1989). In essence, the Court must "judge the reasonableness of counsel's
7 challenged conduct on the facts of the particular case, viewed as of the time of counsel's
8 conduct." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

9 Even if a Defendant can demonstrate that his counsel's representation fell below an
10 objective standard of reasonableness, he must still demonstrate prejudice and show a
11 reasonable probability that, but for counsel's errors, the result of the trial would have been
12 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
13 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). "A reasonable probability is a probability
14 sufficient to undermine confidence in the outcome." Id. (citing Strickland, 466 U.S. at 687-
15 89, 694, 104 S. Ct. at 2064-65, 2068).

16 A Defendant must prove the disputed factual allegations underlying his ineffective-
17 assistance claim by a preponderance of the evidence. Means v. State, 120 Nev. 1001, 1012,
18 103 P.3d 25, 33 (2004). Furthermore, claims of ineffective assistance of counsel must be
19 supported with specific factual allegations, which if true, would entitle the petitioner to relief.
20 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and "naked"
21 allegations are not sufficient, nor are those belied and repelled by the record. Id.

22 A Defendant who contends his attorney was ineffective because he did not adequately
23 investigate must show how a better investigation would have rendered a more favorable
24 outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004).

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1 Here, Defendant's Motion to Withdraw Guilty Plea ("Motion") raises four issues. First,
2 Defendant states that counsel failed to perform an adequate investigation. Motion at 2-3.
3 However, Defendant fails to state what counsel should have investigated, what a better
4 investigation would have found, and how that better investigation would have rendered a more
5 favorable outcome probable. Indeed, the claim that counsel failed to adequately investigate his
6 case is merely a "bare" and "naked" allegation which cannot provide a "fair" or "just" reason
7 for which he should be allowed to withdraw his guilty plea. Hargrove, 100 Nev. at 502, 686
8 P.2d at 225. Accordingly, Defendant's claim should be denied.

9 Second, Defendant states that Counsel represented that "the only way to get rid of [this
10 case] to move on with life and to see his first child be born, was to sign the plea agreement
11 with the stipulation that the Defendant was to remain out of custody, that his bail was to be
12 reinstated in this case and get an OR in case No. 17F214598X after rendition of sentence."
13 Motion at 2. As to the initial point, Defendant's child was already born by the time he entered
14 his plea when this Court canvassed him. Transcript at 8. Second, this Court in fact reinstated
15 bail at \$7,000, which the State did not oppose, and, as bail had been previously posted, the
16 Defendant was released in this case. Id. at 6-8. Therefore, Defendant received the benefit for
17 which he bargained, and this does not constitute a reason to permit him to withdraw his plea.

18 Third, Defendant claims that counsel failed "to inform him of the consequences of the
19 plea," and failed "to ensure [he] understood the sentencing scheme." Once again, these are
20 "bare" and "naked" allegations insufficient to permit him to withdraw his guilty plea.
21 Hargrove, 100 Nev. at 502, 686 P.2d at 225. Further, these claims are belied by the record. In
22 fact, both this Court and Defendant's counsel explained both the consequences of his plea and
23 the potential sentence which he was facing:

24 THE COURT: Okay. And just so that I am clear because we couldn't hear that
25 well, sir, did you have an opportunity to review the guilty plea agreement? Did
you review it and understand the terms?

26 THE DEFENDANT: Yes, Your Honor.

27 THE COURT: All right. Is anyone forcing you to plead guilty?

28 THE DEFENDANT: No, Your Honor.

1 THE COURT: You're pleading guilty of your own free will?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. Sir, just so that I am clear. Do you understand the penalty
4 range for this crime?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. You understand that as a consequence of your guilty
7 plea the Court must sentence you to imprisonment in the Nevada Department of
8 Corrections for a minimum term of not less than one year and a maximum term
9 of not more than ten years?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you also understand that you could be fined up to \$10,000?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you also understand that sentencing is strictly up to the Court,
14 that one can promise you probation, leniency or other special treatment?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you also understand that no one could promise you a
17 particular sentence even though this Guilty Plea Agreement says agreement and
18 stipulations and all that stuff that I as the Judge do not necessarily have to follow
19 this deal?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you also understand that you are giving up certain
22 constitutional rights which are listed in the Guilty Plea Agreement?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: I take it that you did discuss your case and your rights with your lawyer?

25 THE DEFENDANT: Yes, Your Honor.

26 THE COURT: Do you have any questions regarding your rights or the negotiations?

27 THE DEFENDANT: No, Your Honor.

28 Transcript at 4-6.

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1 As demonstrated by the canvass and his own representations, Defendant both
2 understood the consequences of his plea and the potential sentence which he faced. Therefore,
3 Defendant's third claim is belied by the record and does not constitute a "fair" or "just" reason
4 for which he should be permitted to withdraw his guilty plea. Additionally, Defendant has
5 failed to demonstrate either that counsel was ineffective, or that even if counsel was ineffective
6 that he was in any way prejudiced by that ineffectiveness.

7 Finally, Defendant's "Declaration" appears to argue that he is actually innocent. Motion
8 at 4. However, this claim, too, is belied by the record. When canvassed by this Court,
9 Defendant admitted that he was pleading guilty because he is, in truth and in fact, guilty.

10 THE COURT: Okay. So – just so that I am clear – let me get there. You are
11 pleading guilty because in truth and in fact on or about the 28th day of November
12 2016 within the County of Clark, state of Nevada, contrary to the form, force
13 and effect of statutes in such cases made and provided and against the peace and
14 dignity of the state of Nevada that you willfully, unlawfully, feloniously and
15 forcibly entered an inhabited dwelling to wit: 2731 Warm Rays, Henderson,
16 Clark County, Nevada without permission of the owner, resident or lawful
17 occupant to wit: Florentino and/or Norma Nazareno by breaking a glass window,
18 putting your arm through the window and unlocking the deadbolt in an attempt
19 to gain entry.

20 THE DEFENDANT: Yes, Your Honor.

21 Transcript at 6.

22 Defendant has failed to show that counsel was in any way ineffective, or that he was
23 prejudiced by any ineffectiveness. Defendant fails to demonstrate that counsel did not conduct
24 an adequate investigation, or to demonstrate what additional investigation would have
25 uncovered that may have been beneficial or rendered a more favorable outcome probable.
26 Defendant received the release for which he negotiated by agreeing to plead guilty. Defendant
27 was informed, both by counsel and by this Court, of the consequences and potential sentence
28 he faced by entering into this plea. Defendant's claim of innocence is belied by his earlier
representation that he is guilty. As such, under the totality of the circumstances, Defendant has
failed to provide any "fair" or "just" reason why he should be permitted to withdraw his guilty
plea, and his Motion should, therefore, be denied.

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AA 0101

1 **CONCLUSION**

2 For the foregoing reasons, the State respectfully requests that Defendant's Motion To
3 Withdraw Guilty Plea be DENIED.

4 DATED this 3rd day of July, 2018.

5 Respectfully submitted,

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

9 BY John T. Niman
10 JOHN T. NIMAN
11 Deputy District Attorney
12 Nevada Bar #014408

13 **CERTIFICATE OF FACSIMILE TRANSMISSION**

14 I hereby certify that service of the above and foregoing was made this 3rd day of July,
15 2018 by facsimile transmission to:

16 EDWARD B. HUGHES, ESQ.
17 (702) 565-7121

18 BY /s/ E. Goddard
19 E. Goddard
20 Secretary for the District Attorney's Office

21 **CERTIFICATE OF MAILING**

22 I hereby certify that service of the above and foregoing was made this 3rd day of July,
23 2018 by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

24 DENZEL DORSEY, ID# 2845569
25 CLARK COUNTY DETENTION CENTER
26 330 S. CASINO CENTER BLVD.
27 LAS VEGAS, NV 89101

28 BY /s/ E. Goddard
E. Goddard
Secretary for the District Attorney's Office

16FH2022X/erg/L-5

AA 0102

Sent Successfully To: EDWARD B. HUGHES, ESQ. at 702-565-7121

07/03/2018 08:28AM * Pg 1/1

User ID: GODDARE

=====

TO: Name: EDWARD B. HUGHES, ESQ.

Company:

Fax Phone Number: 702-565-7121

Contact Phone Number:

Info Code 1: C323324

Info Code 2: DENZEL DORSEY

Sent to remote ID:

Sent at: Tue Jul 03 08:28:54 2018

Sent on channel 8

Elapsed Time: 5 minutes, 26 seconds

Transmission Status (0/339;0/0): Successful Send

Page Record: 1 - 9.

AA 0103

**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 08:30 AM All Pending Motions

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

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Christopher P. Pandelis

Attorney for Plaintiff

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

July 31, 2018

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

July 31, 2018 08:30 AM Defendant's Motion to Quash Bench Warrant

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

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Carl E. Arnold Attorney for Defendant

Christopher P. Pandelis Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

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.)

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 08:30 AM DA Request Re: Bench Warrant Return

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

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Carl E. Arnold Attorney for Defendant

Denzel Dorsey Defendant

Sandra K. Digiacomo Attorney for Plaintiff

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 for the Deft
	Scow, Richard H.	Attorney for the State
	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)



MOT
GARY A. MODAFFERI, ESQ.
Nevada Bar No. 12450
815 S. Casino Center Blvd.
Las Vegas, Nevada 89101-6718
702-474-4222
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DENZEL DORSEY,

Defendant.

CASE NO: C-17-323324-1
DEPT. NO.: ~~XXII~~

XV

MOTION FOR EXPERT SERVICES (INVESTIGATOR) PURSUANT TO WIDDIS

COMES NOW, DENZEL DORSEY, Defendant herein, by and through his counsel,
GARY A. MODAFFERI, ESQ., of the Law Offices of Gary A. Modafferi, LLC, and respectfully
moves this Honorable Court for an order granting payment for an expert (investigator) at public
expense.

This Motion is based upon the need to investigate this matter before sentencing, the
attached financial affidavit¹, Brown v. District Court², and any evidence and/or argument
adduced at a hearing on this matter.

DATED this 5th day of December, 2018.

/s/ Gary A. Modafferi

GARY A. MODAFFERI, ESQ. (12450)
Attorney for Defendant

¹ Attached as Exhibit A.

² Attached as Exhibit B for court's convenience.

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DATED this 5th day of December, 2018.

GARY A. MODAFFERI, ESQ.
Nevada Bar No. 12450
Attorney for Defendant

The Defendant is indigent and qualifies for an investigator at public expense. Defendant's family paid for his legal expenses at a reduced rate basis. In Widdis v. Second Judicial District Court, 114 Nev. 1224 (1998), the Nevada Supreme Court held that, notwithstanding the ability to retain counsel, a defendant is entitled to reasonable and necessary defense services at public expense if the defendant demonstrates both indigency and a need for the requested services. After consulting with the Defendant it is necessary to conduct an independent investigation about the circumstances of his plea. Also, the Defense has been notified that the State will be seeking the right to invoke habitual criminal treatment.

AA 0109

1 the circumstances of his plea and the circumstances which give rise to his alleged violation of the
2 plea agreement.
3

4
5 **CONCLUSION**

6 It is respectfully requested that the Motion be granted.

7 DATED this 5th day of December, 2018.

8 /s/ Gary A. Modafferi
9

10 GARY A. MODAFFERI, ESQ.
11 Nevada Bar No. 6275
12 Attorney for Defendant
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1 **CERT**
2 GARY A. MODAFFERI, ESQ.
3 Nevada Bar No. 12450
4 815 S. Casino Center Blvd.
5 Las Vegas, Nevada 89101-6718
6 702-474-4222
7 Attorney for Defendant

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

10 THE STATE OF NEVADA,
11 Plaintiff,

12 vs.

13 DENZEL DORSEY,
14 Defendant.

15) CASE NO: C-17-323324-1
16) DEPT. NO.: XXII
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29 **CERTIFICATE OF SERVICE**

30 I, the undersigned, hereby certify that on the 5th day of December, 2018, I served
31 a true copy of **MOTION FOR EXPERT SERVICES (INVESTIGATOR) PURSUANT TO**
32 **WIDDIS** upon the following:

33 Sandra Digiacomo, Esq,
34 Chief Deputy District Attorney
35 sandra.digiacomo@clarkcountyda.com

36 /s/ Erika W. Magana

37 Assistant to Gary A. Modafferi, Esq.
38

EXHIBIT “A”

DISTRICT COURT

APPLICATION FOR COURT-APPOINTED COUNSEL OR WIDDIS FEES

Name: Denzel Dorsey

Case No: 17-323324-1

Address: CC 8C

Charges: INVASION OF the Home
NRS 205.067

Phone: _____

I am in Jail: ☒ Yes ☐ No

☒ Defendant-Adult

☐ Defendant-Juvenile

☐ Material Witness

☐ Other _____

How long have you lived in Clark County? _____

I, Denzel Dorsey, state under oath that I am financially unable to employ an attorney. I understand that if I am charged with a felony and/or a gross misdemeanor and I am eligible, a court must appoint counsel.

Investigator

aw. investigator

SECTION 1: PERSONAL

Date of Birth: 09-24-1993

Married ☒ Single ☐ Separated

Employed by: NO

Spouse employed by: _____

If not employed, month of last employment: NEVER

Children living with you: 1 daughter (NAYLA Dorsey)

Other household members and relationship: Girlfriend

9 months

SECTION 2: PLEASE CHECK ALL THAT APPLY:

I am currently receiving food stamps;

I am currently receiving welfare benefits (TANF);

I am currently receiving assistance from Medicaid;

I am currently receiving disability insurance;

I am currently residing in public housing (Section 8);

I am currently receiving public assistance from _____;

I am currently serving a sentence in a correctional institution;

I am currently housed in a mental facility;

☒ I am currently unemployed with no source of income.

TAKIYA
Clemons

SECTION 3

A: INCOME (Note: you may be required to provide proof of income including pay stubs or tax returns)

I and/or my family are currently receiving the following funds:

TANF \$ N/A Food Stamps \$ N/A Medicaid \$ N/A SSI (Supplemental Security Income) \$ 0/A
Gross monthly wage (self) \$ N/A Unemployment \$ N/A Veteran's Benefits \$ N/A
Gross monthly wage (spouse) \$ N/A Worker's Comp \$ N/A Child Support \$ N/A
Gross monthly wage (others) \$ N/A Pension/Retirement \$ N/A General Assistance \$ N/A
(include all other household members) Social Security \$ N/A Other Income \$ N/A

Total All Income \$ 0

B: ASSETS (list total values)

Cash on hand in bank \$ 200 Savings accounts \$ 0 Sporting Equipment \$ 0
Wages not received \$ 0 Stocks/bonds/securities \$ 0 (guns, boats, motorcycles etc.)
Money owed to me \$ 0 Interest in real estate \$ 0
Personal Property \$ 0 Motor vehicles \$ 0
(furniture, appliances, etc.)

Total All Assets \$ 0

C: MONTHLY DEBTS

Rent Mortgage \$ 0 Gas (vehicles) \$ 0 Credit Cards \$ 0
Alimony \$ 0 Utilities \$ 0 Groceries \$ 0
Collections \$ 0 Courts \$ 0 Telephone \$ 0
Cable/Sat TV \$ 0 Dependent Care \$ 0 Attorneys \$ 0
(adult or child)
Car Payment \$ 0 Doctor/Hospital \$ 0 Child Support \$ 0

Total All Monthly Debts \$ 0

I hereby authorize Clark County to investigate my assets, liabilities, employment, and income references. I further authorize Clark County to receive this information from any persons, organizations, agencies, institutions, and companies which have such information.

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


SIGNATURE OF APPLICANT


Witnessed By

12450

APPROVED ☐ DENIED ☐

Date: _____

Judge

EXHIBIT “B”

133 Nev., Advance Opinion 113
IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIS T. BROWN,
Petitioner,
vs.
**THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
WILLIAM D. KEPHART, DISTRICT
JUDGE,**
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 72950

FILED

DEC 28 2017

ELIZABETH A. DUGAN
CLERK OF SUPREME COURT
BY: *[Signature]*
CHIEF DEPUTY CLERK

Original petition for a writ of mandamus challenging the
district court's denial of a motion for expert services at public expense.

Petition granted in part.

Law Office of Gary A. Modafferi and Gary A. Modafferi, Las Vegas,
for Petitioner.

Adam Paul Laxalt, Attorney General, Carson City; Steven B. Wolfson,
District Attorney, and Charles Thoman, Deputy District Attorney, Clark
County,
for Real Party in Interest.

BEFORE HARDESTY, PARRAGUIRRE and STIGLICH, JJ.

OPINION

By the Court, STIGLICH, J.:

In *Widdis v. Second Judicial District Court*, 114 Nev. 1224, 968 P.2d 1165 (1998), this court held that, notwithstanding the ability to retain counsel, a defendant is entitled to reasonable and necessary defense services at public expense if the defendant demonstrates both indigency and a need for the requested services. We take this opportunity to clarify the definition of an indigent person as well as the demonstration of need sufficient for a request for defense services. Additionally, we make clear that *Widdis* does not require an indigent defendant to request a sum certain before a motion for defense services at public expense can be considered or granted. Based on the district court's application of *Widdis*, we grant the petition in part.¹

FACTS AND PROCEDURAL HISTORY

Petitioner Willis Brown faces multiple counts of lewdness with a child. Before the preliminary hearing, Brown moved for expert services at public expense pursuant to *Widdis v. Second Judicial District Court*, 114 Nev. 1224, 968 P.2d 1165 (1998), submitting an application containing financial information along with his motion. The justice court found Brown indigent and granted the motion, but limited the funds for the services to a stated amount.

After Brown was bound over to the district court, he again moved for expert services at public expense, submitting an updated

¹We previously granted the petition in part in an unpublished order. Cause appearing, we grant the motion to reissue that decision as an opinion, NRAP 36(f), and issue this opinion in place of our prior unpublished order.

application that showed he had gained employment and reduced his monthly liabilities since his previous motion. The motion acknowledged that Brown's extended family had paid for his legal fees but asked the district court to declare him indigent and permit him to retain an investigator and expert (Dr. Mark Chambers) at State expense to assist his defense. Brown claimed he needed to retain Dr. Chambers "to fully understand and convey to both the court and/or the jury the influences upon a child's accusation in a sexual prosecution" and averred that Dr. Chambers would "testify to psychological issues involving child testimony, parental influence on that testimony, and children's motivation regarding false allegations." Additionally, Brown claimed an investigator was necessary to serve subpoenas on and obtain statements from witnesses and to generally investigate the circumstances of the allegations.

At the hearing on the motion, the district court stated its belief that Brown was not indigent:

I don't reach that based on—I mean he's employed. He—it appears that he has to probably adjust his expenses. But for the State to be paying for his investigator fees under these circumstances, I don't think *Widdis* truly could—is saying that that's a mandatory requirement. And so I'm just making a finding based on his affidavit that he's not indigent in order to fit that.

The district court opined that the previous indigency determination might have been appropriate based on the initial application but concluded that Brown no longer qualified as an indigent based on the updated information.

After this court ordered an answer to Brown's petition, the district court held another hearing in which it expounded upon its reasons for denying Brown's motion. The district court referenced the two requirements in *Widdis*, indigency and necessity of the services, and

gleaned a third requirement from the *Widdis* dissent, a request for a sum certain. The district court referenced Brown's exhaustion of family resources to retain counsel and deduced from that fact that Brown had resources. Additionally, the district court noted that Brown's debt-to-income ratio had appreciably decreased between his submissions of the two applications. The district court went on to say that Brown "failed to show how an investigator needed for assisting his counsel . . . wouldn't have been included within his legal fees, or if it was even discussed when securing counsel." The district court concluded that its findings were that Brown was not indigent and had not met a showing of need, specifically stating it "was a cursory attempt to show need." Counsel argued that, while Brown was currently employed, there was a significant decrease in income between Brown's previous job and current job, which was a minimum-wage-plus-tips position. The district court replied:

But it's not a question of indigency then. Just because he's paying less. And the thing is too I made the statement in the previous argument is that he may need to adjust his expenses. At the time that I received an application his debts were way lower than the initial debt. And—but he hadn't changed his so to speak lifestyle. He was still living in a pretty expensive place where he could change that. You know, it doesn't—because he's living at, you know, X amount a month doesn't mean he needs to continue living that way because obviously his incomes went down.

The district court denied Brown's motion for expert services at public expense. Brown now seeks a writ of mandamus directing the district court to grant his motion.

DISCUSSION

The decision to consider a writ of mandamus² is within this court's complete discretion, and generally such a writ will not issue if the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; *Cote H. v. Eighth Judicial Dist. Court*, 124 Nev. 36, 39, 175 P.3d 906, 908 (2008). Despite the availability of a remedy at law by way of an appeal should Brown be convicted, see NRS 177.045, we elect to exercise our discretion and consider the petition for a writ of mandamus in the interest of judicial economy and in order to control a manifest abuse or capricious exercise of discretion. See *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. 927, 931-32, 267 P.3d 777, 779-80 (2011). "A manifest abuse of discretion is [a] clearly erroneous interpretation of the law or a clearly erroneous application of a law or rule." *Id.* at 932, 267 P.3d at 780 (quoting *Steward v. McDonald*, 958 S.W.2d 297, 300 (Ark. 1997)). A "capricious exercise of discretion" involves a decision that is "contrary to the evidence or established rules of law." *Id.* at 932-33, 267 P.3d at 780 (quoting *Capricious*, *Black's Law Dictionary* (9th ed. 2009)).

²While the petition is titled a petition for a writ of certiorari, mandamus, and/or, in the alternative, writ of prohibition, it discusses only mandamus. See *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court."). Prohibition is unavailable because Brown does not argue that the district court was without jurisdiction to hear and determine his motion, see NRS 34.320; *Goicoechea v. Fourth Judicial Dist. Court*, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980) (holding that a writ of prohibition "will not issue if the court sought to be restrained had jurisdiction to hear and determine the matter under consideration"), and certiorari is unavailable because Brown does not argue that the district court exceeded its jurisdiction or ruled on the constitutionality or validity of a statute, see NRS 34.020(2), (3).

Widdis holds "that the State has a duty to provide reasonable and necessary defense services at public expense to indigent criminal defendants who have nonetheless retained private counsel," and the case requires that a defendant make a "showing of indigency and need for the services." 114 Nev. at 1228-29, 968 P.2d at 1167-68. In so holding, the *Widdis* court adopted the analytical framework of an out-of-state case that held "[i]rrespective of the absence of any express statutory authorization . . . the Sixth Amendment right to effective assistance of counsel provided authority for the payment requested by the defendant." *Id.* at 1228, 968 P.2d at 1168. Therefore, this court held that the right to receive funds for defense services at public expense was entwined with the right to effective assistance of counsel. *Id.* Numerous other courts have come to a similar conclusion that an indigent criminal defendant may receive defense services at public expense even if the defendant does not have appointed counsel. *E.g., Dubos v. State*, 662 So. 2d 1189, 1192 (Ala. 1995) ("The simple fact that the defendant's family, with no legal duty to do so, retained counsel for the defendant, does not bar the defendant from obtaining funds for expert assistance when the defendant shows that the expert assistance is necessary."); *Jacobson v. Anderson*, 57 P.3d 733, 734-35 (Ariz. Ct. App. 2002) (concluding a defendant whose parents had retained counsel on her behalf was entitled to the opportunity to demonstrate need for requested defense services at the government's expense based on her status as an indigent); *Tran v. Superior Court*, 112 Cal. Rptr. 2d 506, 509-10, 512 (Ct. App. 2001) (considering a defendant whose counsel was retained via family funding and ordering the defendant's application for ancillary services funds be granted based on his indigency); *Arnold v. Higa*, 600 P.2d 1383, 1385 (Haw. 1979) (interpreting statutory language as not limiting

"the court's authority to approve funds for investigatory services for a defendant with private counsel"); *English v. Missildine*, 311 N.W.2d 292, 293-94 (Iowa 1981) ("For indigents the right to effective counsel includes the right to public payment for reasonably necessary investigative services. The Constitution does not limit this right to defendants represented by appointed or assigned counsel." (internal citations omitted)); *State v. Jones*, 707 So. 2d 975, 977-78 (La. 1998) ("[T]he defendant here, having private counsel provided from a collateral source, may still be entitled to State funding for auxiliary services."); *State v. Huchting*, 927 S.W.2d 411, 419 (Mo. Ct. App. 1996) (deciding that a defendant's retention of private counsel did not preclude the defendant from seeking state assistance for hiring an expert witness); *State v. Boyd*, 418 S.E.2d 471, 475-76 (N.C. 1992) ("That defendant had sufficient resources to hire counsel does not in itself foreclose defendant's access to state funds for other necessary expenses of representation—including expert witnesses—if, in fact, defendant does not have sufficient funds to defray these expenses when the need for them arises."); *State v. Wool*, 648 A.2d 655, 660 (Vt. 1994) (holding that a defendant who qualifies as a needy person has a right to necessary services at public expense that cannot be conditioned on the defendant being represented by an appointed attorney); *State ex rel. Rojas v. Wilkes*, 455 S.E.2d 575, 578 (W. Va. 1995) ("We conclude that financial assistance provided by a third party which enables an indigent criminal defendant to have the benefit of private counsel is not relevant to the defendant's right to have expert assistance provided at public expense.").

Widdis provides that a defendant must make a showing of indigency, but it does not define or set forth a test for determining indigency. However, this court has stated that the standard for determining indigency

for the appointment of counsel is whether a person "is unable, without substantial hardship to himself or his dependents, to obtain competent, qualified legal counsel on his or her own." In the Matter of the Review of Issues Concerning Representation of Indigent Defendants in Criminal and Juvenile Delinquency Cases, ADKT No. 411 (Order, January 4, 2008). That standard further provides that those defendants who do not fall within a presumptive threshold of substantial hardship "will be subjected to a more rigorous screening process to determine if their particular circumstances, including seriousness of charges being faced, monthly expenses, and local private counsel rates, would result in a substantial hardship." *Id.* Based on *Widdis's* logic that the right to defense services at public expense is connected to the right to effective assistance of counsel, we conclude the standard for determining indigency for the appointment of counsel in ADKT No. 411 should also be used when determining indigency for purposes of *Widdis*.

With regard to the first prong of *Widdis*, a demonstration of indigency, the district court concluded that Brown was not indigent because his financial situation had improved since being found indigent in the justice court—he had reduced his monthly debts, he had procured a job, and he was able to retain the services of counsel through financial assistance from family. The district court's logic, however, works to disincentivize a defendant's efforts to better his or her financial situation by reducing liability and obtaining income, and it contradicts the logic we employed in *Widdis*. 114 Nev. at 1229, 968 P.2d at 1168 ("Although the use of public funds in this manner may appear to be a misuse of such funds, we feel that a contrary rule would have a greater negative impact on scarce public resources by creating disincentives for defendants to seek private

representation at their own expense.”). Additionally, we have held that a determination of indigency does not require a demonstration that the person “is entirely destitute and without funds.” *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 805-06, 102 P.3d 41, 46 (2004); see also *Lander Cty. v. Bd. of Trs. of Elko Gen. Hosp.*, 81 Nev. 354, 360-61, 403 P.2d 659, 662 (1965) (recognizing that “a person does not have to be completely destitute and helpless to be considered a destitute or indigent person, but can have some income or own some property”). Further, despite Brown’s financial improvement, he represented he had minimal assets that were insufficient to satisfy his basic necessities and a negatively disproportionate debt-to-income ratio, all while facing serious charges with possible sentences of life imprisonment. Given Brown’s circumstances, we conclude the district court capriciously exercised its discretion by finding that Brown was not indigent, or put another way, was able to afford an investigator and/or an expert without substantial hardship.

As for the second prong of *Widdis*, a demonstration of need, the district court concluded that Brown made a cursory showing at best. Given Brown’s proffer regarding the necessity of Dr. Chambers—to testify regarding psychological issues involving child testimony, parental influence on that testimony, children’s motivations regarding false allegations, and the influences upon a child’s accusations in a sexual prosecution—in a trial involving allegations of lewdness with a child, we conclude Brown demonstrated such an expert was reasonably necessary. In the same vein, Brown alleged he required the services of an investigator to serve subpoenas on and obtain statements from witnesses and to investigate the circumstances of the allegations. While less specific than Brown’s proffer regarding the need for Dr. Chambers, we conclude that Brown

demonstrated both an investigator and Dr. Chambers were reasonably necessary to his defense and that the district court manifestly abused its discretion by concluding otherwise.

Lastly, the district court implied a third prong could be gleaned from the dissent in *Widdis*, requiring a sum certain be requested before a motion for expert services is granted. To the extent a dissent may be read to impose an additional requirement on a test adopted by the majority, we disagree with the notion that the failure to request a sum certain is fatal to a motion for expert services. Thus, the district court's reliance on Brown's failure to request a sum certain was an inappropriate reason to deny the motion. Rather, if the district court was concerned with the cost of the services, it could have inquired into the expected cost for the services, limited the amount granted to a sum certain with leave to ask for additional funds if necessary, and/or taken any other measures it deemed prudent in reasonably limiting the expenditure.

As we have concluded that the district court capriciously exercised and manifestly abused its discretion when it denied Brown's motion for expert services at public expense, we therefore grant the petition in part.³ We direct the clerk of this court to issue a writ of mandamus

³Brown also challenges the denial of his pretrial petition for a writ of habeas corpus in which he challenged the probable cause determination at the preliminary hearing. This court generally does not exercise its discretion to entertain a pretrial challenge to a probable cause determination, see *Kussman v. Eighth Judicial Dist. Court*, 96 Nev. 544, 546, 612 P.2d 679, 680 (1980), and Brown does not demonstrate his challenge fits within the exception this court has made for a purely legal issue, see *Ostman v. Eighth Judicial Dist. Court*, 107 Nev. 563, 565, 816 P.2d 458, 459-60 (1991); *State v. Babayan*, 106 Nev. 155, 174-76, 787 P.2d 805, 819-

instructing the district court to vacate its order denying Brown's motion for expert services at public expense and to reconsider the motion consistent with this opinion.⁴

Stiglich J.
Stiglich

We concur:

Hardesty J.
Hardesty

Parraguirre J.
Parraguirre

20 (1990). To the extent Brown's claim may be construed as one that his charges should have been severed, he did not make this argument before the justice court, and the authority he relies upon does not address proceedings at a preliminary examination. Accordingly, we deny the petition in part as it relates to this claim.

⁴The clerk of this court issued the writ on October 24, 2017, pursuant to our earlier unpublished order.

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 08:30 AM Sentencing

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

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Denzel Dorsey	Defendant
Gary Modafferi	Attorney for Defendant
State of Nevada	Plaintiff
Steven L Waters	Attorney for Plaintiff

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 08:30 AM Defendant's Motion for Expert Services (Investigator) Pursuant to Widdis

HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Denzel Dorsey

Defendant

Gary Modafferi

Attorney for Defendant

State of Nevada

Plaintiff

Victoria A. Villegas

Attorney for Plaintiff

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.

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

Original

Electronically Filed
1/9/2019 10:26 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 **ORDR**
2 **GARY A. MODAFFERI, ESQ.**
3 Nevada Bar No.: 12450
4 815 S. Casino Center Drive
5 Las Vegas, Nevada 89101
6 Telephone 702.474.4442
7 Facsimile 702.474.1320
8 *Attorney for Defendant*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,
10
11 Plaintiff,
12
13 v.
14 DENZEL DORSEY,
15
16 Defendant.

CASE NO.: C-17-323324-1
DEPT. NO.: XXH 15

PLEASE NOTE
DEPARTMENT CHANGE

ORDER GRANTING MOTION FOR EXPERT SERVICES (INVESTIGATOR)
PURSUANT TO WIDDIS

17 This matter having come on for hearing on January 3, 2019, the State having no position,
18 the Court being fully advised in the premises, grants Defendant's Motion for Expert Services
19 (Investigator) Pursuant to *Widdis*. The Defendant demonstrated both indigency and a need for the
20 requested services.

21 Accordingly, the Motion is *Granted*. A status check regarding
22 the retention of the investigator, and the scope of the
23 investigation was set for January 17, 2019. Further, the
24 DATED this *7th* day of January, 2019. *Sentencing date would stand.*

[Signature]
DISTRICT COURT JUDGE BM

25 Respectfully Submitted by:
26 *[Signature]*
27
28 GARY A. MODAFFERI, ESQ. (12450)
Attorney for Defendant

AA 0129

JAN 07 2019

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 08:30 AM Status Check: Investigation

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

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Denzel Dorsey	Defendant
Gary Modafferi	Attorney for Defendant
Robert Stephens	Attorney for Plaintiff
State of Nevada	Plaintiff

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



1 **MOT**

2 GARY A. MODAFFERI, ESQ. (12450)
3 LAW OFFICE OF GARY A. MODAFFERI, LLC
4 815 S. Casino Center Boulevard
5 Las Vegas, NV 89101
6 Telephone: (702) 474-4222
7 Fax: (702) 474-1320

8 *Attorney for Defendant Denzel Dorsey*

9 **DISTRICT COURT**
10 **CLARK COUNTY, STATE OF NEVADA**

11 THE STATE OF NEVADA

12 Plaintiff

13 vs

14 DENZEL DORSEY

15 Defendant

Case No. C-17-323324-1

Dept No. XV

Hearing Date:

Hearing Time:

16 **DEFENDANT DENZEL DORSEY'S MOTION TO WITHDRAW GUILTY PLEA**

17 COMES NOW the Defendant DENZEL DORSEY by and through his counsel, GARY A.
18 MODAFFERI, ESQ. of THE LAW OFFICE OF GARY A. MODAFFERI, LLC, and submits the
19 following Points and Authorities in Support of Defendant's Motion to Withdraw Guilty Plea
20 "Motion".
21

22 DATED this 15th day of February, 2019.

23
24 By: /s/ Gary A. Modafferi Esq.
25 GARY A. MODAFFERI, ESQ.
26 Nevada Bar No. 12450
27 815 S. Casino Center Boulevard
28 Las Vegas, NV 89101
Counsel for Defendant
Denzel Dorsey

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DATED this 15th day of February, 2019.

GARY A. MODAFFERI, ESQ.
Nevada Bar No. 12450
Attorney for Defendant

1 **POINTS AND AUTHORITIES**

2 **I. FACTUAL BASIS**

3 The Defendant respectfully requests permission to withdraw his guilty plea. The
4 Defendant's argument is that he is factually innocent of the charges he pled guilty to and that his
5 reason for entering his plea was to protect his minor brother. Investigation conducted after the
6 plea was entered has produced statements from two witnesses; Defendant's brother Davey
7 Dorsey, and Takiya Clemons.
8

9 Davey Dorsey is the younger brother of Denzel Dorsey.¹ On the night of the offense, Davey
10 Dorsey asked the Defendant if he could borrow his rental car. Defendant allowed his younger
11 brother to use the car without any knowledge that he was going to use the car to commit a crime.
12 It was Davey Dorsey who broke the window and tried to open the front door of the house. This
13 house was located at 2731 Warm Springs Avenue, Henderson, Nevada. Davey Dorsey is willing
14 to accept responsibility for this attempted home invasion. Davey Dorsey will testify under oath at
15 a hearing on this matter that Defendant Denzel Dorsey had nothing to do with this crime. Davey
16 Dorsey had attempted to explain his involvement in this crime to Defendant's previous attorney
17 but he was not heard on this matter.²
18

19 Takiya Clemons provided a written declaration in support of Defendant's Motion to
20 Withdraw his Guilty Plea.³ Ms. Clemons is willing to testify under oath to the facts detailed
21 below. Ms. Clemons stated that on November 28, 2016, the date of the offense alleged, she was
22 with Defendant at her apartment. At some point on November 27, 2016, Davey Dorsey came by
23 to borrow his brother's rental car. Ms. Clemons physically observed the Defendant hand over his
24
25
26

27
28 ¹ Statements of Davey Dorsey are attached in Exhibit A.

² Exhibit A at p.2-3.

³ Attached as Exhibit B.

1 keys to his younger brother.⁴ Denzel Dorsey stayed with her at her apartment until 1:00 p.m.⁵
2 The witness is willing to testify under oath that she was with the Defendant the entire evening on
3 November 27, 2016 up to and including the time of the alleged crime the next day at 1:00p.m.⁶
4

5 At the preliminary hearing in this matter, the eyewitness equivocated about identifying the
6 Defendant as the person who committed this offense. When initially asked if the witness saw the
7 only black male in court as the perpetrator, he responded, "No, I don't think so."⁷
8

9 **II. Procedural History**

10 Initial arraignment was held on May 5, 2017. A preliminary hearing was held on May 2,
11 2017. On November 29, 2017 the Office of the Public Defender moved to withdraw because of a
12 conflict with a witness in this matter. On January 16, 2018, Ms. McAmis confirmed as counsel.
13 On March 9, 2018, a guilty plea agreement was filed with the Court. On March 13, 2018, a plea
14 canvass was conducted, a guilty plea entered, and the Defendant was released on his own
15 recognizance. Sentencing was initially set for June 5, 2018, but that was continued and on June
16 6, 2018 the Defendant filed a *pro se* motion to withdraw his guilty plea.⁸ The Defendant was
17 remanded into custody. On November 27, 2018, this counsel confirmed and on December 13,
18 2018 the defense argued and was subsequently granted its Widdis application.
19

20 **III. LEGAL STANDARD/ARGUMENT**

21 **A. Rule and Legal Standard.**

22 NRS 176.165 provides that:

23
24 Except as otherwise provided in this section, a motion to withdraw a plea of
25 guilty, guilty but mentally ill or nolo contendere may be made only before

26 ⁴ Exhibit B at p.2.

27 ⁵ Id.

28 ⁶ See Exhibit C, Preliminary Hearing Transcript of Proceedings held on May 2, 2017 at p.5/11.8-9. (offense occurred at noon on November 28, 2016).

⁷ Id. at pp. 12-14.

⁸ Attached as Exhibit D.

1 sentence is imposed or imposition of sentence is suspended. To correct
2 manifest injustice, the court after sentence may set aside the judgment of
conviction and permit the defendant to withdraw the plea.⁹

3 The Nevada Supreme Court held in *Bryant v. State*, that it is "the duty of the trial court to
4 review the entire record to determine whether the plea was valid, either by reason of the plea
5 canvas itself or **under the totality of the circumstances approach**."¹⁰ A guilty plea cannot
6 stand if the record, taken as a whole, does not specifically show that Defendant possessed an
7 actual understanding of the charges against him at the time when Defendant entered his guilty
8 plea or that the plea was entered to take the blame for someone else.¹¹ Under the totality of the
9 circumstances test, Defendant need only provide the court with a credible story explaining his
10 actions.¹² The fact that Defendant brings this Motion to Court before sentencing is evidence of a
11 "lack of prejudice to the State."¹³ Further, "[a] district court may not simply review the plea
12 canvass in a vacuum, conclude that it indicates that the defendant understood what [he] was
13 doing, and use that conclusion as the sole basis for denying a motion to withdraw a guilty
14 plea."¹⁴

15
16
17
18 NRS 176.165 empowers this Court to grant Defendant's Motion to Withdraw Guilty Plea.
19 The Nevada Supreme Court held in *Bryant v. State*, that the trial court must consider the entire
20 record using the under the totality of the circumstances test."¹⁵ Defendant's guilty plea cannot
21 stand if the record, taken as a whole, does not specifically show that Defendant possessed an
22

23
24
25 ⁹ NRS 176.165; *See also, State v. Second Judicial Dist. Court*, 85 Nev. 381, 384, 455 P.2d 923, 925-26 (1969);
26 Here Defendant brings this motion **before** sentencing has commenced.

27 ¹⁰ 102 Nev. 268 (1986) (emphasis added); *See, Mitchel v. State*. 109 Nev. 137, 140-41. (emphasis added)

28 ¹¹ Ibid. 102 Nev. 268 at 276

¹² Ibid. *Mitchel v. State*, at 141

¹³ Ibid.

¹⁴ Ibid.

¹⁵ 102 Nev. 268 (1986) (emphasis added); *See, Mitchell v. State*. 109 Nev. 137, 140-41.

1 actual understanding of the charges against him at the time Defendant pled guilty.¹⁶ In *Mitchell*
2 *v. State*, the defendant originally entered a plea of guilty.¹⁷ She requested to withdraw her guilty
3 plea because she did not understand it due to a language barrier.¹⁸ The court denied the
4 withdrawal of guilty plea.¹⁹ The Nevada Supreme Court held the denial to an abuse of discretion
5 because, under the totality of the circumstances test, the defendant had a credible story
6 explaining her actions and there was no prejudice to the state because the Motion to Withdraw
7 Guilty Plea was made before sentencing.²⁰

8
9 In *Stevenson v. State*, the Nevada Supreme Court held that a district court may grant a
10 motion to withdraw a guilty plea before sentencing 'where for any substantial reason the granting
11 of the privilege seems 'fair and just.'"²¹ Given the tendered proof that the defendant was factually
12 innocent and only entered into the plea to protect his minor brother, the defense has presented a
13 substantial reason that is fair and just. The substantial reason test, as previously argued, is much
14 less stringent than the manifest injustice standard which is applicable after sentence has been
15 imposed. Here the Defendant's brother is willing to testify under oath that he committed the
16 crime alone. Ms. Clemons is willing to testify that the defendant was with her at 11:55 a.m. on
17 November 28, 2016. This is the date and time of the offense.
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26 ¹⁶ Ibid. 102 Nev. 268 at 276

27 ¹⁷ Ibid. *Mitchell v. State*. 109 Nev. at 139

28 ¹⁸ Ibid at 140

¹⁹ Ibid.

²⁰ Ibid. at 140-41.

²¹ Ibid. *Stevenson v. State*, 354 P.3d at 1279 (internal quotations omitted).

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DATED this 15th day of February, 2019.

GARY A. MODAFFERI, ESQ. (12450)
LAW OFFICE OF GARY A. MODAFFERI,
LLC
815 S. Casino Center Boulevard
Las Vegas, NV 89101
Counsel for Defendant
Denzel Dorsey

1 **CERT**

2 GARY A. MODAFFERI, ESQ. (12450)
3 LAW OFFICE OF GARY A. MODAFFERI, LLC
4 815 S. Casino Center Boulevard
5 Las Vegas, NV 89101
6 Telephone: (702) 474-4222
7 Fax: (702) 474-1320

8 *Attorney for Defendant Denzel Dorsey*

9 **DISTRICT COURT**
10 **CLARK COUNTY, STATE OF NEVADA**

11 THE STATE OF NEVADA

12 Plaintiff

13 vs

14 DENZEL DORSEY

15 Defendant

Case No. C-17-323324-1
Dept No. XV

16 **CERTIFICATE OF SERVICE**

17
18 I, the undersigned, hereby certify that on the 15th day of February, 2019, I served a true
19 copy of **MOTION TO WITHDRAW GUILTY PLEA** upon the following:

20
21 Sandra Digiacomo, Esq.
22 Chief Deputy District Attorney
23 sandra.digiacomo@clarkcountyda.com

24 /s/ Erika W. Magana

25 Erika W. Magana, An Employee of
26 Gary A. Modafferi, LLC
27
28

EXHIBIT “A”

**HIGHLY CONFIDENTIAL COMMUNICATION PROTECTED BY
ATTORNEY - CLIENT AND WORK-PRODUCT PRIVILEGES**

MEMORANDUM



To : Gary Modafferi, Esq.
From : Richard Franky, L.P.I.
RDF INVESTIGATIVE AGENCY
5258 S. Eastern Ave., Suite #102,
Las Vegas, Nevada 89119
(702) 696-9701 // RDFINVESTIGATIVE@AOL.COM
Date : February 14th, 2019
Re : State of Nevada vs. DENZEL DORSEY
District Court Case No. C-17-323324-1
ATTN : Gary Modafferi

Page 1 of 3

**RE: DAVEY DORSEY, BIOLOGICAL BROTHER OF
OF DENZEL DORSEY**

Per your request, this is to inform you that this investigator interviewed Mr. Davey Dorsey. Mr. Davey Dorsey stated the following:

DAVEY DORSEY
DOB: 06/27/1999
2137 East St. Louis
Las Vegas, Nevada 89104
(323) 915-3638

That he will make himself available to the lawyer of Denzel Dorsey
and the prosecutor.

That, on or about 11/28/2016, he was 17 years old.

That he is the younger biological brother of Denzel Dorsey.

That, on or about 11/27/2016, he asked Denzel Dorsey if he could
please borrow Denzel Dorsey's car rental.

That he received the keys to the car rental on 11/27/2016 in the



afternoon hours.

That he was supposed to have the vehicle to go hangout with a female friend.

That his brother, Denzel Dorsey, had no knowledge about him planning to rob a house.

That, on 11/28/2016, he (Davey Dorsey) did drive to the 2731 Warm Rays Ave. and tried to break into the house.

That he was the one who broke the window and tried to OPEN the front door of the house.

That, after the incident, he ended up driving to where his brother, Denzel Dorsey, was at.

That he never told his brother, Denzel Dorsey, that he had just tried to rob a house.

That, after he picked up Denzel Dorsey, Denzel Dorsey and himself drove to Lindell Street.

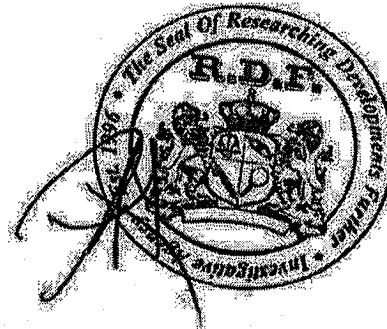
That he (Davey Dorsey) got out of the car at his sister's house.

That he is referring to Ramika's house.

That Ramika's house was somewhere on Teneya.

That he (Davey Dorsey) is more than willing to take responsibility

RDF Investigative Agency
RE: NV vs. DENZEL DORSEY
Memo Con.- 02/14/2019
Page 3 of 3
////



for this attempt home invasion.

That he (Davey Dorsey) is more than willing to sign an affidavit
or a sworn declaration.

That Denzel Dorsey had NOTHING to do with both the
preplanning and the actual attempted home invasion.

That he is specifically talking about the house located at 2731
Warm Rays Ave., Henderson, Nevada 89052.

That he is very sorry for what he did.

That he is coming forward to report the truth regarding 11/28/2016
under HNPd Police Event #16-21448-001.

That Denzel Dorsey is innocent of these criminal charges.

That he (Davey Dorsey) tried to reach out to Denzel Dorsey's
female attorney.

That he actually went to the courthouse.

That Denzel Dorsey's female attorney was very rude to him (Davey
Dorsey) and she kept telling him that she did not have time for him.

That he wanted to inform the female lawyer that it was him (Davey
Dorsey) the one that committed the attempt home invasion on 11/28/2016.

That the female attorney of Denzel Dorsey would not give him 2
minutes of her time.

////

If you have any questions, please call this investigator at (702) 696-9701 and/or
e-mail me at RDFINVESTIGATIVE@AOL.COM. Thank you.

EXHIBIT “B”

1 **GARY MODAFFERI, ESQ.**

2 Nevada Bar No. 012450

3 **LAW OFFICE OF GARY MODAFFERI**

4 815 S. Casino Center Blvd.,

5 Las Vegas, Nevada 89101

6 (702) 474-4222

7 **Attorney for Defendant**

8 **DENZEL DORSEY**

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 **THE STATE OF NEVADA,**

12 **Plaintiff,**

13 **-vs-**

CASE NO.: C-17-323324-1

14 **DENZEL DORSEY,**

15 **ID# 02845569**

DEPT. NO.: 22

16 **Defendant.**

17 **DECLARATION**

18 **TAKIYA KEYSHA CLEMONS makes the following declaration:**

19 1. That I have full knowledge of all matters contained
20 herein and am competent to testify thereto.

21 2. That my date of birth is: 2/25/1995

22 3. That my current address is 2645 Donna Street, Apt. D
23 North Las Vegas, Nevada 89030

24 4. That, on or about 11/27/2016, I was living with a female friend by the
25 name of Aisha Jones.

26 5. That Aisha Jones used to live on Viking Street, Las Vegas, Nevada.

27 6. That Aisha Jones lived in an apartment complex on Viking Street.

- 1 7. That, on 11/27/2016, I was at Aisha Jones's apartment.
- 2 8. That, on or about both 11/27/2016 and 11/28/2016, I was dating Denzel
- 3 Dorsey.
- 4
- 5 9. That I had been dating Denzel Dorsey for four (4) years prior to
- 6 11/27/2016.
- 7 10. That, on 11/27/2016, I was OFF from work.
- 8 11. That, due to the fact that I was OFF from work, Denzel Dorsey drove to
- 9 my apartment and decided to stay the night to be with me.
- 10
- 11 12. That, at some point during the evening PM hours on 11/27/2016, Davey
- 12 Dorsey came over to my apartment to borrow the car rental.
- 13 13. That, on 11/27/2016, I physically saw and witnessed Denzel Dorsey hand
- 14 over the keys to his car rental to his younger brother, Davey Dorsey.
- 15 14. That Denzel Dorsey stayed the night at my apartment.
- 16 15. That Denzel and I, hung out, watched Netflix, and had some drinks.
- 17 16. That Denzel Dorsey fell asleep with me in the living room on a sofa.
- 18 17. That Denzel Dorsey was with me the entire night.
- 19 18. That, on 11/28/2016, Denzel and I woke up late.
- 20 19. That Denzel Dorsey and I were looking for an apartment to rent on my
- 21 iPhone.
- 22
- 23 20. That sometime between 1:00 PM and 2:00 PM, Davey Dorsey came back
- 24 to my apartment.
- 25
- 26 21. That Denzel Dorsey left with Davey Dorsey.
- 27
- 28

1 22. That Denzel Dorsey was with me all night long on 11/27/2016 through
2 11/28/2016 at 1:00 PM.
3

4 23. That, at some point after 1:00 PM on 11/28/2016, Denzel Dorsey left with
5 Davey Dorsey.

6 24. That I fully understand what an alibi witness is.

7 25. That Denzel Dorsey was with me on 11/28/2016 at 11:55 AM.

8 26. That the above is the honest-to-God truth.

9 27. That I have no problem testifying to the above information before a
10 Judge and jury.
11

12 **I DECLARE UNDER PENALTY OF PERJURY THAT THE**
13 **FOREGOING IS TRUE AND CORRECT. (NRS 53.045).**
14

15
16 EXECUTED this 12 day of FEBRUARY, 2019.
17

18
19
20 
21 **TAKIYA KEYSHA CLEMONS**
22 **2645 Donna Street, Apartment #D**
23 **North Las Vegas, Nevada 89030**
24 **(702) 684-3063**
25 **Takiya225clemons@gmail.com**
26

EXHIBIT “C”

Steven D. Grierson

TRAN

CASE NO. C323324

IN THE JUSTICE'S COURT OF HENDERSON TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

DENZEL DORSEY,

Defendant.

CASE NO. 16FH2022X

REPORTER'S TRANSCRIPT

OF

PRELIMINARY HEARING

BEFORE THE HONORABLE SAMUEL G. BATEMAN

JUSTICE OF THE PEACE

TUESDAY, MAY 2, 2017

APPEARANCES:

For the State:

SANDRA DIGIACOMO

Chief Deputy District Attorney

For the Defendant:

KEITH BROWER, ESQ.

Reported by: Lisa Brenske, CCR #186

12:00AM

1

W I T N E S S E S

2

KEVIN NAZARENO

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Direct Examination by Ms. DiGiacomo

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Cross-Examination by Mr. Brower

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NORMA CORDERO NAZARENO

12:00AM

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Direct Examination by Ms. DiGiacomo

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Cross-Examination by Mr. Brower

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JAMES MCGEAHY

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Direct Examination by Ms. DiGiacomo

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Cross-Examination by Mr. Brower

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12:00AM

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HENDERSON, NEVADA, MAY 2, 2017

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* * * * *

4

12:12PM

5

THE COURT: Denzel Dorsey, 16FH2022X.

6

Is the prelim going forward?

7

MR. BROWER: It is, Judge.

8

THE COURT: Any motion on witnesses?

9

MR. BROWER: I'd ask to invoke the

12:12PM

10

exclusionary rule at this point in time.

11

THE COURT: Do we have anybody here that's

12

a witness, Sandy?

13

MS. DIGIACOMO: Yes. I have four.

14

THE COURT: Are we good? We got those

12:12PM

15

guys out?

16

Call your first witness.

17

MS. DIGIACOMO: State calls Kevin

18

Nazareno.

19

THE COURT: Sir, come up here to the

12:14PM

20

podium and remain standing and raise your right hand

21

for me.

22

THE CLERK: Do you solemnly swear that the

23

testimony that you are about to give will be the truth,

24

the whole truth and nothing but the truth, so help you

12:14PM

25

God?

12:14PM 1 THE WITNESS: I solemnly swear.
2 THE CLERK: Please be seated.
3 Please state your first and last name and
4 spell each for the record.

12:15PM 5 THE WITNESS: My name is Kevin Nazareno.
6 K-E-V-I-N. N-A-Z-A-R-E-N-O.
7 THE COURT: All right. Go ahead, State.
8 MS. DIGIACOMO: Thank you.
9

12:15PM 10 **KEVIN NAZARENO,**
11 having been first duly sworn, did testify as follows:
12
13 DIRECT EXAMINATION
14 BY MS. DIGIACOMO:
15 Q. Sir, how old are you?
16 A. Twenty-one years old.
17 Q. And do you live or did you last November
18 live at 2731 Warm Rays in Henderson, Clark County,
19 Nevada?
20 A. Yes. I still currently live there to this
21 day.
22 Q. Who do you live there with?
23 A. I live with my mom, my dad and a couple
24 of -- no. One cousin and his girlfriend who are
25 staying in a room at my house.
12:15PM Q. Now, who owns the house?

12:15PM 1 A. My father.
2 Q. And who is your father?
3 A. Florentino Nazareno.
4 Q. And does his wife also own the residence,
12:16PM 5 your mom?
6 A. I think, yes.
7 Q. And her name is Norma?
8 A. Yes.
9 Q. So on November 28, 2016 were you home at
12:16PM 10 approximately noon?
11 A. Yes. I had been there the whole day.
12 Q. What were you doing at about a little bit
13 before noon on that date?
14 A. I was still in bed asleep.
12:16PM 15 Q. Did something wake you up?
16 A. Yes. The doorbells. Constant ringing of
17 the doorbells. Multiple doorbell ringings.
18 Q. Was that the front doorbell that was
19 ringing?
12:16PM 20 A. Yes.
21 Q. And you said it would ring multiple times?
22 A. Yeah. Multiple times.
23 Q. So would it be that somebody would ring it
24 multiple --
12:16PM 25 A. Yeah, yeah, yeah.

12:16PM 1 Q. Let me finish because she's taking
2 everything down.

3 A. Okay.

4 Q. So they would ring it a bunch of times
12:16PM 5 like keep pushing the button?

6 A. Yes, that is correct.

7 Q. And then would it stop and then the
8 doorbell ringing would start occurring again?

9 A. Yes. I heard that at least multiple
12:17PM 10 times. Multiple ringings, stopping and then multiple
11 ringings again.

12 Q. And what did you do when you heard this?

13 A. I was still in bed. I was getting kind of
14 annoyed that someone would ring that much.

12:17PM 15 Q. Did you eventually get up from your bed
16 and go to the front door?

17 A. Yes.

18 Q. Now, was your bedroom upstairs or
19 downstairs?

12:17PM 20 A. It was upstairs.

21 Q. So you came down the stairs?

22 A. Yes.

23 Q. The front doors, can you describe what
24 they looked like on that date?

12:17PM 25 A. They were glass doors that I could see

12:17PM 1 clearly through.

2 Q. And when you come down the stairs, can you

3 see the front doors from the staircase?

4 A. Yes, I can. Since there's this -- the

12:17PM 5 stairways lead downwards and when I peek over the

6 railings, I can look straight into the doorway and see

7 whoever is there.

8 Q. So on this date back in November when you

9 looked over the railing, did you see anybody standing

12:18PM 10 outside the front door?

11 A. Yes.

12 Q. And who did you see?

13 A. I saw a black male and I saw them punching

14 and I heard banging on the door itself.

12:18PM 15 Q. Let me stop you. Did you see more than

16 one black male?

17 A. No. Just one.

18 Q. Just one black male?

19 A. Yes.

12:18PM 20 Q. And when you said you heard banging, did

21 it sound like somebody was trying to break the glass?

22 A. Yes. Correct.

23 Q. So when you got down to the bottom of the

24 stairs, could you still hear this banging on the glass?

12:18PM 25 A. Yes. And then --

12:18PM 1 Q. What did you see then?

2 A. I saw the glass break and there was just a

3 hole in the glass now and then I saw the male trying to

4 reach through the door and unlock the deadbolt.

12:19PM 5 Q. Let's back up a little bit. You kept

6 making a motion as you were talking about the banging

7 on the glass of the front door. You had your right

8 hand balled like a fist and you were punching your left

9 hand. Is that what you were just doing?

12:19PM 10 A. What do you mean by that?

11 THE COURT: For the record that's what he

12 was doing.

13 BY MS. DIGIACOMO:

14 Q. When you heard the glass being hit, could

12:19PM 15 you see what the black male was trying to hit the glass

16 with? Was it his fist?

17 A. Yes.

18 Q. Was he able to break through the glass

19 with his fist?

12:19PM 20 A. Yes.

21 Q. And then did it leave a round sized hole?

22 A. Yes. Correct.

23 Q. And was the glass kind of jagged, the hole

24 that he broke?

12:19PM 25 A. I'd say so. It was, yeah, like that.

12:19PM 1 Q. So it wasn't a perfectly smooth hole?
2 A. No.
3 Q. And then you said that you saw this black
4 male stick his hand through the glass?
12:20PM 5 A. Yes.
6 Q. Into your house?
7 A. Yes.
8 Q. And what was he trying to do?
9 A. He was trying to unlock the deadbolt that
12:20PM 10 was there.
11 Q. So when you see his hand through the door
12 and he's unlocking the deadbolt, what do you do?
13 A. I rushed forward towards the door and I
14 blocked him and kept it locked.
12:20PM 15 Q. And when you blocked him, how did you do
16 that?
17 A. I just --
18 Q. So you grabbed the deadbolt?
19 A. Yeah, and I kept it there.
12:20PM 20 Q. Did you do anything to try and hit his
21 hand away from the deadbolt?
22 A. I don't recall.
23 Q. And what did he do when you protected the
24 deadbolt?
12:20PM 25 A. He ran away.

12:20PM 1 Q. Did he take his arm out of the glass?
2 A. Yes.
3 Q. And he takes off?
4 A. Yes.
12:20PM 5 Q. What did you do when you saw him leave?
6 A. I chased after him of course.
7 Q. So you chased after him. Where did you
8 see him go?
9 A. To his car parked right in front of my
12:21PM 10 house.
11 Q. Did you see what kind of car it was?
12 A. Yes. It was a blue Suzuki.
13 Q. And were you able to get the license
14 plate?
12:21PM 15 A. Yes. I did.
16 Q. Do you remember the license plate as you
17 sit here today?
18 A. Yes.
19 Q. What was the license plate?
12:21PM 20 A. 953LGM.
21 Q. Did you tell the police that information?
22 A. Yes. I told the dispatcher the license
23 plate as soon as I called them.
24 Q. And did you call the police right away?
12:21PM 25 A. Yes. Yes, I did.

12:21PM 1 Q. Did the police respond?

2 A. Yes.

3 Q. Now, the person that you saw that was at

4 your front door, you said you saw him run and get into

12:21PM 5 this car, the Suzuki right in front of your house?

6 A. Yes.

7 Q. Did you see which door he got into?

8 A. The driver's side.

9 Q. Could you see anybody else in the car?

12:21PM 10 A. No.

11 Q. Just him?

12 A. Yes.

13 Q. Now, can you describe what he looked like

14 for the Court?

12:21PM 15 A. He was a tall black male, bigger than me

16 at least.

17 Q. How tall are you?

18 A. 5-foot-6 and with shoes 5-foot-7.

19 Q. You held your hand about an inch or so

12:22PM 20 above your head. Was he a little taller than you?

21 A. Yeah. I'd say around 5-foot-10 to 6 feet.

22 Q. Do you remember what he was wearing?

23 A. No.

24 Q. But you know it was a black male?

12:22PM 25 A. Yes.

12:22PM 1 Q. Do you remember if he was heavy-set,
2 skinny?
3 A. It's hard to remember.
4 Q. Do you think you'd recognize him if you
12:22PM 5 saw him again?
6 A. Yes.
7 Q. Now, you've been sitting in court all
8 morning. Have you seen the same person that you saw
9 try and break into your house on November 28th, 2016
12:22PM 10 here in court?
11 A. I think.
12 Q. You think. Is that person still here in
13 court?
14 A. I don't know actually.
12:22PM 15 Q. Well, let me ask you. The person that you
16 thought you saw that kind of looked familiar, do you
17 see him in the courtroom as you sit here right now?
18 A. No, I don't think so.
19 Q. So I am going to point to a person. This
12:23PM 20 gentleman that's seated at counsel table wearing
21 glasses, you don't recognize him?
22 A. Could he take his glasses off?
23 MS. DIGIACOMO: For the record the
24 defendant just took his glasses off.
12:23PM 25 MR. BROWER: So did I since we are both

12:23PM 1 sitting at the table wearing glasses.

2 MS. DIGIACOMO: I'm sorry. I'm standing
3 behind Mr. Brower.

4 THE COURT: I don't think you match the
12:23PM 5 description, Mr. Brower.

6 BY MS. DIGIACOMO:

7 Q. Does he look familiar to you?

8 A. Yes, I think so.

9 Q. Without the glasses?

12:23PM 10 A. Yes. Without the glasses.

11 Q. So he appears to look like the person that
12 was at your house that day in November?

13 A. Yeah.

14 Q. Can you say with like a percentage of
12:23PM 15 certainty like 10 percent, 50 percent?

16 A. 85 percent sure.

17 MS. DIGIACOMO: Now, this person that I
18 just pointed to for the record was the defendant, your
19 Honor.

12:24PM 20 THE COURT: Record will reflect
21 identification that you're talking about the defendant.

22 BY MS. DIGIACOMO:

23 Q. Did you know him before November 28th?

24 A. No, I have no idea who they are.

12:24PM 25 Q. So you did not give him permission to come

12:24PM 1 into your house on November 28th, 2016?

2 A. No.

3 MS. DIGIACOMO: I have nothing further.

4 THE COURT: Mr. Brower.

5

6 CROSS-EXAMINATION

7 BY MR. BROWER:

8 Q. Kevin, when you looked around the
9 courtroom a moment ago and you didn't identify my
12:24PM 10 client, did you see any other black people in the
11 courtroom?

12 A. No.

13 Q. But there's a couple black females,
14 correct?

12:24PM 15 A. Yes.

16 Q. But no other black males, correct?

17 A. Yes.

18 Q. And only after the prosecutor pointed to
19 the sole black male in the courtroom were you able to

12:24PM 20 say possibly it was him, correct?

21 A. Yes.

22 Q. So, Kevin, I am going to go back and ask
23 you a couple other questions.

24 A. Okay.

12:24PM 25 Q. You were talking about somebody trying to

12:24PM 1 punch through the glass on your door of your house. Is
2 your glass frosted?

3 A. What do you mean by that?

4 Q. Well, is it clear glass on the front door
12:25PM 5 or is it frosted glass?

6 A. What do you mean by that?

7 Q. Are the panels totally clear or do they
8 have lines or etchings or snowflakes or anything in
9 them? Is it like a clear glass that you can see
12:25PM 10 through like glasses or is it --

11 A. It was clear enough that I could see him
12 through the glass.

13 Q. So there's nothing to distort your vision
14 through there?

12:25PM 15 A. No.

16 Q. What color jacket was the person wearing?

17 A. I couldn't remember.

18 Q. Was the person wearing gloves?

19 A. I do not remember.

12:25PM 20 Q. So when you saw a hand come through the
21 window, can you describe were their rings on it?

22 A. I don't remember.

23 Q. Can you describe whether the fingernails
24 had nail polish or anything else?

12:26PM 25 A. No.

12:26PM 1 Q. Because you don't remember or because you
2 didn't see?

3 A. Because I don't remember.

4 Q. And you don't remember if there was a
12:26PM 5 glove?

6 A. No.

7 Q. Do you remember the color -- was the arm
8 that came through the window -- was the arm bare?

9 A. No.

12:26PM 10 Q. So it had clothing on it?

11 A. Yes.

12 Q. But you don't know if it was a jacket
13 or --

14 A. No.

12:26PM 15 Q. Do you know if it was leather or if it was
16 cloth?

17 A. Probably leather.

18 Q. Probably leather but you're not sure?

19 A. Not sure.

12:26PM 20 Q. But you don't remember if the arm had a
21 glove on it?

22 A. No.

23 Q. How about a watch, did you see a watch?

24 A. No.

12:26PM 25 Q. And you ran outside afterwards and saw the

12:26PM 1 person get into the driver's side of a car?

2 A. Yes.

3 Q. Were they wearing a hat?

4 A. No, I don't think so.

12:27PM 5 Q. Can you describe their hair to me?

6 A. Very short hair.

7 Q. Were they wearing glasses?

8 A. No, I don't think so.

9 Q. Not even sunglasses?

12:27PM 10 A. No.

11 Q. Describe the vehicle to me.

12 A. It was a blue Suzuki.

13 Q. Two door or four door?

14 A. Four door.

12:27PM 15 Q. Do you know what kind of wheels it had?

16 A. Probably the stock wheels.

17 Q. You don't remember?

18 A. The stock wheels.

19 Q. Can you describe the weight of the person?

12:27PM 20 A. Average to slim.

21 Q. So you are going to have to help me out,

22 Kevin. I don't know what average to slim means to you.

23 A. I'd say around 180 pounds to 200.

24 Q. 180 to 200 and you described him as

12:28PM 25 between 5-foot-10 and 6 feet?

12:28PM 1 A. Yes. Or a bit taller than 6 feet.

2 Q. Were you wearing shoes when you ran

3 outside?

4 A. No. I went in barefoot.

12:28PM 5 Q. How far did you chase the person?

6 A. I chased him to the sidewalk at which I

7 looked at his license plate because his car was right

8 there.

9 Q. Well, the car you saw the person get into

12:28PM 10 was right there, right?

11 A. Yes.

12 Q. Do you know if it was their car?

13 A. Yes.

14 Q. How do you know it was their car?

12:28PM 15 A. Because they had the keys and started the

16 ignition to start the car.

17 Q. So if you drive your parents' car with

18 their keys, is it your car or your parents' car?

19 A. It's my parents' car obviously.

12:28PM 20 Q. But if I saw you get in it, wouldn't I be

21 inaccurate to say it was your car?

22 A. No.

23 Q. I wouldn't?

24 A. I mean, if you saw me with my car, then

12:29PM 25 obviously it's my car. But if you see me with my

12:29PM 1 parents' car, then it's my parents' car.

2 Q. That you're driving?

3 A. Yes.

4 Q. Kevin, was it the right hand or left hand

12:29PM 5 that came into the door?

6 A. I'm pretty sure it was the left hand I

7 think.

8 Q. And you didn't see any watches?

9 A. No.

12:29PM 10 Q. Was it sunny out that day?

11 A. Yes. It was in broad daylight.

12 Q. So it wasn't raining or anything?

13 A. No.

14 Q. It wasn't overcast?

12:29PM 15 A. No.

16 MR. BROWER: I'll pass the witness, Judge.

17 THE COURT: Anything else?

18 MS. DIGIACOMO: No.

19 THE COURT: Thank you, sir.

12:30PM 20 Is he free to go?

21 MS. DIGIACOMO: Yes.

22 THE COURT: You can jump down. You're

23 free to leave. Thank you for your testimony.

24 THE WITNESS: Thank you, your Honor.

2:30PM 25 THE COURT: Next witness.

12:30PM 1 MS. DIGIACOMO: Norma Nazareno.

2 THE COURT: Good morning, ma'am. Remain

3 standing and raise your right hand for me.

4 THE CLERK: Do you solemnly swear that the

12:30PM 5 testimony that you are about to give will be the truth,

6 the whole truth and nothing but the truth, so help you

7 God?

8 THE WITNESS: Yes, I do.

9 THE CLERK: Please be seated.

12:30PM 10 Please state your first and last name and

11 spell each for the record.

12 THE WITNESS: Norma Cordero Nazareno.

13 THE COURT: Can you spell that for us.

14 THE WITNESS: N-O-R-M-A. Last name

12:31PM 15 N-A-Z-A-R-E-N-O.

16 THE COURT: Thank you. Grab a seat.

17 Go ahead, State.

18 MS. DIGIACOMO: Thank you.

19

12:31PM 20 **NORMA CORDERO NAZARENO,**

21 having been first duly sworn, did testify as follows:

22 DIRECT EXAMINATION

23 BY MS. DIGIACOMO:

24 Q. Ma'am, do you live or own 2731 Warm Rays?

12:31PM 25 A. Yes, I do. For the last 16 years.

12:31PM 1 Q. And do you own that with your husband
2 Florentino?
3 A. Yes, I do.
4 Q. Do you know the person who just left the
12:31PM 5 courtroom, Kevin?
6 A. That's my son.
7 Q. And he lives there as well?
8 A. Yes.
9 Q. And all of you lived there last
12:31PM 10 November 28th of 2016?
11 A. Yes, ma'am. Me and my husband and my son.
12 Q. Did anything happen that day that caused
13 you to go home?
14 A. Well, I was at work right around 12,
12:31PM 15 that's when he called me at work and I had to rush home
16 to see what happened.
17 Q. Who called you?
18 A. My son.
19 Q. Kevin?
12:32PM 20 A. As soon as he called 9-1-1 he called me
21 right away. Actually he find out -- my husband found
22 out so my husband called me to go home. So I went home
23 right away.
24 Q. And when you got home, did your house look
12:32PM 25 different than it had when you left for work?

12:32PM 1 A. It's just the door that's broken, the
2 glass was broke.

3 Q. What time did you leave for work that day?

4 A. As soon as I could. Like around 12:15.

12:32PM 5 Q. No. What time did you --

6 A. 12:30.

7 THE COURT: Okay. Just let her finish the
8 question and then you answer because this lady down
9 here is typing everything down. So if you guys talk
10 over each other, it doesn't get down very well.

11 So go ahead.

12 BY MS. DIGIACOMO:

13 Q. I meant what time did you leave the house
14 that day to go to work?

12:32PM 15 A. That was a Monday. Normally I leave like
16 around between six to 6:15 because I start seven
17 o'clock on a Monday.

18 Q. So you had been at work for awhile before
19 you got the call?

12:32PM 20 A. Yes, ma'am.

21 Q. And you got home at 12:30?

22 A. I left work around 12:30 maybe.

23 Q. How long did it take you to get home?

24 A. Normally about 30 minutes.

12:33PM 25 Q. When you got home, you said something was

12:33PM 1 wrong with the front door?

2 A. Yeah. Well, that's exactly what's already
3 given to me, the description of what was wrong and why
4 I had to go home.

12:33PM 5 Q. Tell me what you saw when you got home.

6 A. I saw -- because I have two sides of the
7 door. One side was broken like there's a big hole in
8 there and the hole kind of shattered but not completely
9 down but there was a big hole right there by the
10 doorknobs.

11 Q. And when you said there was two sides, do
12 you have two front doors?

13 A. Yeah. There's a left and a right-hand
14 side.

12:33PM 15 Q. And they're both glass?

16 A. Yes.

17 Q. And do they also have another design in
18 the glass?

19 A. Yes, there is. Like a metal in between so
12:33PM 20 they're like different design on it.

21 Q. But on one side of the glass there was a
22 hole in it?

23 A. Yes. So there's no metal so that's why
24 there was -- that's where the broken glass was.

12:33PM 25 Q. And you didn't give anyone permission to

12:34PM 1 break your door that day?

2 A. No, ma'am. We just left it the way it is

3 until later on then we needed a replacement door. So

4 they just took that door and took it to the shop and

12:34PM 5 replaced the glass.

6 Q. How much did it cost to repair the glass

7 door?

8 A. Well, first of all the first day that it

9 was broken we needed to be safe that day so I called

12:34PM 10 the insurance and they referred me to a construction

11 which is the Hopster --

12 THE COURT: I'm sorry. They referred you

13 to what?

14 THE WITNESS: To a construction company.

12:34PM 15 THE COURT: Okay.

16 THE WITNESS: So they replaced the wood

17 for the whole glass door and got the whole frame.

18 BY MS. DIGIACOMO:

19 Q. So what you mean is they put wood up until

12:34PM 20 you could get the glass fixed?

21 A. Yes.

22 Q. So nobody else could break in?

23 A. Exactly.

24 Q. How much did that cost?

12:34PM 25 A. That was about 400-something-dollars. I

12:34PM 1 have it on here.

2 Q. For the record you're referring to your
3 receipts?

4 A. Yes. I have the receipts. That cost me
12:35PM 5 \$474.41.

6 Q. And then how much did it cost to repair
7 the glass?

8 A. \$723.72. And I have the receipt.

9 Q. How long did it take to repair that glass?

12:35PM 10 A. Well, we had to order the door so we
11 waited like almost two weeks to have it replaced.

12 Q. And did your insurance cover the repair?

13 A. No, it did not because the temporary door
14 wasn't a thousand dollars. It was only 700. So they

12:35PM 15 couldn't -- because we had to pay deductible and we
16 haven't done that yet.

17 Q. So your deductible is a thousand dollars?

18 A. Yes.

19 Q. So you had to pay the \$723.72 yourself?

12:35PM 20 A. Yes.

21 Q. As well as the \$474.41 to put up the wood
22 door?

23 A. Yes, ma'am.

24 MS. DIGIACOMO: I don't have anything

2:36PM 25 further.

12:36PM 1 THE COURT: Anything, Mr. Brower?

2

3

CROSS-EXAMINATION

4 BY MR. BROWER:

12:36PM 5 Q. Ma'am, the glass on your door -- can you
6 describe the glass that was on your door? Is it
7 see-through, is it frosted?

8 A. It's kind of frosted but there's some area
9 where just like a clear one with like a diamond shape,
12:36PM 10 that's a clear, and the rest are all frosty. Like in
11 between has frost and then clear.

12 Q. So when you look out your door, can you
13 visibly see what's on the other side?

14 A. Absolutely.

12:36PM 15 Q. And the door that was broke, are they two
16 doors side by side or just one door?

17 A. It's two door side by side.

18 Q. Which door was broke, the right or left
19 door?

12:36PM 20 A. If I was facing the front door from the
21 outside, it'll be on the left-hand side with the
22 doorknob is.

23 Q. And where would your deadbolt be?

24 A. On the left-hand side. It's on the same
2:36PM 25 side where the latch is.

12:36PM 1 Q. So the latch isn't in the center of the
2 two doors, it's actually on the side?

3 A. Well, actually it's on that one door on
4 the left-hand side.

12:37PM 5 Q. But there's two doors. Do they open --

6 A. Yeah. The other one is just -- there's
7 this latch up on the top and the bottom --

8 Q. And the doors --

9 A. -- to keep it staying --

12:37PM 10 THE COURT: Ma'am, let him finish because
11 we're talking over each other.

12 BY MR. BROWER:

13 Q. So the right-hand door, if I'm standing at
14 the front door, the right-hand door has a latch that's
15 at the top and bottom --

16 A. Yes.

17 Q. -- so it doesn't open with a knob?

18 A. No.

19 Q. It opens with the two latches?

12:37PM 20 A. Right.

21 Q. When the door is closed, does each door
22 hook to each other?

23 A. It's just the doorknob that has the lock.
24 That's the only thing that's there.

12:37PM 25 Q. Hooks to the other door, correct?

12:37PM 1 A. Yes.

2 Q. So from where the hole in the window was,

3 if I stick my hand through that hole --

4 A. Yeah, it's about this much --

12:38PM 5 THE COURT: Hang on. Hang on. Hang on.

6 Finish your question, Mr. Brower.

7 THE WITNESS: Go ahead.

8 BY MR. BROWER:

9 Q. So when I stick my hand through that hole,

12:38PM 10 do I reach my hand to the right or to the left to

11 unlock the door if I'm standing in front?

12 A. You would go going -- so the door is right

13 here so you would be going this way.

14 THE COURT: For the record she's using her

12:38PM 15 left arm and turning it to her right.

16 BY MR. BROWER:

17 Q. So I would reach in and go to my right?

18 A. Yeah.

19 MR. BROWER: Thank you, Judge.

12:38PM 20 THE COURT: Is that it?

21 MR. BROWER: That's it with me, Judge.

22 THE COURT: Okay. Anything else, State?

23 MS. DIGIACOMO: No.

24 THE COURT: Ma'am, you're excused.

2:38PM 25 Is this witness free to go?

12:38PM 1 MS. DIGIACOMO: Yes.

2 THE COURT: Thank you for your testimony.

3 You're free to go today.

4 Does anybody want copies of her receipts?

12:38PM 5 MS. DIGIACOMO: I have them and I made

6 copies and I'll get them to Mr. Brower.

7 THE COURT: Next witness, State.

8 MS. DIGIACOMO: State calls Officer

9 McGeahy.

12:39PM 10 THE COURT: Is it officer?

11 THE WITNESS: Sure.

12 THE COURT: What is your assignment?

13 THE WITNESS: I'm with PSU.

14 THE COURT: Come on up, remain standing

12:39PM 15 and raise your right hand.

16 THE CLERK: Do you solemnly swear that the

17 testimony that you are about to give will be the truth,

18 the whole truth and nothing but the truth, so help you

19 God?

12:39PM 20 THE WITNESS: I do.

21 THE CLERK: Please be seated.

22 Please state your first and last name and

23 spell each for the record.

24 THE WITNESS: My name is James McGeahy.

12:39PM 25 J-A-M-E-S. M-C-G-E-A-H-Y.

12:39PM 1 THE COURT: Thank you, sir.

2 Go ahead.

3

4

JAMES MCGEAHY,
having been first duly sworn, did testify as follows:

12:39PM 5

6

DIRECT EXAMINATION

7

BY MS. DIGIACOMO:

8

Q. How are you employed?

9

A. I'm a police officer with the Henderson

12:39PM 10

Police Department.

11

Q. How long have you been so employed?

12

A. Ten years and about eight months now.

13

Q. Directing your attention to November 28,

14

2016 at approximately noon were you so employed and

12:40PM 15

working?

16

A. Yes.

17

Q. What was your assignment on that date?

18

A. I'm assigned to PSU, Problem Solving Unit.

19

Q. Now, did a report come in about a home

12:40PM 20

invasion at 2731 Warm Rays Avenue in which a license

21

plate was obtained?

22

A. Yes.

23

Q. And did you get assigned that case?

24

A. Yes.

12:40PM 25

Q. What happened when you got the assignment?

12:40PM 1 A. As a squad we started immediately
2 investigating. Took our initial information which was
3 the license plate and ran that through our NCIC data
4 base, got back a hit that it was a rental car,
12:40PM 5 contacted the rental company.

6 Q. And when you contacted the rental company,
7 what information were they able to provide you?

8 A. They were able to provide us with who the
9 renter was, the type of vehicle it was and that it had
12:40PM 10 GPS.

11 Q. Now, was it rented to a Marquisha Powell?

12 A. I believe that was the name, yes.

13 Q. So it was rented to a female?

14 A. Yes.

12:41PM 15 Q. And you said that it was equipped with
16 GPS?

17 A. Yes.

18 Q. Was anybody at the car rental place able
19 to get you the location of that car right then?

12:41PM 20 A. Yes.

21 Q. Based upon giving the GPS what did you and
22 your other officers do?

23 A. At that point we had two other officers
24 head down to the Global Autos and that way they had
12:41PM 25 direct contact with the management there who was

12:41PM 1 looking at the screen and actively following the GPS.
2 And then we relayed that information over to the other
3 officers who were out in the field attempting to locate
4 the vehicle.

12:41PM 5 Q. Okay. Did you ever see the GPS or was
6 there other officers that were there seeing the
7 location of the car?

8 A. I was just being told the GPS locations
9 and then I was emailed the paperwork of the actual
12:42PM 10 locations.

11 Q. The GPS for this car, did it show it was
12 present on Warm Rays?

13 A. Yes, it did.

14 Q. And so that's why you followed this car?

12:42PM 15 A. Yes.

16 Q. So when you are able to find the vehicle,
17 where was it?

18 A. Once we caught up with the vehicle it was
19 at the Fashion Show Mall on Las Vegas Boulevard.

12:42PM 20 Q. And do you know approximately what time
21 that was?

22 A. It was around noon. I don't remember the
23 exact time.

24 Q. So it's within a very short time period
12:42PM 25 from the call coming in about the home invasion and

12:42PM 1 finding the car?

2 A. Correct.

3 Q. When you get to the Fashion Show, do you

4 ever actually see this vehicle?

12:42PM 5 A. I did not. The detectives on scene did.

6 Q. Who were the detectives on scene?

7 A. I believe it was Max Pilz was there and

8 actually he's the one that located it. I don't

9 remember who else was with him. But I know he's the

12:42PM 10 one that actually located the vehicle.

11 Q. And that's P-I-L-Z for the record?

12 A. Yes. P-I-L-Z.

13 Q. When the vehicle was located, was it the

14 same vehicle with the license plate number that had

12:43PM 15 been reported by the victim?

16 A. Yes.

17 Q. What happened at that point?

18 A. I believe that they observed the vehicle

19 in the parking garage and then pick up another person

12:43PM 20 and then they drove to the exit of the parking garage

21 and parked on the exterior near Dillard's. Which is

22 where they were contacted.

23 Q. And so it was Detective Pilz that stopped

24 the car?

12:43PM 25 A. Yes. It was actually Jonathan Ashcroft

12:43PM 1 that was with him. I'm sorry.

2 Q. Ashcroft?

3 A. Yes.

4 Q. So the car was stopped and then you

12:43PM 5 arrived on scene?

6 A. Yes.

7 Q. And when you arrived, had you been

8 informed whether or not the individuals had been

9 Mirandized?

12:44PM 10 A. I believe so, yes, they were Mirandized.

11 Q. So when you come on scene, what do you do?

12 A. I didn't do anything because I was advised

13 that they were not talking. So I didn't speak to any

14 of them, although I did speak to this gentleman here

12:44PM 15 and advised him what he was under arrest for.

16 Q. You said this gentleman here. Can you

17 point to the person you're referring to and describe

18 what he's wearing right now.

19 A. Denzel Dorsey wearing a black shirt and

12:44PM 20 glasses.

21 MS. DIGIACOMO: Your Honor, would the

22 record reflect identification of the defendant?

23 THE COURT: Record will reflect

24 identification.

25

12:44PM 1 BY MS. DIGIACOMO:

2 Q. All right. So Mr. Dorsey was in the car
3 that was stopped?

4 A. Yes.

12:44PM 5 MR. BROWER: Judge, calls for speculation.
6 I don't think he was there.

7 MS. DIGIACOMO: I can rephrase.

8 THE COURT: Why don't you rephrase. I
9 don't know if he's speculating, it's personal

12:44PM 10 knowledge. If he saw it, was he --

11 BY MS. DIGIACOMO:

12 Q. When you got to the scene of the car that
13 was involved in the home invasion where it was stopped,
14 were there other officers present?

12:44PM 15 A. Yes. Metro was there as well as other
16 detectives working the case.

17 Q. Were there any individuals there that were
18 not officers?

19 A. There was him and then there was another
12:45PM 20 subject that was with him. I don't recall his name.

21 Q. So when you say him, you're talking about
22 Mr. Dorsey?

23 A. Yes.

24 Q. So he was there with all these officers by
12:45PM 25 the car?

12:45PM 1 A. Yes.

2 Q. And you didn't see --

3 A. When I got there, the other subject

4 actually was under arrest and was being at that point

12:45PM 5 transported and leaving to go to jail at CCDC. He had

6 several warrants for his arrest. I don't recall.

7 Q. So the second passenger of this car is

8 gone?

9 A. Yes.

12:45PM 10 Q. And it's just Mr. Dorsey with the vehicle

11 and all the officers?

12 A. He's sitting down actually over by one of

13 our cars.

14 Q. Correct. But he's in the vicinity of this

12:45PM 15 car?

16 A. Yes.

17 Q. And everyone else there is officers

18 investigating?

19 A. Yes.

12:45PM 20 Q. So based upon what you had said earlier

21 you went over and contacted Mr. Dorsey to let him know

22 he was under arrest?

23 A. And I advised him what the charges were

24 for.

12:46PM 25 Q. What did you tell him he was under arrest

12:46PM 1 for?

2 A. Home invasion and damage to the property.

3 Q. And that was the home invasion that

4 occurred at 2731 Warm Rays?

12:46PM 5 A. Correct.

6 Q. Now, when you contacted Mr. Dorsey, did

7 you notice anything about his appearance?

8 A. Yes. He was wearing a suit jacket that on

9 his left arm had several tears in it that were pretty

12:46PM 10 fresh. And also --

11 Q. Wait. So you're pointing to the left arm,

12 your left arm, and you started kind of at the wrist and

13 went up to the elbow?

14 A. Yeah, I believe there was a few tears, one

12:46PM 15 was down here and I think there was a couple up in here

16 that were torn and they were frayed so you could tell

17 they were fresh, they weren't something that was old.

18 And the jacket was fairly new, it looked like a new

19 suit jacket.

12:46PM 20 Q. And there was only these tears and fraying

21 on the left arm?

22 A. On the left arm, correct.

23 Q. Did you notice anything else about his

24 physical appearance?

12:46PM 25 A. He had like some injuries on his right

12:46PM 1 hand. I don't recall exactly what they were, but they
2 were on his knuckle. Some dry blood.

3 Q. So on his right hand his knuckles had dry
4 blood?

12:47PM 5 A. Yes.

6 Q. But did those appear to be fresh injuries
7 or was it scabbed?

8 A. Yes. They appeared to be fresh.

9 Q. Anything else about his appearance?

12:47PM 10 A. No.

11 Q. Now, did you do a search incident to
12 arrest of him?

13 A. Yes.

14 Q. And anything found during the search?

12:47PM 15 A. The key to the vehicle.

16 Q. What vehicle are you referring to?

17 A. The vehicle that he was driving. It was a
18 Suzuki rental car.

19 MR. BROWER: Judge, this calls for
12:47PM 20 speculation. We don't know that he was driving the
21 vehicle.

22 THE COURT: Well, hang on. His testimony
23 was that he was driving it. If he can't testify that
24 he was driving it --

12:47PM 25 MS. DIGIACOMO: He testified he had the

12:47PM 1 key.

2 THE COURT: Your testimony is that he had
3 the key to the vehicle?

4 THE WITNESS: Yes. I apologize. Yes, he
12:47PM 5 had the key to the vehicle in his pocket.

6 BY MS. DIGIACOMO:

7 Q. And you said it was a Suzuki?

8 A. Yeah, I believe it was a Suzuki.

9 And he also had a glove in his pocket that
12:48PM 10 had some blood on it and then -- that was it.

11 Q. So he had one glove in his pocket?

12 A. One glove in his pocket and the car key.

13 Q. And did you ever find the other glove?

14 A. Yeah. We found the other glove in the
12:48PM 15 vehicle.

16 Q. And in the vehicle you're talking about is
17 the Suzuki?

18 A. Yes.

19 Q. And that's the one with the license plate
12:48PM 20 953LGM that was reported we've been talking about the
21 whole time?

22 A. Correct.

23 MS. DIGIACOMO: I have nothing further.

24 THE COURT: Mr. Brower.

12:48PM 25

CROSS-EXAMINATION

BY MR. BROWER:

Q. Officer, did you impound the jacket that you just talked about?

A. Yes, we did.

Q. And you have that in evidence?

A. Yes.

Q. Okay. And did you impound the gloves?

A. Yes.

Q. What kind of gloves were they?

A. They looked almost like mittens. They were cotton gloves.

Q. So were they gloves or mittens?

A. I don't know. Is there a difference?

Q. One has fingers and one has --

A. It had fingers, so sure. They were like cotton gloves.

Q. Sorry. I run a ski team. Big difference.

But you didn't see Mr. Dorsey driving the vehicle?

A. No, I did not.

Q. What race was the other person in the vehicle?

A. African American as well.

Q. Do you know how tall they were?

12:49PM 1 A. If I remember I want to say he was like
2 6-foot.

3 Q. Do you remember his weight?

4 A. He was thin.

12:49PM 5 Q. Thin like Mr. Dorsey or thinner?

6 A. I want to say thinner. But my interaction
7 with him was limited so I don't recall too much.

8 Q. Did you do any showups or lineups with
9 Kevin Nazareno?

12:50PM 10 A. No.

11 Q. You've never shown personally Kevin any
12 pictures of the other individual?

13 A. I don't understand your question.

14 Q. You singled out Mr. Dorsey as the person
12:50PM 15 you believe committed this crime. I'm trying to figure
16 out what you did with the other individual to show that
17 they didn't commit this crime?

18 A. We didn't do anything with him because we
19 saw him get picked up at the mall.

12:50PM 20 Q. But that was after the fact, correct?

21 A. Yes.

22 THE COURT: I'm confused. Picked up by
23 officers or picked up --

24 THE WITNESS: No. He was picked up by
12:50PM 25 Denzel in the parking garage.

12:50PM 1 MS. DIGIACOMO: And by Denzel you mean the
2 defendant?

3 THE WITNESS: Yes.

4 BY MR. BROWER:

12:50PM 5 Q. So you say that you saw the car pull into
6 the parking lot, never stop or do anything else and go
7 pick up the other individual?

8 A. The other detective did, Max Pilz. He saw
9 him pick up -- I believe pick him up inside the parking
12:51PM 10 garage.

11 Q. Did you guys call out any forensic
12 examination to the Warm Rays house?

13 A. Yes.

14 MR. BROWER: Judge, I'll pass the witness.

12:51PM 15 THE COURT: Anything else, Miss DiGiacomo?

16 MS. DIGIACOMO: No, Your Honor.

17 THE COURT: All right. Is this witness
18 free to go?

19 MS. DIGIACOMO: Yes.

12:51PM 20 THE COURT: Thank you so much, officer.

21 THE WITNESS: Thank you.

22 MS. DIGIACOMO: With that the State rests.

23 THE COURT: Any motion on anything
24 regarding the complaint?

12:52PM 25 MS. DIGIACOMO: Oh, yeah, I'm sorry.

12:52PM 1 Thank you. I need to move to amend lines 17 and 22 to
2 reflect Florentino and/or Norma Nazareno as the owners.

3 MR. BROWER: Submit it, Judge.

4 THE COURT: Is that it?

12:52PM 5 Mr. Brower.

6 MR. BROWER: Judge, my client is aware of
7 his right to testify at a preliminary hearing. I
8 believe he is going to follow my advice and not testify
9 before your Honor, but I know you have to canvas him.

12:52PM 10 THE COURT: Is that correct, Mr. Denzel
11 Dorsey? You have the right to testify at your own
12 preliminary hearing. However, it can't be held against
13 you if you don't testify. Are you taking your
14 attorney's advice and not testifying at this time?

12:52PM 15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you have any witnesses
17 otherwise you'd like to call?

18 MR. BROWER: We don't, Judge.

19 THE COURT: Waive and reserve, State?

12:52PM 20 MS. DIGIACOMO: Yes.

21 THE COURT: Mr. Brower.

22 MR. BROWER: Judge, I am going to submit
23 it on what you've already heard.

12:53PM 24 THE COURT: All right. The testimony was
25 that the arm went through the door, broke through the

12:53PM 1 door, attempted to open the door and that Kevin saw an
2 African American male, watched him go out to the car
3 with that particular license plate. That license plate
4 was on the vehicle ultimately a short time later found

12:53PM 5 by the officers. And while we didn't have direct
6 testimony, the key was in Mr. Dorsey's pocket a short
7 time later. So to the extent there's any issues with
8 the identification, the circumstantial evidence
9 suggests that probable cause was met and that Denzel

12:53PM 10 Dorsey committed the crimes of attempt invasion of the
11 home and malicious destruction of private property. I
12 think the testimony on the malicious destruction of
13 property was 1097.

14 So, Mr. Dorsey, I find probable cause has
12:53PM 15 been met at this time on Count 1 and Count 2 so I am
16 going to bind you over to District Court to answer
17 those two charges.

18 I granted the motion to add Florentino to
19 line 17 and line 21 to include an and/or with Norma
12:54PM 20 Nazareno.

21 So do we have a date for District Court.

22 MR. BROWER: Judge, I know that she's
23 going to give me the 11th but I am asking for the
24 15th.

12:54PM 25 THE CLERK: I remember. May 15,

12:54PM 1 10:00 a.m. lower level.

2 THE COURT: We were operating off of an
3 amended. Are you aware of that?

4 MR. BROWER: I am, Judge.

12:55PM 5 THE COURT: I just wanted to make sure
6 that we were clear that we were binding him over on the
7 Amended Criminal Complaint of invasion of the home, not
8 attempt invasion of the home. Thank you.

12:55PM 9
10 (The proceedings concluded.)

11
12 * * * * *

13
14 ATTEST: Full, true and accurate
12:55PM 15 transcript of proceedings.

16
17 /S/Lisa Brenske

18 LISA BRENSKE, CSR No. 186

19

20

21

22

23

24

25

EXHIBIT “D”

DENZEL DORSEY

~~701~~ 5569, CCDC, NVC

330 S. Casino Center Blvd
Las Vegas, Nevada 89101

District Court
Clark County, Nevada

THE STATE OF NEVADA

Plaintiff,

vs.

DENZEL DORSEY

Defendant

Case No.: 0-17-323324-1

Dept. No.: XXII (22)

Docket No.: _____

Motion To Withdraw plea

Comes now, defendant, Denzel Dorsey, IN Pro Se,
moves this Honorable Court for A Motion To withdraw
plea,

This motion is made and based upon all papers,
pleadings, and document on file with the Clerk of the
Court, The Points and Authorities, and the Argument
Contained therein,

Dated this _____ Day of MAY 2019

Respectfully Submitted
Denzel Dorsey #2845569
[Signature]

In Pro Se, CCDC
330 S. Casino Center
Las Vegas, Nevada 89101

Points And Authorities Argument

In this case, defendant, was appointed counsel and counsel ignored defendant's requests to reasonably investigate and therefore now the defendant asserts that his guilty plea was not knowingly, voluntarily, and intelligently entered because counsel led him to believe his case was indefensible.

Strickland v. Washington

Defendant has explained his favorable facts in which counsel ignored defendant's request to investigate wherein counsel told defendant that he was surely to lose in his trial and become habituated under the habitual criminal act because of the defendant's extensive criminal history, and at the fact that there was drugs in the vehicle, the jury would put shame upon him, regardless of defendant's favorable facts, and that the defendant was advised by his counsel that if he don't take the states only offer to him he would lose in trial and become habituated under a 5-20 years sentence.

Cripps v. State.

Defendant was also expecting his first child to be born at the he had entered the guilty plea wherein counsel has told the defendant that the only way to get rid of this to move on with life and to be able get out to witness his first child be born was to sign and enter the states plea offer with the

1 stipulation that the defendant was to get his bail
2 reinstated in Case NO. C-17-323324-1 and A.O.R. in
3 Case NO. 17F21598X for dismissal after rendition
4 of sentence, where as the defendant was to re-
5 main out of custody until sentencing. The defendant
6 told his counsel that he may have a fugitive debiner
7 in the state of California and counsel stated to the
8 defendant that he would be released from Nevada's
9 custody within 30 days upon entering the guilty plea.
10 The defendant has not seen this relief in his release from
11 custody, wherein the state has placed a informal hold on
12 the defendant to hold him until his sentencing, where
13 as the defendant had entered his plea with the knowledge
14 of promise to remain out of custody until sentencing
15 as told by counsel. **Crawford v. State**

16 Therefore, the defendant's counsel was ineffective for failing
17 to reasonably investigate, failing to explain the strengths
18 and weaknesses of the evidence, failing to inform him of
19 the consequences of the plea, failing to provide an adequate
20 defense, and failing to ensure defendant understood the
21 sentencing scheme.

22 wherefore, there is new evidence that could relieve the
23 defendant of guilt and persecution in this case, and
24 with the defendant's belief that he had no viable defense
25 and therefore no choice than to accept the states plea bargain.
26 the defendant moves to submit his declarations and to
27 withdraw his plea addressing NRS 176.165

28 Dated this Day of MAY 20 18

Declarations by:
Denzel Dorsey

I, Denzel Dorsey, Hereby state:

1) That the true suspect Davey Dorsey has given his confession which relieves defendant of guilt and persecution in this case.

2) That I am a 5'10 165 LB Black male which the true suspect is about 6'1 195 LB and is also a Black male which positively identifies him as the true suspect that was given by victim in this case.

3) That the victim never positively identifies the defendant within his court proceedings.

4) That Defendant was present on the block of Rochelle / S. Lindell at the time of the crime.

5) That after the Occurance of the crime the Vehicle (953 LBM) made two seperate stops for 3 minutes each (1) S. LindellST which where the defendant was present and recieved the Vehicle from Davey Dorsey without knowledge of the crime that previously had occurred, and also (2) The Vehicle (953 LBM) stoped on VikingST which the defendant dropped the suspect off after he recieved the Vehicle from suspect.

6) That Defendant was caught in the vehicle 2 hours after the time of the crime Occurance.

7) I am a Layman Not trained in law

8) My Full Name is Denzel Robn Dorsey; DOB 9/24/93; Social Security # 620685408

(4)

1 9.) That defendant is submitting his declar-
2 ations in Pro Se.
3
4
5
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13

14 DATED THIS ____ day of MAY, 2016.

15 I Denzel Dorsey, do
16

solemnly swear, under the penalty of perjury, that

17 the above Declarations is accurate,
18

19 correct, and true to the best of my knowledge.

20 NRS 171.102 and NRS 208.165.

21 Respectfully submitted,

22 Denzel Dorsey

23 Defendant
24 DP

25 NRS 208.165 A prisoner may execute any instrument by signing his name immediately
26 following a declaration "under penalty of perjury" with the same legal effect as if he had
27 acknowledged it or sworn to its truth before a person authorized to administer oaths. As used in
28 this section, "prisoner" means a person confined in any jail or prison, or any facility for the
detention of juvenile offenders in this state.

Certificate of service By mailing

I, Denzel Dorsey, do declare pursuant to N.R.C.P 5(b) that on the ____ day of May 2018 I sent A copy of Motion TO withdraw Plea, and notice of motion to:

The Clerk of The Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

Steven Wolfson
District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101

Caitlyn McAmis
Attorney at Law (Court appointed)
550 E. Charleston Blvd suite A
Las Vegas, Nevada 89104

Dated this ____ day of May 2018

Respectfully Submitted
Denzel Dorsey #2845569



In Pro Se, CCDC
330 S. Casino Center Blvd
Las Vegas, Nevada 89101

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 08:30 AM Sentencing

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

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Denzel Dorsey	Defendant
Gary Modafferi	Attorney for Defendant
Richard H. Scow	Attorney for Plaintiff
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

Steven D. Grierson

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 SANDRA K. DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DENZEL DORSEY,
13 #2845569

14 Defendant.

CASE NO: C-17-323324-1

DEPT NO: XV

14 **STATE'S NOTICE OF INTENT TO SEEK PUNISHMENT**
15 **AS A HABITUAL CRIMINAL AND NOTICE OF PRIOR BURGLARY**
16 **AND/OR HOME INVASION CONVICTIONS**

17 TO: DENZEL DORSEY, Defendant; and

18 TO: GARY MODAFFERI, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant DENZEL DORSEY,
21 as a habitual criminal in the event of a felony conviction in the above-entitled action.

22 That in the event of a felony conviction in the above-entitled action, the STATE OF
23 NEVADA will ask the court to sentence Defendant DENZEL DORSEY as a habitual criminal
24 based upon the following felony convictions, to-wit:

25 1. That on or about May 8, 2012, the Defendant was convicted in the State
26 of Nevada, for the crime of ATTEMPT BURGLARY (felony) in Case No. C-12-279732-1.

27 2. That on or about December 10, 2012, the Defendant was convicted
28 in the State of Nevada, for the crime of INVASION OF HOME (felony) in Case No.
C-12-284308-1.

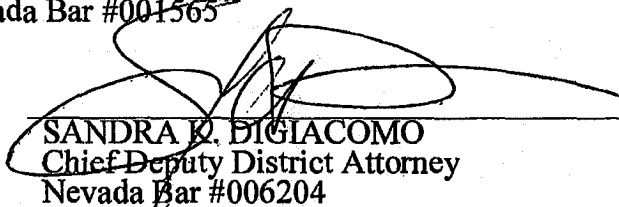
1 3. That on or about December 14, 2015, the Defendant was convicted in the
2 State of California, for the crime of BURGLARY FIRST DEGREE (felony) in Case No.
3 XNOMA058464-01.

4 4. That on or about August 19, 2015, the Defendant was convicted in the
5 State of California, for the crime of BURGLARY FIRST DEGREE (felony) in Case
6 No. XNOMA066766-01.

7 The State of Nevada hereby places Defendant DENZEL DORSEY on notice that in the
8 event of a Burglary pursuant to NRS 205.060 and/or a Home Invasion conviction pursuant to
9 NRS 205.067 in the above-entitled action, he will not be eligible for probation as Defendant
10 DENZEL DORSEY has already suffered three (3) prior Burglary and/or Home Invasion
11 conviction(s), as set forth in the above "Notice of Intent to Seek Punishment as a Habitual
12 Criminal," said notice being incorporated by this reference as though fully set forth herein.

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

16 BY

17 
18 SANDRA R. DIGIACOMO
19 Chief Deputy District Attorney
20 Nevada Bar #006204

21 **CERTIFICATE OF FACSIMILE TRANSMISSION**

22 I hereby certify that service of the above and foregoing was made this 21st day of
23 February, 2019 by facsimile transmission to:

24 GARY MODAFFERI, ESQ.
25 (702) 474-1320

26 BY /s/ E. Goddard

27 E. Goddard
28 Secretary for the District Attorney's Office

16FH2022X/erg/L-5

Sent Successfully

To: GARY MODAFFERI, ESQ. at 702-474-1320

02/21/2019 08:50AM

* Pg 1/3

User ID: GODDARE

=====

TO: Name: GARY MODAFFERI, ESQ.

Company:

Fax Phone Number: 702-474-1320

Contact Phone Number:

Info Code 1: C323324

Info Code 2: DENZEL DORSEY

Sent to remote ID:

Sent at: Thu Feb 21 08:50:35 2019

Sent on channel 4

Elapsed Time: 1 minute, 20 seconds

Transmission Status (0/339;0/0): Successful Send

Page Record: 1 - 2.

AA 0203



1 **SUPP**

2 GARY A. MODAFFERI, ESQ. (12450)
3 LAW OFFICE OF GARY A. MODAFFERI, LLC
4 815 S. Casino Center Boulevard
5 Las Vegas, NV 89101
6 Telephone: (702) 474-4222
7 Fax: (702) 474-1320
8 *Attorney for Defendant Denzel Dorsey*

9 **DISTRICT COURT**
10 **CLARK COUNTY, STATE OF NEVADA**

11 **THE STATE OF NEVADA**

12 **Plaintiff**

13 **vs**

14 **DENZEL DORSEY**

15 **Defendant**

Case No. C-17-323324-1
Dept No. XV

16 **SUPPLEMENTAL EXHIBIT IN SUPPORT OF DEFENDANT'S MOTION TO**
17 **WITHDRAW GUILTY PLEA**

18 COMES NOW the Defendant DENZEL DORSEY by and through his counsel, GARY A.
19 MODAFFERI, ESQ. of THE LAW OFFICE OF GARY A. MODAFFERI, LLC, and
20 respectfully tenders the following Supplemental Exhibit in support of Defendant's Motion to
21 Withdraw Guilty Plea.¹

22 DATED this 19th day of February, 2019.

23
24 By: /s/ Gary A. Modafferi Esq.
25 GARY A. MODAFFERI, ESQ.
26 Nevada Bar No. 12450
27 815 S. Casino Center Boulevard
28 Las Vegas, NV 89101
Counsel for Defendant

¹ Sworn Declaration of Davey Dorsey.

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Richard Scow, Esq.
Chief Deputy District Attorney
richard.scow@clarkcountydade.com

**Erika W. Magana, An Employee of
Gary A. Modafferi, LLC**

EXHIBIT “A”

1 **GARY MODAFFERI, ESQ.**
2 Nevada Bar No. 012450
3 **LAW OFFICE OF GARY MODAFFERI**
4 815 S. Casino Center Blvd.,
5 Las Vegas, Nevada 89101
6 (702) 474-4222
7 **Attorney for Defendant**
8 **DENZEL DORSEY**

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

13 **THE STATE OF NEVADA,**
14 **Plaintiff,**

15 **-vs-**

CASE NO.: C-17-323324-1

16 **DENZEL DORSEY,**
17 **ID# 02845569**

DEPT. NO.: 22

18 **Defendant.**

19 **DECLARATION**

20 **DAVEY DORSEY makes the following declaration:**

21 1. That I have full knowledge of all matters contained
22 herein and am competent to testify thereto.

23 2. That my date of birth is: 06/27/1999

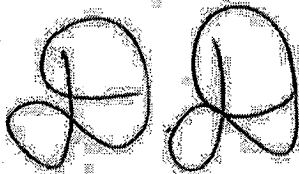
24 3. That I reside at 5325 E. Tropicana Ave # 2082
25 2137 East St. Louis, Las Vegas, Nevada 89104.

26 4. That I will make himself available to the lawyer of Denzel Dorsey
27 and the prosecutor.

28 5. That, on or about 11/28/2016, I was 17 years old.

6. That I am the younger biological brother of Denzel Dorsey.

7. That, on or about 11/25/2016, I asked Denzel Dorsey if I could



1 please borrow Denzel Dorsey's car rental.

2 8. That I received the keys to the car rental on 11/27/2016 in the
3 afternoon hours.
4

5 9. That I was supposed to have the vehicle to go hangout with a female
6 friend.

7 10. That my brother, Denzel Dorsey, had no knowledge about me
8 planning to rob a house.

9 11. That, on 11/28/2016, I did drive to the 2731 Warm Rays Ave. and
10 tried to break into the house.
11

12 12. That I was the one who broke the window and tried to OPEN the front
13 door of the house.
14

15 13. That, after the incident, I ended up driving to where my brother,
16 Denzel Dorsey, was at.

17 14. That I never told my brother, Denzel Dorsey, that I had just
18 tried to rob a house.

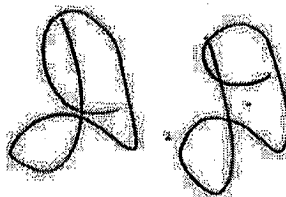
19 15. That, after I picked up Denzel Dorsey, Denzel Dorsey and I
20 drove to Lindell Street.
21

22 16. That I got out of the car at my sister's house.

23 17. That I am referring to Ramika's house.

24 18. That Ramika's house was somewhere on Teneya.

25 19. That I am more than willing to take responsibility for this attempt
26 home invasion.
27



1 20. That I am more than willing to sign a legal document if necessary to
2 clear Denzel Dorsey's name of this crime.

3
4 21. That Denzel Dorsey had NOTHING to do with both the preplanning and
5 the actual attempted home invasion.

6 22. That I am specifically talking about the house located at 2731 Warm
7 Rays Ave., Henderson, Nevada 89052.

8 23. That I am very sorry for what I did.

9
10 24. That I am coming forward to report the truth regarding 11/28/2016
11 under HNPd Police Event #16-21448-001.

12 25. That Denzel Dorsey is innocent of these criminal charges.

13 26. That I tried to reach out to Denzel Dorsey's female attorney.

14 27. That I actually went to the courthouse.


15 28. That Denzel Dorsey's female attorney was very rude to me and she
16 kept telling me that she did not have time for me.

17 29. That I wanted to inform the female lawyer that I was the one
18 that committed the attempt home invasion on 11/28/2016.

19
20 30. That the female attorney would not give me 2 minutes of her time.

21 **I DECLARE UNDER PENALTY OF PERJURY THAT THE**
22 **FOREGOING IS TRUE AND CORRECT. (NRS 53.045).**

23 EXECUTED this 2-18-19 day of FEBRUARY, 2019.

24
25 
26 **DAVEY DORSEY**
27 **Tel. #(323) 915-3638**

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 08:30 AM Defendant Denzel Dorsey's Motion to Withdraw Guilty Plea

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

COURT CLERK: Duncan, Kristin; Yorke, Dara

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Denzel Dorsey	Defendant
Samuel R. Kern	Attorney for Plaintiff
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



1 **OPPS**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **SANDRA K. DIGIACOMO**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #006204**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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

10 **THE STATE OF NEVADA,**
11 **Plaintiff,**

12 **-vs-**

13 **DENZEL DORSEY,**
14 **#2845569**

15 **Defendant.**

CASE NO: C-17-323324-1

DEPT NO: XV

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

18 **DATE OF HEARING: MARCH 26, 2019**
19 **TIME OF HEARING: 8:30 A.M.**

20 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,
21 through SANDRA K. DIGIACOMO, Chief Deputy District Attorney, and hereby submits the
22 attached Points and Authorities in State's Opposition to Defendant's Motion to Withdraw
23 Guilty Plea.

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

27 ///

28 ///

///

AA 0211

1 **STATEMENT OF THE CASE**

2 On November 28, 2016, Denzel Dorsey, hereinafter Defendant, was arrested for
3 Attempt Invasion of the Home and Malicious Destruction of Property. Defendant was released
4 after his arrest on a \$6,000 surety bond, despite having four (4) prior felony convictions in
5 Nevada and California. Defendant was arraigned in justice court on December 19, 2016 and
6 a preliminary hearing was scheduled for February 15, 2017. Because Defendant's attorney
7 had to withdraw due to a conflict, the preliminary hearing was continued to March 30, 2017.
8 On February 22, 2017, the State filed an Amended Criminal Complaint charging Defendant
9 with Invasion of the Home and Malicious Destruction of Property. On March 30, 2017, the
10 defense moved to continue the preliminary hearing because defense counsel had had no
11 contact with Defendant and it was reset for May 2, 2017. On May 2, 2017, a preliminary
12 hearing was conducted; at its conclusion, Defendant was held to answer in district court on
13 both charges.¹ Further, the State filed a Notice of Prior Burglary and/or Home Invasion
14 Convictions and Notice of Intent to Seek Punishment as a Habitual Criminal in the Information
15 listing Defendant's two (2) convictions from Nevada for Attempt Burglary in case number C-
16 12-279732-1 and Invasion of the Home in case number C-12-284308-1.

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

24 In December 2017, an arrest warrant for Defendant was issued in 17F21598x for
25 Invasion of the Home, Burglary (two (2) counts) and Possession of Stolen Property.
26 Defendant was booked on the warrant the beginning of January 2018.

27
28

¹ The defense presented no witnesses, i.e. neither Davey Dorsey nor Takiya Clemons testified.

1 On January 9, 2018, private counsel was still unable to confirm and the State moved to
2 remand Defendant without bail for committing new crimes while out of custody in this case.
3 The court remanded Defendant with no bail and set a status check to appoint counsel for
4 January 16, 2018. On that date, new appointed counsel confirmed for Defendant and a trial
5 date was scheduled for April 23, 2018.

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

8
9 The State will retain the right to argue. Additionally, the State agrees not to
10 seek habitual criminal treatment. Further, the State will not oppose dismissal of
11 Count 2 and Case No. 17F21598X after rendition of sentence. The State will not
12 oppose standard bail after entry of plea. However, if I fail to go to the Division of
13 Parole & Probation, fail to appear at any future court date or am arrested for any
14 new offenses, I will stipulate to habitual 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.

* * *

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

22 Guilty Plea Agreement Filed in Open Court on March 9, 2018, pp. 1-2.² See Guilty Plea
23 Agreement attached as Exhibit 1. Defendant also stated during the plea canvass that he is
24 pleading guilty of his own free will and that he committed the instant offense. See Reporter's
25 Transcript of Hearing Re State's Request for Entry of Plea Filed June 14, 2018 (RTH), pp. 5-

26
27 ² Per the court minutes from March 13, 2018, the Guilty Plea Agreement was actually filed in open court on
28 March 13, 2018. Also, there was a typographical error in the Guilty Plea Agreement which no one realized;
page 1, lines 26-27 were supposed to reflect a sentence of 60 – 240 months if adjudicated guilty of habitual
criminal; instead page 1, lines 26-27 stated a sentence of 60 – 120 months, which is an illegal sentence as it
violates the 40% rule---the minimum sentence for a small habitual criminal is 60 – 150 months.

1 6, attached as Exhibit 2. Pursuant of the terms of the agreement, Defendant was released on
2 his own recognizance due to his prior bail not having been exonerated. Exhibit 2, pp. 6-7.
3 The court also cautioned Defendant that if he failed to go to the Division of Parole and
4 Probation, to appear at any future court date, or was arrested on any new offenses, he would
5 serve as a habitual criminal. Exhibit 2, p. 7. A sentencing date was scheduled for July 17,
6 2018.

7 On April 26, 2018, Defendant filed a Motion to Place on Calendar to Address Custody
8 Status and Hold. Defendant was on parole in California at the time he committed the crimes
9 in this case and 17F21598x; therefore, a hold was placed on him when he was arrested on the
10 latter case. In the motion, Defendant asked to be remanded and for his sentencing date to be
11 moved to a sooner date. The motion was heard on May 8, 2018, at which time the court did
12 reschedule the sentencing to June 5, 2018; however, per the minutes, Defendant was not
13 remanded on this case.

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

23 On July 11, 2018, Defendant was arrested just after midnight in California for
24 Receiving Stolen Property, as Defendant was in possession of property stolen from a
25 residential burglary which occurred earlier on July 10, 2018 in the morning hours. During a
26 car stop for traffic violations, Defendant (the driver) lied about his identity to the police and
27 the ownership of the stolen property, claiming the over \$22,000 in cash belonged to him and
28 the multiple items of jewelry belonged to his girlfriend, Takiya Clemons (the passenger).

1 After further investigation, all of the items in Defendant's possession were stolen from the
2 residential burglary so the detective submitted to the district attorney to charge Defendant with
3 the residential burglary as well. *See* California Police Reports attached as Exhibit 3.

4 On July 17, 2018, Defendant failed to appear for court and a bench warrant issued in
5 this case; Defendant's Motion to Withdraw Plea was also taken off calendar. On July 24,
6 2018, a Motion to Quash Bench Warrant was filed by newly retained counsel; the motion
7 stated that Defendant was presently incarcerated in California but would make all future court
8 dates. On July 31, 2018, defense counsel asked for the bench warrant to be quashed because
9 Defendant could not post bail in his California case with the hold from this case; the court
10 denied the motion.

11 On November 8, 2018, Defendant appeared in custody on the bench warrant return and
12 his counsel requested thirty (30) days to determine the status of Defendant's cases in California
13 but the State objected. The court set a sentencing date for November 27, 2018. On November
14 27, 2018, new retained counsel substituted in as counsel and the matter was continued until
15 December 3, 2018.

16 On December 3, 2018, defense counsel requested a continuance and filed a Motion for
17 Expert Services (Investigator) Pursuant to Widdis on December 5, 2018. The motion was
18 granted by this Court on January 9, 2019 in a signed order. On January 17, 2019, it was
19 confirmed the investigator would only be working on information related to a motion to
20 withdraw guilty plea and the sentencing date was rescheduled for February 19, 2019.

21 On February 15, 2019, Defendant filed a Motion to Withdraw Guilty Plea. On February
22 19, 2019, the sentencing date was continued to allow the State time to file an opposition to the
23 defense's motion; it was rescheduled for March 28, 2019. That date was later changed by the
24 parties and this Court to March 26, 2019. On February 21, 2019, the State filed a Notice of
25 Intent to Seek Punishment as a Habitual Criminal and Notice of Prior Burglary and/or Home
26 Invasion Convictions adding Defendant's two (2) convictions from California for Burglary,
27 1st Degree in case number MA058464-01 and Burglary, 1st Degree in case number MA066766-

01; also on this date, Defendant filed a Supplemental Exhibit in Support of Defendant's Motion to Withdraw Guilty Plea.

The State's opposition to Defendant's Motion to Withdraw Guilty Plea is as follows.

STATEMENT OF FACTS

On November 28, 2016, Kevin Nazareno lived at 2731 Warm Rays in Henderson, Clark County, Nevada with his parents, Florentino and Norma Nazareno, who are the owners of the residence. *See* Preliminary Hearing Transcript (PHT) attached as Exhibit C to Defendant's Motion to Withdraw Guilty Plea, pp. 4, 20-21. On that date, Kevin was asleep in his bed when he was awoken by the sound of the front doorbell ringing constantly, as someone kept pushing the doorbell multiple times, would stop and then would press the button again multiple times. PHT, pp. 5-6. Annoyed someone was ringing the doorbell that much, Kevin got out of bed and went to the front door. PHT, p. 6. The front doors were glass and as Kevin looked over the stair railing from upstairs, Kevin could see a single black male standing outside the front door punching the glass with his fist; Kevin could hear banging on the door itself. PHT, pp. 7. Kevin saw the glass on the front door break, which left a round hole with jagged edges. PHT, pp. 7-8. The black male reached through the hole in the glass to unlock the deadbolt with his left hand; Kevin stated that the black male was wearing a jacket or clothing on his arm. PHT, pp. 7-9, 16, 19. Kevin rushed forward to the door, grabbed the deadbolt and kept it locked. PHT, p. 9. The black male then took his arm out of the glass and ran away. PHT, pp. 9-10.

Kevin went outside of the house and chased after the black male. PHT, p. 10. Kevin saw the black male get into a blue Suzuki, four (4) door, on the driver's side; Kevin got the license plate, 953LGM, before the black male drove away. PHT, pp. 10-11, 17. Kevin did not see anyone else in the vehicle. PHT, p. 11. The black male had the keys to the car and started the ignition. PHT, p. 18. Kevin then called the police and gave them the license plate number. PHT, p. 10. In court, Kevin was eighty-five (85) percent sure that Defendant, without glasses, was the black male that was at his house on November 28, 2016. PHT, p. 13. Kevin

1 stated that he did not know Defendant or give him permission to come into his house on
2 November 28, 2016. PHT, pp 13-14.

3 Norma Nazareno was at work on November 28, 2016 when she received a call from
4 her husband around noon, so she rushed home. PHT, p. 21. When she arrived, she saw that
5 the glass on her front door was broken, and that there was a big hole right by the doorknobs.
6 PHT, pp. 22-23. First, Norma had to pay \$474.41 to have the door boarded up until the glass
7 could be replaced. PHT, pp. 24-25. Next, Norma paid \$723.72 to have the glass replaced in
8 the door. PHT, p. 25.

9 Officer J. McGeahy of the Henderson Police Department, Problem Solving Unit, was
10 assigned this residential burglary on November 28, 2016; he and his squad began investigating
11 it immediately. PHT, pp. 30-31. The plate, 953LGM, was run through their database and it
12 returned to a rental car. PHT, pp. 31, 39. The rental car company was contacted and the
13 officers learned that it was rented to a female and had a GPS equipped on it; therefore, the
14 rental car company was able to provide officers with the exact location of the car at that
15 moment. PHT, p. 31. At that point, two (2) officers went to the rental car company to have
16 direct contact with the person tracking the car with the GPS. PHT, pp. 31-32.

17 The GPS for the car showed that it was located on the street of the residential burglary,
18 so officers wanted to make contact with the car. PHT, p. 32. Within a very short time of the
19 residential burglary, officers made contact with the vehicle at the Fashion Show Mall. PHT,
20 pp. 32-33. Officers observed the vehicle in the parking garage picking up another person and
21 then it parked near Dillard's. PHT, pp. 33, 41-42. Officers contacted the vehicle and
22 Defendant was arrested. PHT, p. 34. Officer McGeahy made contact with Defendant to let
23 him know he was under arrest for the residential burglary at 2731 Warm Rays and noticed that
24 the jacket Defendant was wearing had several tears on his left arm that were fresh and frayed.
25 PHT, pp. 36-37. Defendant also had injuries on his right hand with some dried blood and
26 appeared to be fresh. PHT, pp. 37-38. During a search incident to arrest, the key to the Suzuki
27 rental car was found in Defendant's pocket, along with one glove with some blood on it. PHT,
28

1 pp. 38-39. The other matching glove was found in the vehicle. PHT, p. 39. Both the jacket
2 and gloves were booked into evidence. PHT, pp. 39-40.

3 When Officer McGeahy told Defendant what he was being arrested for, he explained
4 that the rental car had a GPS tracker which placed him at the location of the crime; Defendant
5 looked down and said "aw shit." See Declaration of Arrest Attached as Exhibit 4, p. 3.

6 The GPS records for the vehicle shows the following:

7 11:52 a.m.: the vehicle is stopped at 2727-2729 Warm Rays in Henderson for 4 minutes

8 11:56 a.m.: the vehicle started traveling

9 12:01 p.m.: the vehicle was traveling 30 mph in the 10300-10532 block of Eastern
(north of the victim's residence by the intersection of Coronado Center
10 and Eastern)

11 12:06 p.m.: the vehicle was traveling 67 mph on westbound I-215

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

13 12:16 p.m.: the vehicle was traveling 54 mph near 5524-5698 S. Decatur

14 12:23 p.m.: the vehicle stopped at 3938-3980 S. Plitze Drive for 3 minutes

15 12:26 p.m.: the vehicle began traveling

16 12:31 p.m.: the vehicle stopped at 3800-3850 S. Lindell for 3 minutes

17 12:34 p.m.: the vehicle started traveling

18 12:39 p.m.: the vehicle stopped at 5801-5899 block of W. Viking for 3 minutes

19 12:43 p.m.: the vehicle started traveling

20 12:48 p.m.: the vehicle was traveling 26 mph near 5901-6099 W. Desert Inn

21 12:53 p.m.: the vehicle stopped at 3300-3498 S. Ramuda Trl for 1 minute

22 The vehicle made no other stops and was on Fashion Show Drive at 1:43 p.m. and at 3231-
23 3299 Las Vegas Boulevard South (Fashion Show Mall) at 1:44 p.m. See Vehicle Rental
24 Agreement and History Printout for November 28, 2016 attached as Exhibit 5.

25 LEGAL ARGUMENT

26 In his motion, Defendant asks this Court to allow him to withdraw his plea of guilty
27 because he is innocent of the charges. In furtherance of his assertion, Defendant offers written
28 declarations from Davey Dorsey, his younger brother, and Takiya Clemons, his girlfriend who
was with him during his last arrest in California. However, under the totality of the
circumstances test, this Court should deny Defendant's motion as he has not provided a
credible fair and just reason to grant it.

///
8

1 NRS 176.165 states in pertinent part:

2 Except as otherwise provided in the section, a motion to withdraw
3 a plea of guilty, guilty but mentally ill or nolo contendere may be
4 made only before sentencing is imposed or imposition of sentence
5 is suspended. To correct manifest injustice, the court after
6 sentence may set aside the judgment of conviction and permit the
7 defendant to withdraw his plea.

8 The law in Nevada clearly establishes that a plea of guilty is presumptively valid and
9 the burden is on the defense to show that the plea was not voluntarily entered. Wingfield v.
10 State, 91 Nev. 336 (1975). A defendant who seeks to withdraw a plea of guilty must show
11 good cause therefore, as a plea of guilty is presumptively valid. Wynn v. State, 96 Nev. 673,
12 675, 615 P.2d 946, 947 (1980). The case of Patton v. Warden, 91 Nev. 1 (1975) suggests that
13 the presence and advice of counsel is a significant factor in determining the voluntariness of a
14 plea of guilty. Furthermore, the Nevada Supreme Court makes it clear in the case of Heffley
15 v. Warden, 89 Nev. 573 (1973) that the guidelines for voluntariness of pleas of guilty "do not
16 require the articulation of talismanic phrases." It required only that the record must
17 affirmatively disclose that a defendant who pled guilty entered his plea understandingly and
18 voluntarily. Brady v. United States, 397 U.S. 742 (1970).

19 In Wilson v. State, 99 Nev. 362 (1983), the Nevada Supreme Court stated:

20 In Higby v. Sheriff, 86 Nev. 774, 476 P.2d 959 (1970), concluded
21 that certain minimum requirements must be met when a judge
22 canvasses a defendant regarding the voluntariness of a guilty plea.
23 We held that the record must affirmatively show the following: 1)
24 the defendant knowingly waived his privilege against self-
25 incrimination, the right to trial by jury, and the right to confront
26 his accusers; 2) the plea was voluntary, was not coerced, and was
27 not the result of a promise of leniency; 3) the defendant understood
28 the consequences of his plea and the range of punishment; and 4)
the defendant understood the nature of the charge, i.e., the
elements of the crime. Id. at 781, 476 P.2d at 963. As to this last
requirement, we subsequently held that in order for the record to
show an understanding of the nature of the charge it is necessary
that there be either a showing that the defendant has made factual
statements to the court which constitutes in admission to the
pleaded offense. Hanley v. State, Nev. 130, 135, 624, P.2d 1287,
1290 (1981). The Court reviewing the validity of a guilty plea may
look at the entire record in order to determine whether a plea was
entered knowingly and intelligently in light of all the
circumstances. The Court may determine that the guilty plea is
valid by reason of the plea canvass itself or under a 'totality of the
circumstances approach'. Bryan v. State, 102 Nev. 268 (1986).

1 The Nevada Supreme Court has held that in order to properly accept a guilty plea the
2 court must sufficiently canvass the defendant to determine if he knowingly and intelligently
3 entered into the plea. Williams v. State, 102 Nev. 268, 721 P.2d 364 (1986). A determination
4 of whether a defendant knowingly and intelligently entered into a plea must be made by using
5 a totality of the circumstances approach. Iverson v. State, 107 Nev. 94, 99, 807 P.2d 1372
6 (1991) (*citing* Bryant v. State, 102 Nev. 268, Nev. 268, 721 P.2d 364 (1986)). The totality of
7 the circumstances approach requires that the trial court review the entire record to determine
8 whether the plea was valid. Mitchell v. State, 109 Nev. 137, 848 P.2d 1060, 1061 62 (1993).

9 In Stevenson v. State, 354 P.3d 1277, 131 Nev. Adv. Rep. 61 (2015), the Nevada
10 Supreme Court determined that district court must consider the totality of the circumstances
11 to determine whether permitting withdrawal of a guilty plea before sentencing would be fair
12 and just. In that case, the Court affirmed the judgment pursuant to a guilty plea of two counts
13 of attempt sexual assault finding the following:

14 Having determined that a district court may grant a defendant's
15 motion to withdraw his guilty plea before sentencing for any
16 reason where permitting withdrawal would be fair and just, we
17 turn now to the reasons Stevenson has given as to why withdrawal
18 was warranted. The crux of Stevenson's argument below as to why
19 he should be allowed to withdraw his plea was that the members
20 of his defense team lied about the existence of the video in order
21 to induce him to plead guilty. The district court considered this
22 contention and gave Stevenson considerable leeway to
23 demonstrate how he was lied to or misled. Stevenson struggled to
24 articulate a cohesive response, pointing instead to circumstances
25 which, viewed in context, were neither inconsistent nor
26 suspicious. After considering Stevenson's arguments, as well as
27 the testimony presented at the multiple evidentiary hearings, the
28 district court found that no one lied to Stevenson about the time it
would take to determine whether the video could be extracted or
otherwise misled him in any way. The district court also found that
Stevenson's testimony in this regard was not credible. We must
give deference to these findings so long as they are supported by
the record, *see* Little v. Warden, 117 Nev. 845, 854, 34 P.3d 540,
546 (2001) (giving deference to factual findings made by the
district court in the course of a motion to withdraw a guilty plea),
which they are. Based on these findings, withdrawal was not
warranted on this ground.

1 Id., 354 P.3d 1277 at 1281. The Court went on to state:

2 Similarly unconvincing is Stevenson's contention that he was
3 coerced into pleading guilty based on the compounded pressures
4 of the district court's "erroneous" evidentiary ruling regarding his
5 motion to suppress the video, standby counsel's pressure to
6 negotiate a plea, and time constraints. We need not consider
7 whether the lower court's ruling regarding the video was correct,
8 because even assuming it was not, undue coercion occurs when "a
9 defendant is induced by promises or threats which deprive the plea
10 of the nature of a voluntary act," Doe v. Woodford, 508 F.3d 563,
11 570 (9th Cir. 2007) (internal quotation marks omitted), not where
12 a court makes a ruling later determined to be incorrect, *see*
13 *generally* Brady v. United States, 397 U.S. 742, 757, 90 S.Ct.
14 1463, 25 L. Ed. 2d 747 (1970)("[A] voluntary plea of guilty
15 intelligently made in the light of the then applicable law does not
16 become vulnerable because later judicial decisions indicate that
17 the plea rested on a faulty premise."). **Moreover, time constraints**
18 **and pressure from interested parties exist in every criminal**
19 **case, and there is no indication in the record that their**
20 **presence here prevented Stevenson from making a voluntary**
and intelligent choice among the options available. See Doe,
508 F.3d at 570 ("The test for determining whether a plea is
valid is whether the plea represents a voluntary and intelligent
choice among the alternative courses of action open to the
defendant." (internal quotation marks omitted)); Miles v.
Dorsey, 61 F.3d 1459, 1470 (10th Cir. 1995). "Although
deadlines, mental anguish, depression, and stress are
inevitable hallmarks of pretrial plea discussions, such factors
considered individually or in aggregate do not establish that [a
defendant's] plea was involuntary."

21 Id., 354 P.3d 1277 at 1281 (emphasis added).

22 The Court concluded:

23 Finally, we reject Stevenson's implied contention that withdrawal
24 was warranted because he made an impulsive decision to plead
25 guilty without knowing, definitively, whether the video could be
26 viewed. Stevenson did not move to withdraw his plea for several
27 months, which contradicts his suggestion that he entered his plea
28 in a state of temporary confusion while in the throes of discovering
that the video was not easily accessible. *See United States v.*
Alexander, 948 F.2d 1002, 1004 (6th Cir. 1991) (**explaining that**
one of the goals of the fair and just analysis "is to allow a
hastily entered plea made with unsure heart and confused

1 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
3 withdrawal if he believes that he made a bad choice in pleading
4 guilty" (internal quotation marks omitted)); United States v.
5 Barker, 514 F.2d 208, 222, 168 U.S. App. D.C. 312 (DC Cir.
6 1975). "A swift change of heart is itself strong indication that the
7 plea was entered in haste and confusion[.]". Most importantly,
8 Stevenson relied upon the uncertainty surrounding the video as
9 leverage to negotiate an extremely favorable plea despite the
10 apparently strong evidence against him. See United States v.
11 Ensminger, 567 F.3d 587, 593 (9th Cir. 2009) ("The guilty plea is
12 not a placeholder that reserves [a defendant's] right to our
13 criminal system's incentives for acceptance of responsibility
14 unless or until a preferable alternative later arises. Rather, it
15 is a grave and solemn act, which is accepted only with care and
16 discernment." (internal quotation marks omitted)).

17 Considering the totality of the circumstances, we have no
18 difficulty in concluding that Stevenson failed to present a
19 sufficient reason to permit withdrawal of his plea. Permitting him
20 to withdraw his plea under the circumstances would allow the
21 solemn entry of a guilty plea to "become a mere gesture, a
22 temporary and meaningless formality reversible at the
23 defendant's whim." Barker, 514, F.2d at 221. This we cannot
24 allow.

25 Id., 354 P.3d 1277 at 1281-82 (emphasis added).

26 In this case, Defendant fully understood the consequences of his guilty plea. Defendant
27 voluntarily signed a Guilty Plea Agreement on March 13, 2018. Exhibit 1. After orally
28 canvassing Defendant, the Court accepted Defendant's guilty plea as freely and voluntarily
given. Exhibit 2, p. 6. The Guilty Plea Agreement extensively lists the consequences of the
plea. See Taylor v. Warden, 96 Nev. 272, 275, 607 P.2d 587, 589 (1980) (Court held factor in
determining voluntariness of plea is whether defendant understood consequences of his plea).

In addition, the Guilty Plea Agreement states that Defendant discussed with his attorney
any possible defenses, defense strategies and circumstances which might be in his favor and
that all of the foregoing elements, consequences, rights and waiver of rights have been
thoroughly explained to him by his attorney. Defendant also fully understood the nature of

1 the charge against him. Attached to the Guilty Plea Agreement is a copy of the original
2 Information, which lists all of the elements of the crime in which Defendant pleaded guilty.

3 After a review of the transcript of the entry of plea in this matter, it does not contain
4 any information which would lead this Court to the conclusion that the Defendant did not enter
5 into his plea freely and voluntarily, and with a complete understanding of what he was doing.
6 Exhibit 2, pp. 2-6. Moreover, Defendant's counsel swore, under penalty of perjury and the
7 threat of sanctions from the State Bar Association of Nevada, that she fully explained to
8 Defendant the allegations contained in the charge to which the guilty plea is being entered.

9 The record in the instant case contains a guilty plea agreement, discussed *supra*, which
10 is signed by Defendant; and, indicates the rights waived by Defendant, as well as the
11 consequences of entering a guilty plea. The agreement in cooperation with the canvassing,
12 further provides that Defendant's plea was clearly authorized and constitutional. All of the
13 requirements for a valid plea were met when Defendant entered his plea.

14 *Now*, however, Defendant wants this Court to let him out of the negotiation claiming
15 he is factually innocent. Conveniently, his younger brother is the one who committed the
16 crime when he was a juvenile and is willing *now* to take responsibility for it. Moreover,
17 Defendant's girlfriend of several years is *now* willing to provide an alibi for him. Because
18 neither of their statements are credible, this Court should deny Defendant's motion.

19 With regard to Davey Jones, he states in his declaration that he was seventeen (17)
20 years old, i.e. a juvenile on November 28, 2016, and that he was the one who committed the
21 home invasion of the Warm Rays home *without Defendant's knowledge*. Davey goes on
22 further to state that Defendant's female attorney refused to listen to him when tried to talk to
23 her at the courthouse, although he provides no date or even which courthouse in which this
24 allegedly occurred. Davey's statement is clearly not true and done only in an effort to help
25 Defendant escape a habitual criminal sentence. The fact that Davey would commit a home
26 invasion without Defendant's knowledge seems rather ridiculous; if Davey was going to
27 commit such a crime by himself, why not ask a prolific residential burglar such as his brother
28 who has been committing such crimes since 2012. Moreover, in his declaration signed on

1 February 18, 2019, Davey claims to currently live in Las Vegas, yet on his Facebook page as
2 of March 13, 2019, he claims to live in Los Angeles, CA. *See* Davey Dorsey's Facebook
3 Printout as Exhibit 6. Also, in November of 2016, Davey would have been in high school in
4 California; per his Facebook page, Davey graduated from Pete Knight High School, which is
5 located in Palmdale, CA. Exhibit 6; *see* Knight High School Information attached as Exhibit
6 7. Davey's declaration is also devoid of any real facts and is so general that it undermines any
7 truth to the assertion that he committed the crime. Moreover, Davey's confession does not
8 explain the fresh injuries to Defendant's hand at the time of arrest, the single glove in
9 Defendant's pocket with blood on it, the tears to the left sleeve of Defendant's jacket, or
10 Defendant's statement "aw shit" when he was told the rental car had GPS.

11 With regard to Takiya Clemons, she writes in her declaration that Defendant was with
12 her at the time the crime was committed. The State submits she has zero credibility based
13 upon the fact she is Defendant's girlfriend who obviously is aware of his criminal activities.
14 When Defendant was arrested in July 2018 in California, Takiya was released at the scene
15 when Defendant was transported to jail. Later, an officer called Takiya to come to the station
16 to pick up the jewelry which was in the car and allegedly belonged to her, and Takiya stated
17 she would come down "only if you are going to release it to me." Exhibit 3, p. 13. The officer
18 stated they would release it to her if she could identify the jewelry; Takiya stated "no" and
19 immediately hung up the phone. Exhibit 3, p. 13. Later, Takiya did go to the station and spoke
20 with officers, but her story did not match Defendant's about how the money was obtained, nor
21 could she describe the jewelry that she claimed was hers. Exhibit 3, p. 17. Additionally,
22 Takiya's written declaration does not explain the fresh injuries to Defendant's hand at the time
23 of arrest, the single glove in Defendant's pocket with blood on it, the tears to the left sleeve of
24 Defendant's jacket or Defendant's statement "aw shit" when he was told the rental car had
25 GPS.

26 Because of Defendant's criminal history, the offense to which he pled is non-
27 probationable. Because Defendant violated the terms of the negotiation by failing to appear
28 for court and by being arrested for a new offense, he is stipulating to habitual criminal

1 treatment which carries a minimum of five (5) years. Herein lies the real reason for this
2 motion, Defendant simply wants to play games with the system and does not want to face the
3 consequences of the deal *he agreed* to. At the time Defendant entered into his plea, regardless
4 of whether the female attorney would listen to Davey, Defendant would have known if he was
5 not the person who committed the crime and whether he had an alibi. But Defendant, after
6 signing a Guilty Plea Agreement, stood up in open court and stated he was in truth and in fact
7 guilty of the home invasion of the Nazareno residence. Exhibit 2, p. 6.

8 Defendant *chose* to enter a plea of guilty. At the time of entry of plea, Defendant
9 seemed anxious to be released from custody and now that is Defendant's goal yet again. But
10 obviously Defendant should not be out of custody---he committed the crimes in this case and
11 17F21598x when he was on parole for his residential burglary convictions in California and
12 then he committed another residential burglary in California while awaiting sentencing in this
13 case. Defendant wants this Court to believe he pleaded guilty in this case to protect his poor
14 little brother---his poor little *juvenile* brother who would not be subjected to mandatory prison
15 if convicted. So why does Defendant no longer wish to continue with his negotiation and to
16 protect his brother? Because Defendant does not want to accept the consequences of his bad
17 behavior and the terms of the deal to which he agreed. The State should receive the benefit of
18 its bargain instead of Defendant being allowed out of the deal solely because he has changed
19 his mind, as such is not a fair and just reason especially when he enlisted his brother to lie on
20 his behalf. When the totality of the circumstances are viewed, Defendant's plea was knowingly
21 and voluntarily entered, but Defendant will tell this Court whatever it takes to get out of
22 custody, even if it means exposing his own brother to criminal charges. Defendant is selfish
23 and cares only about himself---not his victims, not the court system, not his brother. It is as
24 simple as that. This Court should not reward Defendant's bad behavior, but should instead
25 hold him to the deal he made.

26 ///

27 ///

28 ///

1 **CONCLUSION**

2 Based upon the above and foregoing, the State respectfully Defendant's Motion to
3 Withdraw Guilty Plea be DENIED.

4 DATED this 19th day of March, 2019.

5 Respectfully submitted,

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

9 BY /s/ Sandra K. DiGiacomo
10 SANDRA K. DIGIACOMO
11 Chief Deputy District Attorney
12 Nevada Bar #006204

13 **CERTIFICATE OF ELECTRONIC TRANSMISSION**

14
15 I hereby certify that service of the above and foregoing was made this 19th day of
16 March, 2019, by electronic transmission to:

17 GARY MODAFFERI, ESQ.
18 Email Address: modafferilaw@gmail.com

19
20 BY: /s/ J. Georges
21 Secretary for the District Attorney's Office

22
23
24
25
26
27
28 jg/L5

ORIGINAL

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

MAR 09 2018

BY Keri Cromer
KERI CROMER, DEPUTY

1. GPA
2. STEVEN B. WOLFSON
3. Clark County District Attorney
4. Nevada Bar #001565
5. SANDRA K. DIGIACOMO
6. Chief Deputy District Attorney
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9. Las Vegas, NV 89155-2212
10. (702) 671-2500
11. Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DENZEL DORSEY,
13 #2845569

14 Defendant.

CASE NO: C-17-323324-1

DEPT NO: XXII

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: COUNT 1 - INVASION OF THE HOME
17 (Category B Felony - NRS 205.067 - NOC 50435), as more fully alleged in the charging
18 document attached hereto as Exhibit "1".

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

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

C-17-323324-1
GPA
Guilty Plea Agreement
4728980



Exhibit "1"

W:\2016\2016FH2022\16FH2022-GPA-(DORSEY_DENZEL)-001.DOCX

AA 0227

10

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

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

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

15 CONSEQUENCES OF THE PLEA

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

18 As to Count 1, I understand that as a consequence of my plea of guilty the Court must
19 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term
20 of not less than ONE (1) year and a maximum term of not more than TEN (10) years. The
21 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of
22 imprisonment. I understand that I may also be fined up to \$10,000.00. I understand that the
23 law requires me to pay an Administrative Assessment Fee.

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

28 ///

1 **As to Count 1, I understand that I am not eligible for probation for the offense to which**
2 **I am pleading guilty.**

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

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

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

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

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

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

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

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

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

///

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

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

WAIVER OF RIGHTS

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

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

///

III

VOLUNTARINESS OF PLEA

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

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

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

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

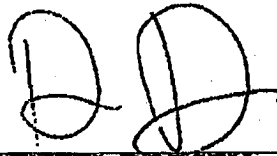
I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

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

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

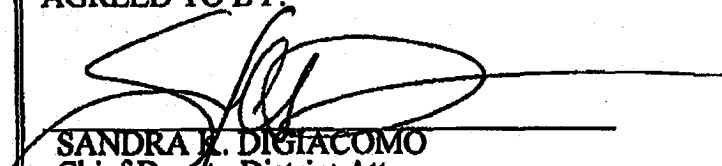
My attorney has answered all my questions regarding this guilty plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

DATED this 13th day of March, 2018.



DENZEL DORSEY
Defendant

AGREED TO BY:



SANDRA E. DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204

1 **CERTIFICATE OF COUNSEL:**

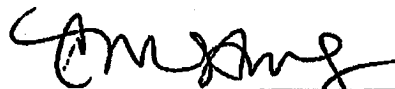
2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

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

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

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

Dated: This 13th day of March, 2018.



ATTORNEY FOR DEFENDANT

erg/L-5

Steven D. Grierson

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 SANDRA K. DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 5/15/17

13 10:00 A.M.

14 K. BROWER, ESQ.

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 DENZEL DORSEY,
19 #2845569

20 Defendant.

CASE NO: C-17-323324-1

DEPT NO: XXII

INFORMATION

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

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

26 That DENZEL DORSEY, the Defendant(s) above named, having committed the crimes
27 of INVASION OF THE HOME (Category B Felony - NRS 205.067 - NOC 50435) and
28 MALICIOUS DESTRUCTION OF PROPERTY (Gross Misdemeanor - NRS 206.310,
193.155 - NOC 50905), on or about the 28th day of November, 2016, within the County of
Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
and provided, and against the peace and dignity of the State of Nevada,

///

///

///

1 **COUNT 1 - INVASION OF THE HOME**

2 did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit:
3 2731 Warm Rays, Henderson, Clark County, Nevada, without permission of the owner,
4 resident, or lawful occupant, to wit: FLORENTINO and/or NORMA NAZARENO, by
5 breaking a glass door window, putting his arm through the window and unlocking the deadbolt,
6 in an attempt to gain entry.

7 **COUNT 2 - MALICIOUS DESTRUCTION OF PROPERTY**

8 did willfully, unlawfully, or maliciously destroy and/or injure the real and/or personal
9 property of another, to wit: a glass door window, owned by FLORENTINO and/or NORMA
10 NAZARENO, located at 2731 Warm Rays, Henderson, Clark County, Nevada, by breaking
11 said glass door window at said residence, the value of said damage being \$250.00 or more and
12 less than \$5,000.00.

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

15 BY

16 SANDRA K. DIGIACOMO
17 Chief Deputy District Attorney
Nevada Bar #006204

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

20 **NAME**

ADDRESS

21 CUSTODIAN OF RECORDS

Henderson Detention Center Communications

22 CUSTODIAN OF RECORDS

Henderson Detention Center Records

23 CUSTODIAN OF RECORDS

HPD COMMUNICATIONS

24 CUSTODIAN OF RECORDS

HPD RECORDS

25 GROSS, K.

C/O CCDA'S OFFICE

26 GUTIERREZ, C.

HPD P# 1695

27 HAYEK, GHASSAN

Global Auto, 1525 E. Sunset Rd., LV, NV

28 ///

1 MCGEAHY, J.

HPD P# 1411

2 NAZARENO, KEVIN

2731 Warm Rays Ave., Henderson, NV

3 NAZARENO, NORMA

2731 Warm Rays Ave., Henderson, NV

4 WARD, R.

HPD P# 1701

5 **DO NOT READ TO THE JURY**

6 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
7 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
8 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

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

10 The State of Nevada hereby places Defendant DENZEL DORSEY on notice that in the
11 event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion conviction
12 pursuant to NRS 205.067 in the above-entitled action, he/she will not be eligible for probation
13 as Defendant DENZEL DORSEY has already suffered one (1) prior Burglary and/or Home
14 Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment as a Habitual
Criminal," said notice being incorporated by this reference as though fully set forth herein.

15 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
16 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
17 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

18 **NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL**
19 **CRIMINAL**

20 The State of Nevada hereby places Defendant DENZEL DORSEY on notice of the
21 State's intent to seek punishment of Defendant DENZEL DORSEY pursuant to the provisions
22 of NRS 207.010 as a habitual criminal in the event of a felony conviction in the above-entitled
action.

23 The State will seek punishment as a habitual criminal based upon the following felony
24 convictions, to wit:

25 ///

26 ///

27 ///

28 ///

1 1. That in 2012, the Defendant was convicted in the Eighth Judicial District
2 Court, County of Clark, State of Nevada, for the crime of Invasion of Home, in Case No.
3 C-12-284308-1.

4 2. That in 2012, the Defendant was convicted in the Eighth Judicial District
5 Court, County of Clark, State of Nevada, for the crime of Attempt Burglary, in Case No.
6 C-12-279732-1.

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

10 BY

11 SANDRA K. DIGIACOMO
12 Chief Deputy District Attorney
13 Nevada Bar #006204

14 **DO NOT READ TO THE JURY**

15
16
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25
26
27 DA#16FH2022X/erg/L-5
28 HPD EV#1621448
 (TK)

Steven D. Grierson

1 TRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6
7 STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 DENZEL DORSEY,

11 Defendant.

CASE NO. C323324-1

DEPT. XXII

12 BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE
13 MARCH 13, 2018
14

15 RECORDER'S TRANSCRIPT OF HEARING RE
16 STATE'S REQUEST FOR ENTRY OF PLEA
17
18
19

20 APPEARANCES:

21 For the Plaintiff:

VICTORIA VILLEGAS, ESQ.
Deputy District Attorney

22
23 For the Defendant:

CAITLYN L. MCAMIS, ESQ.

24
25 RECORDED BY: NORMA RAMIREZ, COURT RECORDER

Exhibit "2"

1 TUESDAY, MARCH 13, 2018 AT 8:53:16 A.M.

2
3 THE COURT: Okay. State of Nevada versus Denzel Dorsey, case number
4 C323324-1. Would you announce your appearances for the record, please?

5 MS. MCAMIS: Good morning, Your Honor. Caitlyn McAmis, bar number
6 12616 on behalf of Denzel Dorsey who is present in custody.

7 MS. VILLEGAS: Victoria Villegas on behalf of the State.

8 THE COURT: And this is State's Request for Entry of Plea.

9 MS. MCAMIS: That's correct. Your Honor, I do have the signed guilty plea
10 agreement. I apologize that I didn't have time to file it before court. I'm asking for
11 permission to file it in open court. This matter is resolved.

12 THE COURT: Okay. Go ahead.

13 MS. MCAMIS: If I may approach.

14 THE COURT: You may approach.

15 MS. MCAMIS: Thank you. All right. Your Honor, I believe you now have the
16 filed guilty plea agreement in front of you. Today Mr. Dorsey is prepared to admit
17 and plead guilty to Count 1, Invasion of the Home, a Category B Felony which is
18 based on the plea agreement as follows. The State will retain the right to argue.
19 Additionally, the State agrees not to seek habitual criminal treatment. Further, the
20 State will not oppose dismissal of Count 2 in this case and dismissal of the Las
21 Vegas Justice Court case number 17F21598X after rendition of sentence. The
22 State will also not oppose standard bail after entry of plea, however if he fails to
23 interview with the department – or excuse me, Division of Parole and Probation or if
24 he fails to appear at any future court date or is arrested for any new offense he will
25 be stipulating to small habitual criminal treatment. That would be a stipulated

1 sentence of 60 months to 120 months in the Nevada Department of Corrections.
2 And finally, he agrees to pay full restitution for this case and counts dismissed. And
3 there's a forfeiture agreement as well to the extent there was anything seized.

4 THE COURT: Okay.

5 MS. VILLEGAS: That is correct, Your Honor.

6 THE COURT: Okay. Mr. Dorsey, I need you in front of the microphone. You
7 might need a little help from your neighbor there, all right? Okay. I need to be able
8 to hear you so please project for me, all right?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. I do have a guilty plea agreement which was filed in
11 open court just a few seconds ago indicating that you had agreed to plead guilty to
12 committing the crime of Count 1, Invasion of the Home, a Category B Felony in
13 violation of NRS 205.061. Sir, did you sign this agreement?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Prior to signing the agreement, did you have an opportunity to
16 review the agreement? Did you review it and understand the terms?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Is anyone forcing you to plead guilty?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: You're pleading guilty of your own free will?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Is Denzel Dorsey your true name?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay. By the way, are you able to hear him?

25 THE COURT RECORDER: No.

1 THE COURT: Okay. Did you ever have a coach in high school?
2 THE DEFENDANT: I used to box so, yes.
3 THE COURT: Okay. Project like your coach voice, all right? Okay.
4 THE DEFENDANT: Yes, Your Honor.
5 THE COURT: Okay. Say it again.
6 THE DEFENDANT: Yes, Your Honor.
7 THE COURT: All right. Say it just like that, all right? All right. Is Denzel
8 Dorsey your true name, sir?
9 THE DEFENDANT: Yes, Your Honor.
10 THE COURT: All right. How old are you?
11 THE DEFENDANT: 24.
12 THE COURT: All right. How far did you go in school?
13 THE DEFENDANT: I graduated high school.
14 THE COURT: What high school?
15 THE DEFENDANT: In the Department of Corrections.
16 THE COURT: I'm sorry?
17 THE DEFENDANT: In the Department of Corrections.
18 THE COURT: Did you get a GED or did you actually go to high school there?
19 THE DEFENDANT: No, I just completed it High Desert.
20 THE COURT: At High Desert. Okay. Well, you speak very well. Do you
21 read, write and under the English language?
22 THE DEFENDANT: Yes, Your Honor.
23 THE COURT: All right. Are you a United States Citizen?
24 THE DEFENDANT: Yes, Your Honor.
25 THE COURT: Okay. And just so that I am clear because we couldn't hear

1 that well, sir, did you have an opportunity to review the guilty plea agreement? Did
2 you review it and understand the terms?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. Is anyone forcing you to plead guilty?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: You're pleading guilty of your own free will?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Okay. Sir, just so that I am clear. Do you understand the
9 penalty range for this crime?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. You understand that as a consequence of your guilty
12 plea the Court must sentence you to imprisonment in the Nevada Department of
13 Corrections for a minimum term of not less than one year and a maximum term of
14 not more than ten years?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you also understand that you could be fined up to \$10,000?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you also understand that sentencing is strictly up to the
19 Court, that one can promise you probation, leniency or other special treatment?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you also understand that no one could promise you a
22 particular sentence even though this guilty plea agreement says agreement and
23 stipulations and all that stuff that I as the Judge do not necessarily have to follow
24 this deal?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you also understand that you are giving up certain
2 constitutional rights which are listed in the guilty plea agreement?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: I take it that you did discuss your case and your rights with your
5 lawyer?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you have any questions regarding your rights or the
8 negotiations?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Okay. So – just so that I am clear – let me get there. You are
11 pleading guilty because in truth and in fact on or about the 28th day of November
12 2016 within the County of Clark, state of Nevada, contrary to the form, force and
13 effect of statutes in such cases made and provided and against the peace and
14 dignity of the state of Nevada that you willfully, unlawfully, feloniously and forcibly
15 entered an inhabited dwelling to wit: 2731 Warm Rays, Henderson, Clark County,
16 Nevada without permission of the owner, resident or lawful occupant to wit:
17 Florentino and/or Norma Nazareno by breaking a glass window, putting your arm
18 through the window and unlocking the deadbolt in an attempt to gain entry.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. Is the State satisfied with that canvass?

21 MS. VILLEGAS: Yes, Your Honor.

22 THE COURT: Okay. Okay. The Court conditionally accepts your plea as
23 being freely and voluntarily given. And we need to give this gentleman a sentencing
24 date.

25 MS. MCAMIS: Your Honor, I would point out that pursuant to the negotiations

1 the State does not oppose standard bail after entry of plea. He has entered his bail
2 and I would like to direct the Court's attention. He actually posted a \$7,000 bail in
3 this case. He was out on bail and then was picked up after a new case. So, we are
4 asking for the Court to -- and I believe the \$7,000 bond bail was not exonerated, I
5 believe it's still in place. So, we are asking for him to actually be released pending
6 sentencing.

7 MS. VILLEGAS: That's fine, Your Honor.

8 THE COURT: Okay. I will go ahead and allow him to be released on this bail.
9 But, sir, I just want to caution you. Part of the deal is the State does not oppose
10 standard bail after entry of plea which I guess the standard bail is \$7,000, however,
11 if you fail to go to the Division of Parole and Probation, if you fail to appear at any
12 future court date or are arrested on any new offenses, that you have stipulated that
13 you would serve habitual criminal treatment, meaning that you are stipulating to a
14 sentence of a minimum of 60 month to a maximum of 120 months to be served in
15 the Nevada Department of Corrections. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: That's quite a hammer. So, (1) you gotta stay out of trouble
18 and you gotta cooperate with the division, you understand?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. All right. I will go ahead and allow him to be released.
21 And let's get him a date.

22 THE COURT CLERK: July 17th, 8:30 a.m.

23 THE COURT: July 17th at 8:30 a.m. You understand?

24 [No audible response from the defendant]

25 MS. MCAMIS: Your Honor, would it be possible to go just 30 days beyond

1 that?

2 THE COURT: Why?

3 MS. MCAMIS: He actually has a new born child. He's trying to prepare
4 himself and get everything in order and take of a death in the family and then be
5 able to come back and be subject to his remand and serve his prison sentence. So,
6 he's just asking for an additional 30 days.

7 THE COURT: Any objection to that?

8 MS. VILLEGAS: Well, Your Honor, it's already like four months away so –

9 THE COURT: When is the baby due?

10 MS. MCAMIS: The baby was actually already due. The baby is already born.
11 Excuse me.

12 THE COURT: Okay.

13 MS. MCAMIS: The baby's been born so it's a brand new baby.

14 THE COURT: Okay. So, why can't we sentence in July?

15 MS. MCCAMISH: I was just asking for an additional date because for the
16 additional time to be able to prepare and go serve his prison sentence, but we would
17 submit it to the Court.

18 THE COURT: Well, additional time to serve. I'm not understand – to prepare.

19 MS. MCAMIS: Right. He has a number of things that he needs to get in order
20 including taking care of his fiancé, taking care of his baby and then taken care of the
21 recent death in the family.

22 THE DEFENDANT: I have estate issues with my family so I have to go
23 [indecipherable]

24 THE COURT: Okay. I'm having really – I'm having a tough time hearing you,
25 sir. Could you project, please?

1 THE DEFENDANT: I have estate issues, you know, that I have to go and
2 settle with my family. Property –

3 THE COURT: Who passed away?

4 THE DEFENDANT: My grandfather.

5 THE COURT: Okay. And you have to take care of this?

6 THE DEFENDANT: Well, he left me some property and some other things
7 that I'm entitled to that I have to take care of.

8 THE COURT: I see no reason why you can't get it done in four months, okay?
9 So, July 17th at 8:30.

10 MS. MCAMIS: Thank you, Your Honor.

11 THE COURT: Okay. Thank you.

12 MS. MCAMIS: Oh, and just to confirm the calendar call and jury trial dates will
13 be vacated, correct?

14 THE COURT: Thank you for reminding me.

15 MS. MCAMIS: Thank you –

16 THE COURT: The calendar –

17 MS. MCAMIS: -- so much.

18 THE COURT: -- call of April 17 will be vacated as well as the jury trial of April
19 23rd of 2018.

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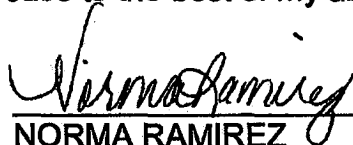
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MS. MCAMIS: Thank you.

[Proceedings concluded at 9:03:37 a.m.]

* * * * *

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



NORMA RAMIREZ
Court Recorder
District Court Dept. XXII
702 671-0572

ACTION: <input type="checkbox"/> ACTIVE <input type="checkbox"/> INACTIVE <input type="checkbox"/> PENDING	NON-CRIMINAL <input type="checkbox"/>	# OF ADULT ARRESTS 0	# OF SUBJECT DETENTIONS 0	URN# 9	18	13675	1182	064	TAG# 247	CALL TIME 1300
CLASSIFICATION 1 / LEVEL / STAT CODE										
Burglary (residential) 459 PC / FI 064										
CLASSIFICATION 2 / LEVEL / STAT CODE										
CLASSIFICATION 3 / LEVEL / STAT CODE										
CLASSIFICATION 4 / LEVEL / STAT CODE										
ADDITIONAL STAT CODES <input type="checkbox"/> ASAP / 83 <input type="checkbox"/> FIREARM RELATED / 830 <input type="checkbox"/> GANG RELATED / 800 <input type="checkbox"/> CYBER - RELATED CRIME / 582 <input type="checkbox"/> CYBER - RELATED INCIDENT (NON - CRIMINAL) / 559 <input type="checkbox"/> OTHER										
DATE / TIME / DAY OF OCCURRENCE 07.10.18 8/T 1030-1230 TUESDAY										
LOCATION OF OCCURRENCE 42719 40TH ST. WEST										
PRINTS REQUESTED REQUESTED BY TIME										
PRINTS COMPLETED BUSINESS NAME										

CODE: V - VICTIM • W - WITNESS • I - INFORMANT • R - REPORTING PARTY • P - PARTY

CODE # of LAST NAME	FIRST NAME	MIDDLE NAME	SEX	RACE	DOB	AGE	DRIVER'S LICENSE / STATE ID
V 1 3 FISHER	DONALD	GREGORY	M	W		46	
RESIDENCE ADDRESS	CITY	STATE	ZIP	RESIDENCE PHONE (Area Code)			
	LANCASTER	CA	93536				
BUSINESS / SCHOOL (GRADE) ADDRESS	CITY	STATE	ZIP	BUSINESS PHONE (Area Code)			
ETHNIC ORIGIN	EMAIL ADDRESS	SOCIAL NETWORKING ACCOUNT				CELL PHONE (Area Code)	
VICTIM OF OFFENSE(S) (CLASSIFICATION) #		VICTIM DESIROUS OF PROSECUTION?		VICTIM OF SEX CRIME DESIROUS OF CONFIDENTIALITY?		ENGLISH SPEAKING? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
1 2 3		YES				LANGUAGE	
CODE # of LAST NAME	FIRST NAME	MIDDLE NAME	SEX	RACE	DOB	AGE	DRIVER'S LICENSE / STATE ID
V 2 3 FISHER	DONALD	ROSCOE	M			83	
RESIDENCE ADDRESS	CITY	STATE	ZIP	RESIDENCE PHONE (Area Code)			
	LANCASTER	CA	93536				
BUSINESS / SCHOOL (GRADE) ADDRESS	CITY	STATE	ZIP	BUSINESS PHONE (Area Code)			
ETHNIC ORIGIN	EMAIL ADDRESS	SOCIAL NETWORKING ACCOUNT				CELL PHONE (Area Code)	
VICTIM OF OFFENSE(S) (CLASSIFICATION) #		VICTIM DESIROUS OF PROSECUTION?		VICTIM OF SEX CRIME DESIROUS OF CONFIDENTIALITY?		ENGLISH SPEAKING? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
1 2 3		YES				LANGUAGE	

CODE: S - SUSPECT • SJ - SUBJECT • M - PATIENT • SV - SUSPECT / VICTIM • SJ / V - SUBJECT / VICTIM

CODE # of LAST NAME	FIRST NAME	MIDDLE NAME	DOB	AGE	DRIVER'S LICENSE / STATE ID
S 1 7 UNK					
SEX	RACE	ETHNIC ORIGIN	HAIR	EYES	HEIGHT
					WEIGHT
RESIDENCE ADDRESS		CITY	STATE	ZIP	CELL PHONE (Area Code)
					RESIDENCE PHONE (Area Code)
BUSINESS / SCHOOL (GRADE) ADDRESS		CITY	STATE	ZIP	BUSINESS PHONE (Area Code)
AKA		EMAIL ADDRESS	SOCIAL NETWORKING ACCOUNT		ENGLISH SPEAKING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MONIKER		CHARGE	BOOKING NUMBER		LANGUAGE
					WHERE DETAINED OR CITE NUMBER
CODE # of LAST NAME	FIRST NAME	MIDDLE NAME	DOB	AGE	DRIVER'S LICENSE / STATE ID
SEX	RACE	ETHNIC ORIGIN	HAIR	EYES	HEIGHT
					WEIGHT
RESIDENCE ADDRESS		CITY	STATE	ZIP	CELL PHONE (Area Code)
					RESIDENCE PHONE (Area Code)
BUSINESS / SCHOOL (GRADE) ADDRESS		CITY	STATE	ZIP	BUSINESS PHONE (Area Code)
AKA		EMAIL ADDRESS	SOCIAL NETWORKING ACCOUNT		ENGLISH SPEAKING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MONIKER		CHARGE	BOOKING NUMBER		LANGUAGE
					WHERE DETAINED OR CITE NUMBER

BY DEPUTY	EMPLOYEE #	SWORN EXP IN YRS	DEPUTY	EMPLOYEE #	SWORN EXP IN YRS	VACATION DATES
WILSON, JARROD	468751	18	SCHANK, TIM	506559	13	
STATION	UNIT / CAR #	SHIFT	APPROVED	EMPLOYEE #	DATE / TIME	
LANCASTER	113A	D	Sgt. M. Bryerton #437700		07-11-18	0906
PCO SUBMITTED?	VACATION DATES		ASSIGNMENT			
NO	NONE		LAN DTB			
HQ NOTIFICATION REQUESTED?	DEPUTY	DATE / TIME	SPECIAL REQUEST DISTRIBUTION			
NO						
SUSPECT / SUBJECT FIELD RELEASE APPROVED BY		DATE / TIME	CRIME BROADCAST BY		DATE / TIME	SECRETARY

A TRADITION OF SERVICE

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT INCIDENT REPORT

URN# 918.13675.1182.064

TAG # 247

DATE 07.10.18

PAGE 2 OF 4

VEHICLE	LICENSE (STATE & NUMBER)	YEAR	MAKE	MODEL	BODY TYPE	COLOR
VEHICLE FOR VICTIM #	REGISTERED OWNER	IDENTIFYING FEATURES				
VEHICLE FOR SUSPECT #						
STATUS	CHP 180 SUBMITTED?	GARAGE NAME & PHONE				
		NO				
DESCRIPTION OF DAMAGE						

VEHICLE	LICENSE (STATE & NUMBER)	YEAR	MAKE	MODEL	BODY TYPE	COLOR
VEHICLE FOR VICTIM #	REGISTERED OWNER	IDENTIFYING FEATURES				
VEHICLE FOR SUSPECT #						
STATUS	CHP 180 SUBMITTED?	GARAGE NAME & PHONE				
DESCRIPTION OF DAMAGE						

SCREENING FACTORS

- | | | |
|---|--|--|
| <input type="checkbox"/> 1. SUSPECT IN CUSTODY | <input type="checkbox"/> 3. UNIQUE SUSPECT IDENTIFIERS | <input type="checkbox"/> 5. UNIQUE VEHICLE IDENTIFIERS |
| <input type="checkbox"/> 2. SUSPECT NAMED / KNOWN | <input type="checkbox"/> 4. VEHICLE IN CUSTODY | <input type="checkbox"/> 6. WRITER/REVIEWER DISCRETION |

PROPERTY CODE:

S - STOLEN • R - RECOVERED • L - LOST • F - FOUND • E - EMBEZZLED • D - DAMAGED • K - SAFEKEEPING
(Use all applicable Codes; for example, if property is both Stolen and Recovered, Code is S/R)

RELEASED TO

CODE	ITEM #	QUAN.	DESCRIPTION (Include kind of article, trade name, identifying numbers, physical description, material, color, condition, age and present market value)	SERIAL #	VALUE
S	1	1	SAFE BLK IN COLOR 2X2, WITH DIAL CONT. PAPERWORK AND UNK CURRENCY		UNK
S	2	1	SPARKLETT'S 5 GAL WATER BOTTLE CONT. MISC COIN CURRENCY		UNK
S	3	1	DISH CONT. MISC US COIN CURRENCY		UNK
S	4	1	BEST WESTERN CREDIT CARD (UNKNOWN NUMBER)		

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT
INCIDENT REPORT CONTINUATION

URN: 918.13675.1182.064

PAGE 3 OF 4

CLASSIFICATION #	/LEVEL / STAT CODE
CLASSIFICATION #	/LEVEL / STAT CODE
CLASSIFICATION #	/LEVEL / STAT CODE

VEHICLE #	SUSPECT STATUS <input type="checkbox"/> VICTIM <input type="checkbox"/> STORED <input type="checkbox"/> IMPOUNDED <input type="checkbox"/> OUTSTANDING	LICENSE (STATE & No.)	YEAR	MAKE	MODEL	BODY TYPE	COLOR
REGISTERED OWNER		IDENTIFYING FEATURES			CHP 180 SUBMITTED <input type="checkbox"/> YES <input type="checkbox"/> NO	GARAGE NAME & PH	

CODE: V-VICTIM W-WITNESS I-INFORMANT R-REPORTING PARTY P-PARTY

CODE	# of	LNAME	FNAME	MNAME	SEX	RACE	ETHNIC ORIGIN	DOB	Age
V	3 OF 3	FISHER	BARBARA	LOUISE	F	W		07.01.41	77
RES. ADDR.		CITY	ZIP	VICTIM OF OFFENSE(S) (CLASSIFICATION) #		RES. PHONE (Area Code)		Day Phone	
		LANCASTER	93536	1				X	
BUS. ADDR.		CITY	ZIP	ENGLISH SPEAKING <input type="checkbox"/> YES <input type="checkbox"/> NO		BUS. PHONE (Area Code)		Day Phone	
CODE	# of	LNAME	FNAME	MNAME	SEX	RACE	ETHNIC ORIGIN	DOB	Age
RES. ADDR.		CITY	ZIP	VICTIM OF OFFENSE(S) (CLASSIFICATION) #		RES. PHONE (Area Code)		Day Phone	
BUS. ADDR.		CITY	ZIP	ENGLISH SPEAKING <input type="checkbox"/> YES <input type="checkbox"/> NO		BUS. PHONE (Area Code)		Day Phone	
CODE	# of	LNAME	FNAME	MNAME	SEX	RACE	ETHNIC ORIGIN	DOB	Age
RES. ADDR.		CITY	ZIP	VICTIM OF OFFENSE(S) (CLASSIFICATION) #		RES. PHONE (Area Code)		Day Phone	
BUS. ADDR.		CITY	ZIP	ENGLISH SPEAKING <input type="checkbox"/> YES <input type="checkbox"/> NO		BUS. PHONE (Area Code)		Day Phone	

CODE: S-SUSPECT SJ-SUBJECT M-PATIENT SN-SUSPECT/VICTIM SJ/V-SUBJECT/VICTIM

CODE	# of	LNAME	FNAME	MNAME	DRIVER'S LICENSE (STATE & No.)			
RES. ADDR.		CITY	ZIP	RES. PHONE (Area Code)				
BUS. ADDR.		CITY	ZIP	BUS. PHONE (Area Code)				
SEX	RACE	ETHNIC ORIGIN	HAIR	EYES	HGT.	WGT.	DOB	Age
CHARGE							WHERE DETAINED OR CITE #	
AKA							BOOKING #	
CODE	# of	LNAME	FNAME	MNAME	DRIVER'S LICENSE (STATE & No.)			
RES. ADDR.		CITY	ZIP	RES. PHONE (Area Code)				
BUS. ADDR.		CITY	ZIP	BUS. PHONE (Area Code)				
SEX	RACE	ETHNIC ORIGIN	HAIR	EYES	HGT.	WGT.	DOB	Age
CHARGE							WHERE DETAINED OR CITE #	
AKA							BOOKING #	
CODE	# of	LNAME	FNAME	MNAME	DRIVER'S LICENSE (STATE & No.)			
RES. ADDR.		CITY	ZIP	RES. PHONE (Area Code)				
BUS. ADDR.		CITY	ZIP	BUS. PHONE (Area Code)				
SEX	RACE	ETHNIC ORIGIN	HAIR	EYES	HGT.	WGT.	DOB	Age
CHARGE							WHERE DETAINED OR CITE #	
AKA							BOOKING #	

On the above date and time we responded to the indicated location to take a report of a residential burglary. The following is a summary of our investigation.

On scene we contacted victim Fisher (V/1) who told me that his home which he shares with his parents, (V/2-3) was burglarized by unknown person(s) between 1030- 1230 on 07.10.18 while he was at an appointment. He told us he noticed that the front security screen had been pried open and the front door looked to have been kicked in. The victim told us he immediately called the Sheriff's station to make a report.

The victim told us that while he waited for Deputies he noticed that there was some loose change on the living room floor of the house that was not there before. The victim stated he looked around the rest of the house and noticed that the south east bedroom (office) door was opened and it normally remained closed. The victim said he noticed the drawers of the desk were open and appeared to have been ransacked, as well as the closet door was opened. The victim said he looked in the closet and notice that the safe (S/1) was missing from the closet.

Victim Fisher told us that he further noticed his bedroom (northern most) looked to have been ransacked also. He told me he was missing a Sparklett's five gallon water bottle (S/2) that contained an unknown amount of loose US coin currency. He went on to explain he was also missing a small glass dish that contained unknown amount of loose US currency, as well as his Best Western credit card (S/4) (unknown number) was missing also. Victim told me he already contacted the card company and turned the card off, so it could not be used.

Victim Fisher told me his parent's room (north west) was also ransacked, but was unsure what items were missing, because they were out of town and unable to determine what was missing.

I observed the front security screen to the location had been pried open with an unknown object, as well as the door jam and deadbolt looked to have been pried on and the door was forcefully opened from the outside breaking the interior door jam inward. I also observed that the office had been ransacked and the drawers were open and paper work was scattered around, and that there was no safe in the office closet and a vacant stool which it sat on. In the the victim's bedroom I observed that it looked to have been ransacked. In the master bedroom I saw the room had been ransacked and the drawers were open and objects were on the floor and a chair had been knocked over. I also observed a metal brief case on the bed that had been opened.

While speaking with the victim he mentioned that he believed his cousin Raymond Dewitt () might have been responsible for the break in. He explained that Dewitt had previously resided at the location and was asked to leave, but still picks up mail at the location once a month. He went on to explain that Dewitt was known to hang around seedy individuals, and had his car stolen about three weeks ago.

While on scene we contacted the neighbors to the north and south in an effort to find a witness or video of the crime. We were unable to locate any witnesses. The house to the north had cameras on the house but were not active or recording. The house to the south had a "ring" doorbell system but did not pick up any footage of the incident.

We requested that finger prints be taken from the door knobs in the office as well as from the metal brief case located in the master bedroom.

The victim's were left a supplemental loss report to list items that were stolen.

The victim was issued a report memo.