

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

---

SAMMIE NUNN,

)

Electronically Filed  
Jun 26 2020 02:40 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

#1226304,

)

Appellant,

)

CASE NO.: **80121**

v.

)

**E-FILE**

STATE OF NEVADA,

)

D.C. Case No.: C-18-336184-1

Respondent.

)

Dept.: **XVIII**

)

---

**APPELLANT'S APPENDIX VOLUME I**

**Appeal from Denial of a Motion to Withdraw a Guilty Plea  
Eighth Judicial District Court, Clark County**

TERRENCE M. JACKSON, ESQ.  
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(702) 386-0001  
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(702) 671-2750  
Steven.Wolfson@clarkcountyda.com

AARON D. FORD  
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Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

...  
Counsel for Appellant

Counsel for Respondent

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**Case No.: 80121**

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...

...

## 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 26th day of June, 2020, I served a copy of the foregoing: Appellant's Opening Brief and the Appendix and Index, Volume I, 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@clarkcountyda.com](mailto:steven.wolfson@clarkcountyda.com)

AARON D. FORD

Nevada Attorney General

100 North Carson Street

Carson City, NV 89701

WILLIAM "JAKE" MERBACK

Chief Deputy District Attorney - Criminal

[william.merback@clarkcountyda.com](mailto:william.merback@clarkcountyda.com)

SAMMIE NUNN

ID# 1226304

Southern Desert Correctional Ctr. - P.O. Box 208

Indian Springs, NV 89070-0208

By: /s/ Ila C. Wills

Assistant to Terrence M. Jackson, Esq.

ORIGINAL

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

NOV 14 2018

BY:   
KIMBERLY ESTALA, DEPUTY

C-18-336184-1  
IND  
Indictment  
4786288



DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAMMIE NUNN,  
#2751864

Defendant.

CASE NO: C-18-336184-1

DEPT NO: ~~XXX~~ IX

INDICTMENT

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

The Defendant above named, SAMMIE NUNN, accused by the Clark County Grand Jury of the crime(s) of BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226) AND BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.481 - NOC 50223) committed at and within the County of Clark, State of Nevada, on or between the May 27<sup>th</sup>, 2018 and June 3, 2018, as follows:

COUNT 1 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

did willfully, unlawfully, and feloniously use force or violence upon the person of another, to wit: PRINCE ALIDU, with use of a deadly weapon, to wit: a 12 inch pair of pliers, by striking the said PRINCE ALIDU, resulting in substantial bodily harm to PRINCE ALIDU.

//

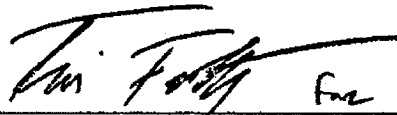
1 COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON

2 did willfully, unlawfully, and feloniously use force or violence upon the person of  
3 another, to wit: PRINCE ALIDU, with use of a deadly weapon, to wit: a fire arm, by hitting  
4 him in the head with said firearm.

5 DATED this 13<sup>th</sup> day of November, 2018.

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

9 BY

  
10 MEGAN THOMSON  
11 Chief Deputy District Attorney  
12 Nevada Bar #011002

13  
14 ENDORSEMENT: A True Bill

15  
16   
17 Foreperson, Clark County Grand Jury



Names of Witnesses and testifying before the Grand Jury:

ALIDU, PRINCE – c/o CCDA 200 LEWIS AVE, LAS VEGAS, NV

HAWKINS, NICOLETTE – c/o CCDA 200 LEWIS AVE, LAS VEGAS, NV

VESPERAS, TY – c/o CCDA 200 LEWIS AVE, LAS VEGAS, NV

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

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

18AGJ145X/18F09747X/ed-GJ  
LVMPD EV# 1805270823  
(TK2)

WARR

ORIGINAL

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

NOV 14 2018

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-VS-

SAMMIE NUNN  
ID#2751864

Defendant.

BY, KIMBERLY ESTALA, DEPUTY

CASE NO: C-18-336184-1

DEPT NO: ~~XXX~~ IX

WARRANT FOR ARREST

C-18-336184-1  
WARR  
Warrant  
4796298



INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 14th day of November, 2018, in the above entitled Court, charging Defendant SAMMIE NUNN, above named, with the crime(s) of: (1) CT - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226) and (1) CT - BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.481 - NOC 50223).

**YOU ARE, THEREFORE, COMMANDED** forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$ No bail - Set in court

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night.

GIVEN under my hand this 14<sup>th</sup> day of November, 2018.

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

BY

Megan Thomson  
MEGAN THOMSON  
Chief Deputy District Attorney  
Nevada Bar #11002

Linda Marie Bell  
DISTRICT JUDGE

LINDA MARIE BELL

BAIL \$

No bail set in court

DA# 18AGJ149A /18F01554A /zm  
LVMPD EV#1805270823  
08/10/1989;BMA;543-29-4197;  
(TK2)

004

2

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

## COURT MINUTES

November 20, 2018

C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

November 20, 2018      09:00 AM      All Pending Motions

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein      Attorney for Defendant

Megan Thomson      Attorney for Plaintiff

State of Nevada      Plaintiff

## JOURNAL ENTRIES

## INDICTMENT WARRANT RETURN ... INITIAL ARRAIGNMENT

Defendant not present.

State noted the Defendant refused transport and the case is actually Mr. Goldstein's. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 11/29/18 9:00 AM

CLERK'S NOTE: Mr. Goldstein notified of continuance date via e-mail 11/20/18. - amt

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 29, 2018

C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

November 29, 2018      09:00 AM      All Pending Motions

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Alicia A. Albritton	Attorney for Plaintiff
Anthony M. Goldstein	Attorney for Defendant
Sammie Nunn	Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Mr. Goldstein advised this case included the event in C334308 and advised that case will be dismissed. Further, Mr. Goldstein requested arraignment be continued so that he may address competency concerns before the Defendant is arraigned. COURT ORDERED, C336184 CONTINUED and C334308 DISMISSED.

CUSTODY

CONTINUED TO: 12/13/18 9:00 AM

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

December 13, 2018

C-18-336184-1      State of Nevada  
   vs  
   Sammie Nunn

December 13, 2018      09:00 AM      All Pending Motions

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Sison, Yvette G.

REPORTER:

**PARTIES PRESENT:**

Anthony M. Goldstein	Attorney for Defendant
Laura Jean Rose	Attorney for Plaintiff
Sammie Nunn	Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

INDICTMENT WARRANT RETURN ... INITIAL ARRAIGNMENT

COURT ORDERED, matter REFERRED to Competency Court.

CUSTODY (COC)

1/4/19 9:00 AM FURTHER PROCEEDINGS: COMPETENCY

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 18, 2019

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C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

---

January 18, 2019      10:00 AM      Further Proceedings: Competency

HEARD BY:      Bell, Linda Marie      COURTROOM: RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER:      Vincent, Renee

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein      Attorney for Defendant

Glen O'Brien      Attorney for Plaintiff

Sammie Nunn      Defendant

State of Nevada      Plaintiff

## JOURNAL ENTRIES

Appearances Continued: Denise Baker of the Specialty Courts also present.

Court NOTED Drs. Colosimo and Krelstein indicate not competent; therefore, pursuant to the doctors' reports and the Dusky Standard, FINDS Defendant NOT COMPETENT as he is not capable of understanding the charges against his and is unable to assist counsel in his defense. Pursuant to NRS 178.425, COURT ORDERED, Defendant is REMANDED to the custody of the Administrator of the Division of Mental Health Development Services for the Department of Human Resources for detention and treatment at a secure facility operated by that Division. Once competency has been established, Defendant will be returned to this court for findings and referred back to the originating department for further proceedings.

CUSTODY (L.C.)

*Steven D. Grierson*

1 OCNRS  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHRISTOPHER J. LALLI  
6 Assistant District Attorney  
7 Nevada Bar #005398  
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 SAMMIE NUNN,  
13 #2751864

14 Defendant.

CASE NO: C-18-336184-1

DEPT NO: VII

15 ORDER OF COMMITMENT

16 THIS MATTER came before the Court on the 18th day of January, 2019, when doubt  
17 arose as to competence of the Defendant, the Defendant being present with counsel,  
18 ANTHONY GOLDSTEIN, Esq., the State being represented by STEVEN B. WOLFSON,  
19 District Attorney, through GLEN O'BRIEN, his Deputy, and the Court having considered the  
20 reports of Doctors C. Philip Colosimo, Mark Chambers, and Mark Krelstein, licensed and  
21 practicing psychologists and/or psychiatrists in the State of Nevada, finds the Defendant  
22 incompetent, and that he is dangerous to himself and to society and that commitment is  
23 required for a determination of his ability to receive treatment to competency and to attain  
24 competence, and good cause appearing, it is hereby

25 ORDERED that, pursuant to NRS 178.425(1), the Sheriff and/or a designee(s) of the  
26 Division of Public and Behavioral Health of the Department of Health and Human Services,  
27 shall convey the Defendant forthwith, together with a copy of the complaint, the commitment  
28 and the physicians' certificate, if any, into the custody of the Administrator of the Division of

JAN 24 2019

1 Public and Behavioral Health of the Department of Health and Human Services or his or her  
2 designee for detention and treatment at a secure facility operated by that Division; and, it is

3 FURTHER ORDERED that, pursuant to NRS 433A.165, before the defendant may be  
4 transported to a public or private mental health facility he must:

5 1. First be examined by a licensed physician or physician assistant or an  
6 advanced practitioner of nursing to determine whether the person has a medical problem, other  
7 than a psychiatric problem, which requires immediate treatment; and

8 2. If such treatment is required, be admitted to a hospital for the appropriate  
9 medical care; and, it is

10 FURTHER ORDERED that the Defendant is required to submit to said medical  
11 examination which may include, but is not limited to, chest x-rays and blood work; and, it is

12 FURTHER ORDERED that the cost of the examination must be paid by Clark County,  
13 unless the cost is voluntarily paid by the Defendant or on his behalf, by his insurer or by a state  
14 or federal program of medical assistance; and, it is

15 FURTHER ORDERED that, pursuant to NRS 178.425(2), the Defendant must be held  
16 in such custody until a court orders his release or until he is returned for trial or judgment as  
17 provided in NRS 178.450, 178.455 and 178.460; and, it is

18 FURTHER ORDERED that, pursuant to NRS 178.425(4), these proceedings against  
19 the Defendant are suspended until the Administrator or his or her designee finds him capable  
20 of standing trial as provided in NRS 178.400; and, it is

21 FURTHER ORDERED that, pursuant to NRS 178.435, the expenses of the examination  
22 and of the transportation of the Defendant to and from the custody of the Administrator of the  
23 Division of Public and Behavioral Health of the Department of Health and Human Services or  
24 his or her designee are chargeable to Clark County; and, it is

25 FURTHER ORDERED that the Administrator of the Division of Public and Behavioral  
26 Health of the Department of Health and Human Services or his or her designee shall keep the  
27 Defendant under observation and evaluated periodically; and, it is

28 //



1 FURTHER ORDERED that the Administrator or his or her designee shall report in  
2 writing to this Court and the Clark County District Attorney whether, in his opinion, upon  
3 medical consultation, the Defendant is of sufficient mentality to be able to understand the  
4 nature of the criminal charge against him and, by reason thereof, is able to aid and assist his  
5 counsel in the defense interposed upon the trial or against the pronouncement of the judgment  
6 thereafter. The administrator or his or her designee shall submit such a report within 6 months  
7 after this order and at 6 month intervals thereafter. If the opinion of the Administrator or his  
8 or her designee about the Defendant is that he is not of sufficient mentality to understand the  
9 nature of the charge against him and assist his own defense, the Administrator or his or her  
10 designee shall also include in the report his opinion whether:

11 1. There is a substantial probability that the Defendant can receive treatment  
12 to competency and will attain competency to stand trial or receive pronouncement of judgment  
13 in the foreseeable future; and

14 2. The Defendant is at that time a danger to himself or to society.

15 DATED this 27 day of January, 2019.

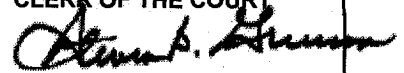
16  
17   
18 DISTRICT JUDGE

19 STEVEN B. WOLFSON  
20 District Attorney  
21 Nevada Bar #001565

22 BY

23   
24 CHRISTOPHER J. LALLI  
25 Assistant District Attorney  
26 Nevada Bar #005398  
27  
28

aw



1 **FOC**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHRISTOPHER J. LALLI  
6 Assistant District Attorney  
7 Nevada Bar #005398  
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 SAMMIE NUNN,  
13 #2751864

14 Defendant.

CASE NO: C-18-336184-1

DEPT NO: VII

15  
16 **FINDINGS OF COMPETENCY**

17 THIS MATTER having come on for hearing before the above-entitled Court on the  
18 18th day of January, 2019, and it appearing to the Court that, pursuant to NRS 178.425(1), the  
19 Sheriff was ordered to convey the Defendant forthwith, together with a copy of the complaint,  
20 the commitment and the physicians' certificate, if any, into the custody of the Administrator  
21 of the Division of Public and Behavioral Health of the Department of Health and Human  
22 Services or his or her designee for detention or treatment at a secure facility operated by that  
23 Division or his designee; and, it appearing that, upon medical consultation, the Administrator  
24 or his or her designee has reported to the Court in writing his specific findings and opinion  
25 that the Defendant is of sufficient mentality to be able to understand the nature of the criminal  
26 charge against him and, by reason thereof, is able to assist his counsel in the defense interposed  
27 upon the trial or against the pronouncement of the judgment thereafter; now, therefore,

28 //

1 THE COURT FINDS, pursuant to NRS 178.460, that the said Defendant is competent  
2 to stand trial in the above-entitled matter; and,

3 IT IS HEREBY ORDERED that you, the Administrator of the Division of Public and  
4 Behavioral Health of the Department of Health and Human Services or his or her designee,  
5 shall provide forthwith to the Director of Mental Health of the Clark County Detention Center,  
6 true and complete copies of the Defendant's psychological evaluations, hospital course of  
7 treatment and discharge summary; and,

8 IT IS FURTHER ORDERED that you, the Sheriff of Clark County, Nevada, shall  
9 accept and retain custody of said Defendant in the Clark County Detention Center pending  
10 completion of proceedings in the above-captioned matter, or until the further Order of this  
11 Court.

12 DATED this 12 day of March, 2019.

13  
14  
15 JUDGE

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

18  
19 BY

Christopher J. Lalli  
20 CHRISTOPHER J. LALLI  
21 Assistant District Attorney  
Nevada Bar #005398

22  
23  
24  
25  
26  
27  
28 me

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2019

C-18-336184-1      State of Nevada  
vs  
Sammie Nunn

April 16, 2019      09:00 AM      Further Proceedings: Return from Competency Court

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein

Attorney for Defendant

Ashley A. Lacher

Attorney for Plaintiff

Sammie Nunn

Defendant

State of Nevada

Plaintiff

## JOURNAL ENTRIES

Statements by Mr. Goldstein. DEFENDANT ARRAIGNED, PLED NOT GUILTY AND INVOKED the SIXTY (60) DAY RULE. COURT ORDERED, trial date SET.

CUSTODY

6/11/19 9:00 AM CALENDAR CALL

6/17/19 1:00 PM JURY TRIAL

PP  
DA  
for  
Anthony  
Goldstein

District Court  
Clark County Nevada

FILED

APR 29 2019

CLEAR OF COURT

State of Nevada  
Plaintiff

Case No: C-18-336184-1  
Dept No: IX

V.S.

May 14 2019

Sammie Nunn #2751864  
Defendant

@ 9:00 AM

In the "Present" Pro Per'  
Pro SE

## EMERGENCY MOTION TO DISMISS COUNCIL (With Extreme Prejudice)

Now comes the Defendant (so compelled to proceed),

Sammie Nunn, moves this HONORABLE COURT TO DISMISS STATE Appointed Attorney Anthony Goldstien and Appoint other council To #1 Assist, and #2. Represent This Defendant.

Then To The Appointment of ALTERNATIVE COUNCIL Within the Powers of The STATE BAR OF NEVADA PURSUANT TO The Rules of The SUPREME COURT; NRS 174.195; NRS 178.138, NV CONST, ART, 183; And GIDEON V. WAINWRIGHT 372 U.S., 344 Among OTHERS.

1. ~~As~~ Certain Fundamental Rights Must Be Safe-  
guarded From Intrusive Governmental conduct, Particularly  
Relevant To Situations Involving A Criminal suspect or  
Defendant Pursuant to the federal Bill of Rights.

2. A Judicially Created Right To Have Counsel Present At "Every" Stage of Investigatory Detained Proceedings: EDWARDS Rule: 6<sup>th</sup> Amendment, STRICKLAND standard; And NRS 171.188 and NRS 180.050.

## Declaration

I AM THE DEFENDANT, SAMMIE NUNN, SO ACCUSED, WITH A Clear violation of Due Process Being The Restricted Access of Legal Retention AND NEGLIGENT REPRESENTATION THE LACK OF COMPETENT AND ATTEMPTED REPRESENTATION, OR THE ASSISTANCE THERE OF' AS WELL AS "ANY RESEMBLANCE" OF EFFECTIVE Representation, or Assistance There of, etc... Who HAS THE Right to Present to this Honorable court And Judicial system, Keeping with The conduct of The Rights OF THE ACCUSED AND LAWS GIVEN TO "US BOTH" TO THE EFFECT OF Justice Impartiality AND LIBERTY ACCORDING TO THE 5<sup>th</sup>, 6<sup>th</sup> AND 7<sup>th</sup> Amendment AND SO FORTH; NRS 179 TITLE 14 (P.C.C.) IN WHICH DEFENDANT SEEKS Resolution ADDRESSED.

Being the ACCUSED AND Present Bearer PRO PER' PRO SE UNABLE TO competently execute The Proceedings under Penalty of PERJURY SWEAR THE ISSUES WITHIN TO BE TRUE TO THE BEST OF MY knowledge. (NRS 171.102 and NRS 208.165)

Executed this day 20<sup>th</sup>  
OF the 4<sup>th</sup> month, 2019 Defendant

SAMMIE NUNN In The Present Pro Per' Pro SE

(2)

## Points of Authorities

It IS Respectfully And Lawfully Requested That This Honorable Court Grant This Motion To Dismiss Counsel (With Extreme Prejudice) For The Reasons Listed Below:

Since Clark County Court Appointed Counsel Anthony Goldstien took over Case # C-18-336184-1, on or NEAR Sept. 1st 2018, defendant, SAMMIE NUNN, has been prejudiced Against and suffered Manifested injustice (physically, Mentally and Financially.) Based on Clark County's Court Appointed Attorney Anthony Goldstien's Failure To:

- ① Communicate with Defendant on any relevant matters concerning case # C-18-336184-1, Details of case other than to relay Alleged prosecutors plea offers or upcoming court dates, Be it in person, on video or Telephone... *EZE v. SENKOWSKI*, 321 F3d 110 (2nd Cir. 2008)
- ② Investigate As to Clients ORAL, WRITEN and "AT Court" Requests, of Any defense that (surely can & will!) help my case... *MAK v. Blodgett*, 970 F2d 614 (9th Cir. 2014)
- ③ Apply For Any And All Necessary documents to help Towards An Impartial Resolution OF Case # C-18-336184-1, Brady' DISCOVERY.
- ④ Talk to witnesses in The Defendants favor or send a Private Investigator to investigate Detailed information from Witness Brook, who works at Yourstop Liquor Store.
- ⑤ keep Defendant confident claiming he does not believe

The Defendant and neither will the jury.

⑥ Failure to go over transcripts and explain competent angles and legal procedures.

⑦ Hasnt gone over Discovery, hasnt brought discovery.

⑧ Failure to Locate Transcripts from Judge Karen Bennett-Harons Temporary Protective Order Hearing case #18PC00861 which References case #E18-3361844 and should be used as a credibility tool since the victim made a completely different statement showing the victim lied enabling a false arrest. Anthony Goldstien claims the Transcripts were erased from court records, but I have a copy and would like them to be a part of court records.

⑨ Hasnt Put me in mental health court, Im on court ordered Meds.

A Petitioner claiming Ineffective Assistance of Counsel is Entitled To Relief if There is A "Reasonable Probability" That But For Counsel's unprofessional errors, THE END Result of the Proceeding would Have Been Different. NRS 180.060... Duties of a Public Defender; Clearly Violated.

Quoting STRICKLAND "The Right to Counsel is The Right to "EFFECTIVE ASSISTANCE" OF Counsel," OR AVILA V. GALAZA, 297 F3d 911, 920 (9th Cir. 2002) Strategic decisions are those MADE "Before, NOT AFTER" TAKING THE CHALLENGED ACTION. Counsel can hardly be said to have Made Any Sound & Strategic Choice "When Counsel has Not Yet obtained The facts on which a Decision can be Effectively MADE.



## Relief Requested conclusion

Defendant So Compelled In The Present Pro Per' Pro SE, Moves The Honorable Court To Grant MOTION TO DISMISS (With Extreme Prejudice) AND Appoint Other Counsel To Function Good FAITH AND ACCORDING TO THEIR OATH TOWARDS THE STATE BAR ASSOCIATION.

Dated This 20<sup>th</sup> day of The 4<sup>th</sup> month of 2019  
In the Present Pro Per' Pro SE, I 'defendant SAMMIE NUNN, OF CASE #C-18-336184-1, upon penalty of perjury, this is true to the best of my knowledge.  
NRS 171.102 (and NRS 208.165)

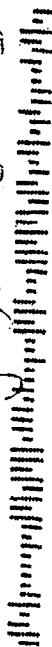
330 Casino Center Blvd  
Las Vegas, NV 89101

25 APR 2019 PM 3:1



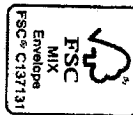
Steven D Grierson  
200 Lewis Ave  
3rd floor  
Las Vegas, NV 89155

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



020

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 14, 2019

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C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

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May 14, 2019      09:00 AM      Motion to Dismiss Counsel

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Alicia A. Albritton	Attorney for Plaintiff
Anthony M. Goldstein	Attorney for Defendant
Sammie Nunn	Defendant
State of Nevada	Plaintiff

## JOURNAL ENTRIES

Upon Court's inquiry, Mr. Goldstein noted this was Deft.'s second Motion in the instant matter. Mr. Goldstein further noted he visited with Deft. many times as well as visited alleged crime scene; therefore, he doesn't understand the reason for the Motion. Further statements by Mr. Goldstein. Court advised the Deft. he had an excellent attorney assigned to him and Court didn't see anything in Motion indicating otherwise; additionally, it didn't see where the complaints were coming from. Deft. indicated there was evidence that he didn't do the crime; however, Mr. Goldstein stated it didn't exist. Statements by Mr. Goldstein indicating there was a transcript. Deft. noted Mr. Goldstein didn't bring transcript into evidence. Court informed Deft. it was not the time to bring in evidence until trial. Following colloquy, Court advised it didn't see grounds to dismiss counsel; therefore, Deft. could retain his own counsel or Deft. proceed on his own. Deft. noted he would represent himself. COURT DIRECTED Deft. to think about it, and ask around; further, Deft. needed to be certain before Faretta Canvass. COURT ORDERED, matter CONTINUED.

CUSTODY

5/23/19 9:00 AM CONTINUED: MOTION TO DISMISS

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

May 23, 2019

C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

May 23, 2019      09:00 AM      Motion to Dismiss Counsel

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Ramsey, Michelle; Sison, Yvette G.

REPORTER:

**PARTIES PRESENT:**

Anthony M. Goldstein	Attorney for Defendant
Megan Thomson	Attorney for Plaintiff
Sammie Nunn	Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

Mr. Goldstein indicated matter was on for fareta canvass and the State has given an offer which the Deft. rejected that offer and wants to go through with Faretta Canvass. Court noted if that is what Deft. wants to do. Deft. noted that was what he was being forced to do. Court advised Deft. that he had good counsel. Deft. inquired if had right to receive evidence; indicating he didn't have discovery and had counsel for eight months. Mr. Goldstein indicated he sent discovery to Deft. Court noted Deft.'s Motion didn't indicate a reason to dismiss counsel; advised counsel that matter would be set for status check discovery. Statements by Deft. Colloquy between parties regarding Ms. Thomson already modifying deal. CONFERENCE AT BENCH. Court advised Mr. Goldstein to find housing for Deft. MATTER TRAILED.

MATTER RECALLED. Upon Court's inquiry, Mr. Goldstein noted he would go over the Pre-Sentence Investigation (PSI) report with Deft. and see if he would accept deal. COURT ORDERED, Motion to Dismiss Counsel was hereby DENIED, and matter SET for status check for possible negotiations or possible sentencing.

6/6/19 9:00 AM STATUS CHECK: NEGOTIATIONS/ SENTENCING

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 06, 2019

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C-18-336184-1      State of Nevada  
   vs  
   Sammie Nunn

---

June 06, 2019      09:00 AM      STATUS CHECK: POSSIBLE NEGOTIATIONS OR  
SENTENCING

HEARD BY:      Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein

Attorney for Defendant

Megan Thomson

Attorney for Plaintiff

Sammie Nunn

Defendant

State of Nevada

Plaintiff

## JOURNAL ENTRIES

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFENDANT NUNN ARRAIGNED AND PLED GUILTY to BATTERY WITH USE OF A DEADLY WEAPON (F). Court ACCEPTED plea, and Court agreed to use the Pre-sentence Investigation (PSI) Report from C334308. Mr. Goldstein requested Deft. be sentenced at the current hearing. CONFERENCE AT BENCH. Ms. Thomson advised she had no opposition to probation. CONFERENCE AT BENCH. MATTER TRAILED.

MATTER RECALLED. CONFERENCE AT BENCH. Following colloquy, COURT ORDERED, trial VACATED and sentencing be CONTINUED.

## CUSTODY

6/11/19 9:00 AM CONTINUED: SENTENCING

ORIGINAL

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

JUN 06 2019

BY, Dara Yorke  
DARA YORKE, DEPUTY

GPA  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MEGAN THOMSON  
Chief Deputy District Attorney  
Nevada Bar #011002  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAMMIE NUNN,  
#2751864

Defendant.

CASE NO: C-18-336184-1

DEPT NO: XVIII

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **BATTERY WITH USE OF A DEADLY WEAPON**  
(Category B Felony - NRS 200.481 - NOC 50223), 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:

**PARTIES STIPULATE TO UNDERLYING  
SENTENCE OF 2-5 YEARS IN NDOC**

The State has no opposition to probation. The State will not oppose Defendant's  
release on house arrest after entry of guilty plea in District Court.

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

I understand and agree that, if I fail to interview with the Department of Parole and  
Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,  
by affidavit review, confirms probable cause against me for new criminal charges including

C-18-336184-1  
GPA  
Guilty Plea Agreement  
4840862



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024

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

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

9 CONSEQUENCES OF THE PLEA

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

12 I understand that as a consequence of my plea of guilty The Court must sentence me to  
13 imprisonment in the Nevada Department of Corrections for a minimum term of not less than  
14 TWO (2) years and a maximum term of not more than TEN (10) years. The minimum term  
15 of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.  
16 I understand that I may also be fined up to \$10,000.00. I understand that the law requires me  
17 to pay an Administrative Assessment Fee.

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

22 I understand that I am eligible for probation for the offense to which I am pleading  
23 guilty. I understand that, except as otherwise provided by statute, the question of whether I  
24 receive probation is in the discretion of the sentencing judge.

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

27 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,  
28 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or

1 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation  
2 and may receive a higher sentencing range.

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

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

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

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

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

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

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

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

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



1 regarding my background and criminal history. My attorney and I will each have the  
2 opportunity to comment on the information contained in the report at the time of sentencing.  
3 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also  
4 comment on this report.

#### 5 WAIVER OF RIGHTS

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

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

#### 22 VOLUNTARINESS OF PLEA

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

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

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

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


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

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


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

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

13 DATED this 6 day of <sup>June</sup> ~~May~~, 2019.

14  
15   
16 SAMMIE NUNN  
Defendant

17 AGREED TO BY:

18   
19  
20 MEGAN THOMSON  
Chief Deputy District Attorney  
21 Nevada Bar #011002  
22  
23  
24  
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26  
27  
28

1 CERTIFICATE OF COUNSEL:

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

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

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

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

29 Dated: This 6<sup>th</sup> day of May, 2019.

JUNE

  
DEFENSE ATT.

7721

cc/L4

1 AIND  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 MEGAN THOMSON  
6 Chief Deputy District Attorney  
7 Nevada Bar #011002  
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 SAMMIE NUNN,  
13 #2751864

14 Defendant.

CASE NO. C-18-336184-1

DEPT NO. XVIII

AMENDED  
INDICTMENT

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

17 The Defendant(s) above named, SAMMIE NUNN, is accused by the Clark  
18 County Grand Jury of the crime of **BATTERY WITH USE OF A DEADLY**  
19 **WEAPON (Category B Felony - NRS 200.481 - NOC 50223)**, committed at and  
20 within the County of Clark, State of Nevada, on or between the May 27, 2018 and  
21 June 3, 2018, as follows: did willfully, unlawfully, and feloniously use force or  
22 violence upon the person of another, to wit: PRINCE ALIDU, with use of a deadly  
23 weapon, to wit: a firearm and/or a 12 inch pair of pliers, by hitting said PRINCE

24 ///

25 ///

26 ///

27 ///


28 ///

**EXHIBIT "1"**

1 ALIDU in the head with said firearm and/or by striking said PRINCE ALIDU with  
2 said 12 inch pair of pliers  
3

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

7 BY

8   
9 MEGAN THOMSON  
10 Chief Deputy District Attorney  
11 Nevada Bar #011002  
12  
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26 18F11438X/cc/L4  
27 LVMPD EVENT #180602004287  
28 (TK3)

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 11, 2019

C-18-336184-1      State of Nevada  
vs  
Sammie Nunn

June 11, 2019      09:00 AM      Sentencing

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein	Attorney for Defendant
Laura Jean Rose	Attorney for Plaintiff
Sammie Nunn	Defendant
State of Nevada	Plaintiff

## JOURNAL ENTRIES

Upon Court's inquiry, Mr. Goldstein requested that the Court grant probation; additionally, Mr. Goldstein had been in contact with Deft.'s mom and she stated she made accommodations at a halfway house. Colloquy between parties and a representative from the One Day at a Time program halfway house. By virtue of Defendant's plea of guilty and by Order of the Court, DEFT NUNN ADJUDGED GUILTY of BATTERY WITH USE OF A DEADLY WEAPON (F). Statements by Ms. Rose and Mr. Goldstein. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$3.00 DNA Collection fee, the \$150.00 DNA Analysis Fee, including testing to determine genetic markers, and to pay RESTITUTION, Deft. SENTENCED to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); SUSPENDED; placed on PROBATION for an indeterminate period not to exceed FIVE (5) YEARS. COURT FURTHER ORDERED, Deft. to be placed on House arrest.

## STANDARD CONDITIONS:

1. Reporting: You are to report in person to the Division of Parole and Probation (P&P) as instructed by the Division or its agent. You are required to submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
2. Residence: You shall not change your place of residence without first obtaining permission from P&P, in each instance.
3. Intoxicants: You shall not consume any alcoholic beverages whatsoever. Upon order of P&P or its agent, you shall submit to a medically recognized test for blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall be sufficient proof of excess.
4. Controlled Substances: You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify P&P of any prescription received. You shall submit to drug testing as required by the Division or its agent.
5. Weapons: You shall not possess, have access to, or have under your control, any type of weapon.
6. Search: You shall submit your person, property (including cellular phones and / or

computers), place of residence, vehicle or areas under your control to search at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by P&P or its agent.

7. Associates: You must have prior approval by P&P to associate with any person convicted of a felony, or any person on probation or parole supervision. You shall not have any contact with persons confined in a correctional institution unless specific written permission has been granted by the Division and the correctional institution.

8. Directives and Conduct: You shall follow the directives of P&P and your conduct shall justify the opportunity granted to you by this community supervision.

9. Laws: You shall comply with all municipal, county, state, and federal laws and ordinances.

10. Out-of-State Travel: You shall not leave the state without first obtaining written permission from P&P.

11. Employment/Program: You shall seek and maintain legal employment, or maintain a program approved by P&P and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.

12. Financial Obligation: You shall pay fees, fines, and restitution on a schedule approved by P&P. Any excess monies paid will be applied to any other outstanding fees, fines, and/or restitution, even if it is discovered after your discharge.

#### SPECIAL CONDITIONS:

1. Deft. shall submit digital storage media or any digital storage media that you have access or use, including computers, handheld communication devices and any network applications associated with those devices, including social media and remote storage services to a search and shall provide all passwords, unlock codes and account information associated with those items, with or without a search warrant, by the Division of Parole and Probation or its agent.

2. Deft. to only be released to Parole and Probation and transported to One Day at a Time Program.

3. Deft. to remain on House Arrest until interstate compact to California to live with his mother.

4. Complete mental health evaluation.

5. Consume any medication required.

6. Abide by any curfew imposed.

7. Maintain full-time employment, schooling or 16 hours community service a month.

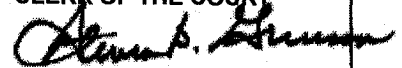
8. No contact with victim.

9. Deft. to pay RESTITUTION in the amount of \$22,042.00 to Prince Alidu.

MATTER RECALLED. Colloquy between parties regarding Deft. behavior post sentencing in the Courtroom. Mr. Goldstein informed the Court he explained to the Deft. that probation was a privilege.

BOND, if any, EXONERATED.

O.R./H.A.



1 JOC  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 200 Lewis Avenue  
6 Las Vegas, Nevada 89155-2212  
7 (702) 671-2500  
8 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-18-336184-1

12 SAMMIE NUNN,  
13 #2751864

DEPT NO: XVIII

14 Defendant.

JUDGMENT OF CONVICTION  
(PLEA OF GUILTY)

15 The defendant previously appeared before the Court with counsel and entered a plea  
16 of guilty to the crime(s) of BATTERY WITH USE OF A DEADLY WEAPON (Category B  
17 Felony), in violation of NRS 200.481; thereafter, on the 11th day of June, 2019, the  
18 defendant was present in court for sentencing with his counsel, ANTHONY GOLDSTEIN,  
19 ESQ., and good cause appearing,

20 THE DEFENDANT WAS HEREBY ADJUDGED guilty of said offense(s) and, in  
21 addition to the \$25.00 Administrative Assessment Fee, \$3.00 DNA Collection fee, the  
22 \$150.00 DNA Analysis Fee, including testing to determine genetic markers, and to pay  
23 RESTITUTION, the defendant was sentenced as follows: to a MAXIMUM of ONE  
24 HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48)  
25 MONTHS

26 ///

27 ///

28 C:\USERS\YORKED\APPDATA\LOCAL\MICROSOFT\WINDOWS\NETCACHE\CONTENT.OUTLOOK\ILA12WXA\18F11438-JOC-

(NUNN\_SAMMIE)-001.DOCX

034



1 ///

2 ///

3 in the Nevada Department of Corrections (NDC); SUSPENDED; placed on PROBATION  
4 for an indeterminate period not to exceed FIVE (5) YEARS.

5 COURT FURTHER ORDERED, Deft. to be placed on House arrest.

6 STANDARD CONDITIONS:

7 1. Reporting: You are to report in person to the Division of Parole and  
8 Probation (P&P) as instructed by the Division or its agent. You are required to submit a  
9 written report each month on forms supplied by the Division. This report shall be true and  
10 correct in all respects.

11 2. Residence: You shall not change your place of residence without first  
12 obtaining permission from P&P, in each instance.

13 3. Intoxicants: You shall not consume any alcoholic beverages whatsoever.  
14 Upon order of P&P or its agent, you shall submit to a medically recognized test for  
15 blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall be  
16 sufficient proof of excess.

17 4. Controlled Substances: You shall not use, purchase or possess any illegal  
18 drugs, or any prescription drugs, unless first prescribed by a licensed medical professional.  
19 You shall immediately notify P&P of any prescription received. You shall submit to drug  
20 testing as required by the Division or its agent.

21 5. Weapons: You shall not possess, have access to, or have under your control,  
22 any type of weapon.

23 6. Search: You shall submit your person, property (including cellular phones  
24 and / or computers), place of residence, vehicle or areas under your control to search at any  
25 time, with or without a search warrant or warrant of arrest, for evidence of a crime or  
26 violation of probation by P&P or its agent.

1           7. Associates: You must have prior approval by P&P to associate with any  
2 person convicted of a felony, or any person on probation or parole supervision. You shall not  
3 have any contact with persons confined in a correctional institution unless specific written  
4 permission has been granted by the Division and the correctional institution.

5           8. Directives and Conduct: You shall follow the directives of P&P and your  
6 conduct shall justify the opportunity granted to you by this community supervision.

7           9. Laws: You shall comply with all municipal, county, state, and federal laws  
8 and ordinances.

9           10. Out-of-State Travel: You shall not leave the state without first obtaining  
10 written permission from P&P.

11           11. Employment/Program: You shall seek and maintain legal employment, or  
12 maintain a program approved by P&P and not change such employment or program without  
13 first obtaining permission. All terminations of employment or program shall be immediately  
14 reported to the Division.

15           12. Financial Obligation: You shall pay fees, fines, and restitution on a  
16 schedule approved by P&P. Any excess monies paid will be applied to any other outstanding  
17 fees, fines, and/or restitution, even if it is discovered after your discharge.

18           SPECIAL CONDITIONS:

19           1. Deft. shall submit digital storage media or any digital storage media that you  
20 have access or use, including computers, handheld communication devices and any network  
21 applications associated with those devices, including social media and remote storage  
22 services to a search and shall provide all passwords, unlock codes and account information  
23 associated with those items, with or without a search warrant, by the Division of Parole and  
24 Probation or its agent.

25           2. Deft. to only be released to Parole and Probation and transported to One Day  
26 at a Time Program.

1 3. Deft. to remain on House Arrest until interstate compact to California to live  
2 with his mother.

3 4. Complete mental health evaluation.

4 5. Consume any medication required.

5 6. Abide by any curfew imposed.

6 7. Maintain full-time employment, schooling or 16 hours community service a  
7 month.

8 8. No contact with victim.

9 9. Deft. to pay RESTITUTION in the amount of \$22,042.00 to Prince Alidu.

10 DATED this 20 day of June, 2019.

11 Mary Kay Hethus  
12 DISTRICT JUDGE py

330 E. Casino Center Blvd  
Las Vegas, NV 89101

District Court  
Clark County, Nevada

FILED

JUL 15 2019

Sammie Nunn

CLERK OF COURT

Petitioner

v.s.

CASE NO: C-18-336184-1

STATE OF NEVADA

DEPT NO:

August 6, 2019  
9:00 AM

Respondant

DOCKET:

MOTION TO DISMISS COUNCIL  
AND APPOINT ALTERNATE COUNCIL

COMES NOW, THE DEFENDANT, SAMMIE NUNN #2751864  
AND MOVES THIS HONORABLE COURT TO DISMISS COUNCIL,  
ANTHONY GOLDSTIEN, AND APPOINT ALTERNATE COUNCIL TO  
REPRESENT THE DEFENDANT.

THIS MOTION IS MADE AND BASED UPON ALL THE PAPERS  
LEADINGS AND DOCUMENTS ON FILE ALL ORAL ARGUMENTS  
THE DEFENDANT MAY BE ASKED TO ADDUCE AT THE HEARING ON  
THIS MATTER ALL FACTUAL STATEMENTS ARE SET FORTH IN THE  
POINTS AND AUTHORITIES CONTAINED HEREIN.

DATED THIS JULY DAY OF 7th 2019

RECEIVED

JUL 15 2019

CLERK OF THE COURT

~~X~~  
X SAMMIE NUNN  
DEFENDANT

# NOTICE OF MOTION

TO: THE STATE OF NEVADA PLAINTIFF: AND  
STEVEN B. WOLFSON CLARK COUNTY DISTRICT ATTNEY

PLEASE TAKE NOTICE THAT THE UNDERSIGNED WILL BRING  
THE ABOVE AND FOREGOING MOTION TO DISMISS  
COUNSEL ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2019 AT THE  
HOUR OF \_\_\_\_\_ A.M IN THE ABOVE ENTITLED COURT  
AS SOON THEREAFTER AS THE DEFENDANT MAY BE HEARD.

DATED THIS DAY JULY OF 7th 2019

  
SAMMIE NUNN  
DEFENDANT

# I. POINTS AND AUTHORITIES

## A. STATEMENT OF THE CASE...

DEFENDANT SAMMIE NUNN #2751864 By AND THROUGH HIS APPOINTED COUNSEL OF RECORD ANTHONY GOLDSTIEN MOVE THIS HONORABLE COURT TO DISMISS ANTHONY GOLDSTIEN AS COUNSEL AND APPOINT ALTERNATE COUNSEL DUE TO ANTHONY GOLDSTIEN CLAIMING HE DOES NOT WANT TO WORK THIS CASE ANY LONGER AND THAT ANY FURTHER MOTION TO WITHDRAW PLEA AGREEMENT SHOULD BE DONE WITH ALTERNATE COUNSEL. ANTHONY GOLDSTIEN DID NOT INVESTIGATE THE CASE OR THE TWO WITNESSES WHO CAME FORWARD, ENDALKACHEW MEKONNEN 702-881-9293 EYE WITNESS WHO WORKS AT THE YOURSTOP LIQUOR STORE WHERE INCIDENT TOOK PLACE 820 E. TWAIN BLVD LAS VEGAS, NV 89169 AND OTHER EYE WITNESS KERICK HINES 702-439-8803 WHO WAS WITH PRINCE THE SECOND NIGHT I WAS ATTACKED KERICK HINES ALSO HAS RECENTLY MADE A NEW DEPOSITION CONFIRMING HIM AND PRINCE ALIDU ATTACKING ME FIRST AND ME RUNNING FOR MY LIFE, THE VIDEO IS NOW UPLOADED TO FACEBOOK AND DOWNLOADED TO MY PHONE ON MY PROPERTY AND IS CONSIDERED NEW EVIDENCE. BOTH WITNESSES HAVE COME FORWARD, ANTHONY GOLDSTIEN HAS NOT BROUGHT THEM FORWARD AND HAS FAILED TO DO ANY INVESTIGATIVE WORK IN THIS CASE RESULTING IN ME GETTING MY VI AMMENDMENT OF THE U.S. CONSTITUTION VIOLATED, MY RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL

DEFENDANT IS COMPELLED TO SUBMIT THE INSTANT MOTION ON THE GROUNDS THAT HE HAS ATTEMPTED TO RESOLVE THE ISSUES OUTLINED IN THIS MOTION HOWEVER ANY RESOLUTION HAS BEEN FRUITLESS. MOREOVER, COUNCIL'S NEGLECT AND LACK OF COMMUNICATION HAS CREATED IRRECONCILABLE DIFFERENCES THAT HAVE COLLAPSED THE ATTORNEY/CLIENT RELATIONSHIP.

### B. PROCEDURAL BACKGROUND

IT IS RESPECTFULLY REQUESTED OF THIS COURT TO GRANT THIS MOTION TO DISMISS COUNCIL AND APPOINT NEW COUNCIL FOR THE FOLLOWING REASONS:

SINCE ANTHONY GOLDSTEIN HAS BEEN APPOINTED DEFENDANT SAMMIE NUNN # 2751864 HAS BEEN PREJUDICED AND HAS SUFFERED A MANIFEST INJUSTICE BASED ON COUNCIL'S REFUSAL AND FAILURE TO FILE MOTION TO WITHDRAW PLEA BARGAIN AND:

- 1) LOCATE AND INTERVIEW EYE WITNESSES.
- 2) CONDUCT ROUTINE CONTACT VISITS
- 3) SUBMIT PRETRIAL MOTIONS IN A TIMELY MANNER.
- 4) REQUEST AND SECURE EXCULPATORY MATERIALS
- 5) GET ALL CLEAR AND CONVINCING EVIDENCE FOR A GUILTY PLEA

### II ARGUMENT

BY NOT CONDUCTING INTERVIEWS WITH POTENTIAL WITNESSES THAT COULD FORM THE BASIS OF A LEGAL DEFENSE, AND ~~WAS~~ ASKED COUNCIL TO TAKE PROACTIVE STEPS

TO FILING MOTIONS TO INTRODUCE EVIDENCE PURSUANT TO THE NEVADA SUPREME COURT'S RECENT DECISION IN LOBATO V. STATE 120 NEV. 512) EXTRINSIC EVIDENCE OF AN ACCUSER'S MOTIVE TO TESTIFY IN A CERTAIN WAY IS RELEVANT FOR THE PURPOSE OF IMPEACHING THE WITNESS'S CREDIBILITY SO LONG AS IT IS NOT COLLATERAL TO THE CONTROVERSY AT HAND. ITS THE DEFENDANT'S BELIEF THAT THIS EVIDENCE COULD ELIMINATE THE NEED FOR A TRIAL. COUNSEL'S FAILURE TO INTERVIEW EYE WITNESSES OR SPEND ADEQUATE TIME IN LEGAL RESEARCH HAS DENIED THE DEFENDANT OF EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE 6TH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES; AND ARTICLE 1 SECTION 8 OF THE NEVADA CONSTITUTION.) IN BUFFALO V. STATE, 111 NEV. 1139 (1995), ALTHOUGH THE NEVADA SUPREME COURT ADOPTED NEITHER OF THE PARTICULAR VERSION OF THE FACTS BY EITHER THE DEFENSE OR THE PROSECUTION, IT CONCLUDED THAT MR. BUFFALO WAS NOT ADEQUATELY DEFENDED IN A CASE IN WHICH THE JURY HEARD "ONLY THE BAD NEWS AND NONE OF THE POSSIBLE GOOD NEWS." DEFENDANT ~~THE~~ NUNN CONTENDS THAT COUNSEL'S FAILURE TO INVESTIGATE LEADS OR TO CALL OR INTERVIEW WITNESSES WILL INEVITABLY LEAD TO A SIMILAR OUTCOME IN THE INSTANT CASE. AS A RESULT, THE COMPLETE COLLAPSE OF THE ATTORNEY/CLIENT RELATIONSHIP HAS OCCURRED. SINCE I BELIEVE I HAVE MET THE CRITERIA FOR SUBSTITUTION OF COUNSEL WITH THE THREE FACTORS



ENUNCIATED BY THE NINTH CIRCUIT IN (UNITED STATES V. MOORE 159 F. 3d 1154) A REFUSAL TO SUBSTITUTE COUNSEL WOULD VIOLATE DEFENDANT NUNNS 6TH AMENDMENT RIGHT (YOUNG V. STATE 120 NEV 963 (2004))

## CONCLUSION

A PARTY WHO IS UNABLE TO PROVIDE EFFECTIVE OR ADEQUATE ASSISTANCE IS NO BETTER THAN ONE WHO HAS NO COUNSEL AT ALL, AND ANY APPEALS WOULD BE FUTILE IN ITS ~~GO~~ GESTURE. EVITTS V. LUCEY. 105 S. CT 830 (1985)

WHEREFORE FUNDAMENTAL FAIRNESS REQUIRES THE ABOLITION OF THE PREJUDICE WHICH THE DEFENDANT IS PRESENTLY SUFFERING, MR, NUNN, RESPECTFULLY PRAYS THAT THIS HONORABLE COURT GRANT THIS MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL, TO BRING TO LIGHT THIS NEW EXISTING EVIDENCE WHICH WILL EXONERATE THE DEFENDANT. THERE IS A CLEAR INDICATION IN THIS NEW EVIDENCE THAT THE DEFENDANT IS NOT GUILTY AND THERE ARE NEW WITNESSES WILLING TO BE SUBPOENAED TO COURT, ENDALKACHEW MEKONNEN AKA BROOK, AND KERICK HINES. WITH THIS CLEAR INDICATION THAT THE DEFENDANT IS NOT GUILTY, ANY GUILTY PLEA WOULD BE CONSIDERED INVOLUNTARY AND NOT TRUTHFUL AND NOT IN COMPLIANCE WITH LAW.

BASED ON THE FACT THAT A LAWYER SHALL NOT ENGAGE IN CONDUCT PREJUDICIAL TO THE HONEST ADMINISTRATION OF JUSTICE, AND THE FACT THAT THE TRIAL COURT DID NOT EXERSIZE THIER CONSTITUTIONAL DUTY TO CONDUCT AN INQUIRY SUFFICIENT ENOUGH ~~TO~~ TO DETERMINE THE TRUTH AND SCOPE OF THE DEFENDANTS ALLEGATIONS OF COUNSELS "DEFICIENT PERFORMANCE" 466 U.S. at 691-96. THE DEFENDANT HAS SHOWN A REAL REASONABLE PROBABILITY THAT, BUT FOR COUNSELS ALLEGED UNPROFESSIONAL ERRORS, THE RESULT WOULD HAVE BEEN DIFFERENT. (NELSON) THE COURT WILL REMAND WHEN THE DEFENDANT HAS MADE A PRETRIAL REQUEST FOR NEW COUNSEL IMMEDIATELY BEFORE TRIAL BUT NO INQUIRY HAS BEEN MADE, AND THUS THERE IS NO BASIS ON WHICH TO DETERMINE WHETHER THE CLAIM MAY HAVE MERIT. A DEFENDANT NEED NOT SHOW PREJUDICE WHEN THE BREAKDOWN OF A RELATIONSHIP BETWEEN ATTORNEY AND CLIENT FROM IRRECONCILABLE DIFFERENCES RESULTS IN THE COMPLETE DENIAL OF COUNSEL, ATTORNEY VERBALLY ASSAULTED CLIENT WITH MENTAL HEALTH EPITHETS (FRAZER, 18 F.3d at 785). ATTORNEY-CLIENT RELATIONSHIP SO BAD THAT DEFENDANT ELECTED TO PROCEED PRO SE. ALTHOUGH NUNN IS NOT ENTITLED TO A PARTICULAR LAWYER WITH WHOM HE CAN, IN HIS VIEW, HAVE A "MEANINGFUL ATTORNEY-CLIENT RELATIONSHIP" (MORRIS V. SLAPPY, 461 U.S. 1, 3-4, 75 L. Ed. 2d 610, 103 S. CT. 1610 (1983)) IF THE RELATIONSHIP BETWEEN LAWYER AND CLIENT COMPLETELY COLLAPSES, THE

REFUSAL TO SUBSTITUTE NEW COUNSEL VIOLATES NUNN'S SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, (BROWN V. CRAVEN, 424 F.2d 1166, 1170 (9th Cir. 1970)). THE DEFENDANT ALSO DOESN'T UNDERSTAND THE EXACT CHARGE HE PLEADED GUILTY TO, THERE WERE TWO CHARGES AND TWO DATES, BATTERY WITH THE USE OF DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM MAY 29, 2019, AND BATTERY WITH USE OF DEADLY WEAPON JUNE 2nd 2019, THE PLEA AGREEMENT STATED BATTERY WITH USE OF DEADLY WEAPON BETWEEN MAY 29th 2019, AND JUNE 2nd 2019, DID THE MAY 29th 2019 GET DROPPED TO A LESSOR CHARGE OR DID IT GET DROPPED COMPLETELY. THE DEFENDANT DESERVES A SPECIFIC PLEA DEAL THAT OUTLINES THESE DETAILS. FURTHERMORE BY ATTORNEY ANTHONY GOLDSTIEN TELLING THE JUDGE THAT WHEN NUNN PURSUES A MOTION TO WITHDRAW PLEA DEAL, EVEN WITH GOOD REASONS, NUNN WILL NEED TO CONSULT WITH ALTERNATE COUNSEL PROVES NUNN NEEDS ALTERNATE COUNSEL. IT ALSO PROVES GOLDSTIEN'S UNWILLINGNESS TO FILE MOTIONS ON DEFENDANT'S REQUEST. THE CONTACT NUMBERS ARE FOR THE WITNESSES AND VICTIMS AND PROVE THAT THEY ARE ONLY A PHONE CALL AWAY TO SET UP AN INTERVIEW, BUT STILL NO INTERVIEWS WERE SET, NO PRIVATE INVESTIGATOR WAS HIRED AND THERE WAS NO EFFORT USED TO SOLVE CASE OR PROVE DEFENDANT'S INNOCENCE. ALSO, THE JUDGE AGREED TO USE A PRE SENTENCE

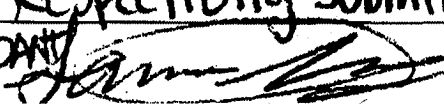
INVESTIGATION REPORT (PSI) FROM OCTOBER, WAY BEFORE THERE WAS A GRAND JURY INDICTMENT, AND THERE WAS ALSO MORE CHARGES ADDED SINCE AND ALSO CHARGES DROPPED, BUT WHAT IS MORE IMPORTANT IS THE DEFENDANT TAKING THE DEAL IN JUNE, WAS SUCCESSFULLY A YEAR AWAY FROM VIOLENCE, WHICH CHANGES HIS POINT SCALE AND OUTLOOK FROM PROBATION AND PAROLE. THE DEFENDANT ALSO DID NOT HAVE A BAIL, EVEN SOMEONE WITH A MURDER CHARGE HAS BAIL, THE DEFENDANT HAS NOT HARMED ANYONE AND HAS NOT THREATENED ANYONE AND HAS NOT SHOWN ANY SIGNS OF BEING A DANGER TO THE COMMUNITY. WE CANNOT ASSUME, WE HAVE TO BE SURE, THIS IS WHY WE HAVE THE COURT SYSTEM. NOT GIVING A REASONABLE BAIL FOR CRIMES THAT HAVN'T RESULTED IN ANY FAIR CONVICTIONS, OR HAVE NOT BEEN FILED ON TO COME BEFORE THE JUDICIAL COURT SYSTEM IS CRUEL AND UNUSUAL PUNISHMENT AND ALSO IF THE THREAT WAS NOT MADE DIRECTLY, IT CONSTITUTES AS HEARSAY, IN ORDER FOR THE STATE TO TAKE THE DEFENDANTS BAIL FOR A STATEMENT ALLEGEDLY HEARD OUT OF COURT, THE STATEMENT WOULD HAVE TO BE PROVEN TRUE, WHICH GOES BEYOND THE HEARSAY RULES APPLICATION. THE HEARSAY RULE APPLICATION IS ONLY USED TO PROVE THE STATEMENT WAS SAID BUT NOT TO PROVE IF THE STATEMENT WAS TRUE, ESPECIALLY WITHOUT

ANY CONSTITUTIONAL GUARANTEE OF CONFRONTATIONAL CROSS EXAMINATION. ~~BY~~ NOT GIVING DEFENDANT NUNN HIS RIGHT TO DUE PROCESS, THE STATE HAS NEGLECTED NUNN'S EIGHTH AMENDMENT RIGHT BY DENYING HIM BAIL WHICH IS CRUEL AND UNUSUAL PUNISHMENT. ALSO VIOLATING NUNN'S FOURTEENTH AMENDMENT WHICH PROTECTS ALL PERSONS FROM STATE LAWS THAT ATTEMPT TO DEPRIVE THEM OF "LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW," OR THAT ATTEMPT TO DENY THEM EQUAL PROTECTION OF THE LAWS. PRINCE ALIDU ALSO CLAIMS THAT HIS TRIP TO THE HOSPITAL IN AN AMBULANCE COST HIM \$24,000.00 IN WHICH THE COURT FINED THE DEFENDANT EVEN AFTER BEING \$4,000 ABOVE WHAT IS PERMISSABLE BY NEVADA LAW FOR THIS CRIME AND LEVEL OF PUNISHMENT, THE FINE IS UNREASONABLY EXCESSIVE AND HAS NOT BEEN DILIGENTLY PROVEN TO BE THE ACTUAL COST, FURTHERMORE MR. PRINCE ALIDU IS KNOWN TO BE ON SOCIAL SECURITY AND MEDICARE AND IS NOT COMING OUT OF POCKET FOR ANY MEDICAL EXPENSE. WHICH IS FRAUD!!! HE CLAIMED KERICK HINES IS HIS BEST FRIEND IN THE GRAND JURY INDICTMENT TRANSCRIPTS, KERICK HINES IS NOW ON THE INTERNET CLAIMING THE CHARGES ~~AGAINST~~ AGAINST THE DEFENDANT WERE MADE WHEN PRINCE WAS DRUNK!!! DO WE NOT BELIEVE HIS BEST FRIEND, THERE IS A CLEAR ATTEMPT TO DENY THE DEFENDANT EQUAL PROTECTION OF THE LAWS. PERJURY



IS A FELONY, A CLASS D FELONY, ALLOWING PRINCE ALIDU TO LIVE ABOVE THE LAW AND DENYING NUNN HIS 14<sup>th</sup> AMENDMENT RIGHT TO EQUAL PROTECTION OF THE LAWS UNDERMINES THE DUTY OF THE COURT SYSTEM, WHEN KERICK HINES STATES THAT THEY WALKED UP TO THE DEFENDANT, & THE DEFENDANT TOOK OFF RUNNING HOME BECAUSE THE DEFENDANT WAS AFRAID OF BEING JUMPED (BEATEN) BY THE TWO INDIVIDUALS KERICK HINES AND PRINCE ALIDU. KERICK CLAIMS HE YELLED FOR NUNN TO STOP, BUT NUNN RAN ALL THE WAY HOME AND LOCKED THE DOOR, KERICK HINES CLAIMS HE FOLLOWED NUNN HOME AND NUNN WOULD NOT OPEN THE DOOR, NUNN IS CLEARLY THE VICTIM. THIS WAS JUNE 2<sup>nd</sup> 2018, AND IS NOW ON SOCIAL MEDIA. ON MAY 29<sup>th</sup> 2018 ENDALKACHEW MEKONNEN WAS AN EYE WITNESS TO PRINCE CHASING NUNN AROUND YOUR STOP LIQUOR STORE, WHEN NUNN TRYED TO GO HOME PRINCE ALIDU GRABBED NUNN AND NUNN DEFENDED HIMSELF. ENDALKACHEW MEKONNEN ALSO GOES BY THE NAME BROOK, AND WORKS NIGHTS AT YOUR STOP LIQUOR STORE AT 820 E. TWAIN BLVD LAS VEGAS NV 89169. PHONE NUMBER (702)-881-9293, KERICK HINES (702)-439-8803.

DATED THIS 7<sup>th</sup> DAY OF JULY, 2019.

I, SAMMIE NUNN, do solemnly swear, under penalty of perjury, that the above MOTION TO DISMISS COUNSEL is accurate, correct and true to the best of my knowledge. Respectfully Submitted  
NRS. 171.102 and NRS 208.165 (1) DEFENDANT  04/8

UNITED STATES POSTAL SERVICE  
CCDC  
330 S. Casino Center Blvd  
Las Vegas, NV 89101

LAS VEGAS NV 890  
12 JUL 2019 PM 3 L



SENT FROM CCDC

89101-630000

Steven Emerson  
200 Lewis Ave  
3rd floor  
Las Vegas NV 89155

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*Steven D. Grierson*

1 Sammie L Nunn III  
2 330 S. CASINO Center BLVD  
3 Las Vegas, NV 89101  
4

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

8 THE STATE OF NEVADA

9 Plaintiff

CASE NO. C-18-336184-1

10 V.

DEPT. NO. XVIII

11 SAMMIE L. NUNN III

INEFFECTIVE ASSISTANCE OF COUNSEL - ANTHONY GOLDSTEIN

12 DEFENDANT

DATE OF MOTION TO DISMISS COUNSEL: MAY 20, 2019

13 TRIAL SET FOR: JUNE 17 2019  
14

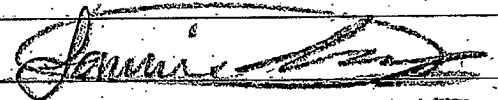
15 NOTICE OF APPEAL

16 NOTICE IS HEREBY GIVEN THAT SAMMIE LEE NUNN III, DEFENDANT, ABOVE NAMED, HEREBY  
17 APPEALS TO THE SUPREME COURT OF NEVADA FROM THE EIGHTH JUDICIAL DISTRICT  
18 COURT DENIAL OF MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL FOR  
19 FAILURE TO PROPERLY INVESTIGATE CASE, FAILURE TO HIRE PRIVATE INVESTIGATOR,  
20 FAILURE TO GET GRAND JURY INDICTMENT HEARD FOR DISMISSAL PURSUANT TO NRS 172.107  
21 SINCE DEFENDANT WAS ALREADY SERVED AN INFORMATION AND THE GRAND JURY WAS ONLY  
22 SUMMONED FOR TESTIMONIAL EVIDENCE TO ASSIST IN THE PROSECUTION. FAILURE TO  
23 INTERVIEW WITNESSES "ENDAL KACHEW MEKONNEN" ALSO KNOWN AS BROOK  
24 (702) 881-9293 AT PLACE OF WORK "YOUR STOP LIQUOR STORE", 820 E. TWAIN BLVD  
25 LAS VEGAS, NV 89101, OR KERICK HINES (702)-439-8803, DENYING DEFENDANT  
26 COMPULSORY PROCESS TO COMPETENT MATERIAL EYE WITNESSES, FAILURE TO  
27 ADDRESS \$0 BAIL SITUATION AND RIGHT TO DUE PROCESS FOR ANY COMPLAINT,  
28 RENDERING A PLATFORM FOR CRIMINAL COERCION AND CRUEL AND UNUSUAL PUNISHMENT.



1  
2 FAILURE TO BE PREPARED FOR SPEEDY TRIAL CONDUCTED ACCORDING TO PREVAILING  
3 RULES, REGULATIONS AND PROCEEDINGS OF LAW, FREE FROM ARBITRARY, VEXATIOUS OR  
4 OPPRESSIVE DELAYS. THE FACT THAT ANTHONY GOLDSTIEN DIDN'T INTERVIEW  
5 ANYONE, DIDN'T HIRE A PRIVATE INVESTIGATOR, FAILED TO FILE ANY OPPOSING  
6 MOTIONS, AND FAILED TO ADDRESS BAIL RENDERED HIM UNPREPARED FOR  
7 TRIAL MAKING HIM VIOLATE MY RIGHT TO SPEEDY TRIAL FREE FROM ARBITRARY,  
8 VEXATIOUS OR OPPRESSIVE DELAYS, MY 1, 5, 6, 8, and 14 AMENDMENTS HAVE  
9 BEEN VIOLATED.  
10

11 Said Declaration Made subject to the penalty of perjury.  
12

13   
14 DEFENDANT  
15

16 SAMMIE NUNNA  
17 PRINTED NAME  
18  
19  
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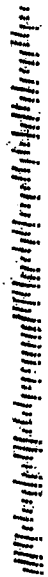
SAMANTHE MUNN #2751864  
ECDC  
330 S. CASINO CENTER BLVD  
LAS VEGAS, NV 89101



052

EIGHTH JUDICIAL DISTRICT COURT  
200 LEWIS AVE  
3RD FLOOR  
LAS VEGAS, NV 89155

69101\$6300 COTS



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CENT FROM ECDC

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 23, 2019

---

C-18-336184-1      State of Nevada  
   vs  
   Sammie Nunn

---

July 23, 2019      09:00 AM      Revocation of Probation

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein      Attorney for Defendant

Megan Thomson      Attorney for Plaintiff

Sammie Nunn      Defendant

State of Nevada      Plaintiff

## JOURNAL ENTRIES

Officer A. Marquez present on behalf of Parole and Probation (P&amp;P).

Upon Court's inquiry, Mr. Goldstein indicated no offer had been made; therefore, they would be stipulating and arguing for reinstatement. Further, Mr. Goldstein advised the Court, Deft. filed a Motion to Dismiss counsel and Motion to Dismiss Previous Decision to Dismiss Attorney, and filed Motion to Appeal. Arguments by Ms. Thomson regarding Deft.'s pre-sentence investigation (PSI) report. Ms. Thomson advised the Court they should address Deft.'s basis for another attorney. Mr. Goldstein indicated he was prepared to go forward; however, the State wanted to address counsel. Court inquired if Deft. still wanted to proceed with removing Mr. Goldstein from the case; which, Deft. concurred. Court noted it would need a copy of the PSI and to look over it; therefore, COURT ORDERED, matter CONTINUED.

## CUSTODY

8/6/19 9:00 AM CONTINUED: REVOCATION OF PROBATION

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

August 06, 2019

C-18-336184-1      State of Nevada  
vs  
Sammie Nunn

August 06, 2019      09:00 AM      All Pending Motions

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein	Attorney for Defendant
Chad N. Lexis	Attorney for Plaintiff
Sammie Nunn	Defendant
State of Nevada	Plaintiff

## JOURNAL ENTRIES

MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL...STATUS  
CHECK: RESET REVOCATION OF PROBATION

CONFERENCE AT BENCH. Upon Court's inquiry, Deft. indicated there were things Mr. Goldstein was supposed to do which he didn't fulfil. Statements by Mr. Goldstein advising he spoke with witness. Deft. indicated he didn't want to take the deal and Mr. Goldstein told Deft. he wasn't going to use witness; therefore, Deft. was requesting an evidentiary hearing. Following colloquy, Court noted the only thing in front of the Court was Motion to Dismiss Counsel, which there was no basis to appoint alternative counsel; however, Deft. was free to represent himself. Deft. noted he would represent himself. Mr. Goldstein reminded the Court he was appointed with the Second Guilty Plea Agreement the Deft. pled guilty to. Statements by Deft. informing the Court he was coerced. Court noted there weren't any pending Motions. Following colloquy, Mr. Goldstein indicated there wasn't any legal grounds to file a Motion to Withdraw Plea, Deft. was aware of what he was signing. Deft. states there was conflict of interest. Court noted Mr. Goldstein stated he doesn't find a legal basis for Motion. Deft. noted there was new evidence of the victim confessing which was in his phone and on Facebook. Mr. Goldstein noted that was the first he had heard of it. Court noted it would sign Order to release phone to Mr. Goldstein. Court advised after Mr. Goldstein gets phone and reviews to see if there was anything on the phone it would be brought back to Court, if there isn't anything, the Revocation Hearing would be set. Further, if Deft. wanted to still represent himself the Court would do a Faretta Canvass. Mr. Goldstein advised he would go and visit Deft. and get Order signed. COURT ORDERED, matter CONTINUED.

## CUSTODY

8/20/19 9:00 AM CONTINUED: MOTION TO DISMISS COUNSEL AND APPOINT  
ALTERNATE COUNSEL...STATUS CHECK: RESET REVOCATION OF PROBATION

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

August 20, 2019

C-18-336184-1      State of Nevada  
   vs  
   Sammie Nunn

August 20, 2019      09:00 AM      All Pending Motions

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Anthony M. Goldstein      Attorney for Defendant

Megan Thomson      Attorney for Plaintiff

Sammie Nunn      Defendant

State of Nevada      Plaintiff

## JOURNAL ENTRIES

MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATIVE COUNSEL...STATUS  
CHECK: RESET REVOCATION OF PROBATION

Upon Court's inquiry, Mr. Goldstein indicated he did look at Deft.'s phone and reviewed evidence on there as well. Statements by Deft. Court noted Mr. Goldstein was already aware of information given and advised Deft. he had already pled guilty; therefore, revocation would be reset. Deft. advised he and his attorney were having a conflict of interest and indicated he wanted to withdraw his guilty plea. Colloquy between parties. CONFERENCE AT BENCH. COURT ORDERED, Motion to Dismiss Counsel and Appoint Alternative Counsel was hereby GRANTED, with the understanding that Ms. Border was APPOINTED as counsel for the limited purpose to see if there were grounds for Deft. to withdraw his Guilty Plea Agreement. Additionally, Mr. Goldstein would be back on the instant case following that. Mr. Goldstein indicated he would give Deft.'s phone to Ms. Border along with discovery. COURT FURTHER ORDERED, matter CONTINUED for appointment of counsel.

CUSTODY

9/5/19 9:00 AM STATUS CHECK: MOTION TO WITHDRAW GUILTY PLEA AGREEMENT

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

September 05, 2019

C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

September 05, 2019      09:00 AM      STATUS CHECK: MOTION TO WITHDRAW GUILTY PLEA  
AGREEMENT

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

**PARTIES PRESENT:**

Ashley A. Lacher	Attorney for Plaintiff
Marisa Border	Attorney for Defendant
Sammie Nunn	Defendant
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

Upon Court's inquiry, Ms. Border indicated she reviewed discovery and spoke with Mr. Goldstein; additionally, she noted she had the phone in possession, but needed to go through it. Further, Ms. Border advised there was another witness to speak with. Following colloquy, Ms. Border requested matter be continued for a week to check on basis to withdraw guilty plea agreement. COURT ORDERED, matter CONTINUED.

**CUSTODY**

9/12/19 9:00 AM CONTINUED: STATUS CHECK: MOTION TO WITHDRAW GUILTY PLEA  
AGREEMENT

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

September 12, 2019

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C-18-336184-1      State of Nevada  
   vs  
   Sammie Nunn

---

September 12, 2019      09:00 AM      STATUS CHECK: MOTION TO WITHDRAW GUILTY PLEA  
AGREEMENT

HEARD BY:      Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Hetty O. Wong

Attorney for Plaintiff

Sammie Nunn

Defendant

State of Nevada

Plaintiff

## JOURNAL ENTRIES

Daniel Gilliam, Esq. present on behalf of Marisa Border, Esq. for Deft.

Mr. Gilliam indicated a briefing schedule needed to be set. Court explained to Deft. what the briefing schedule entailed, noting Ms. Border must see some type of grounds to withdraw the guilty plea. COURT ORDERED, the following Briefing Schedule: Ms. Border to file Motion by October 10, 2019, State to file Response by October 24, 2019, Ms. Border to file Reply by October 31, 2019, and matter CONTINUED for Hearing. Court noted if Motion was denied at that time, a sentencing date would be set.

## CUSTODY

11/5/19 9:00 AM HEARING- MOTION TO WITHDRAW GUILTY PLEA

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

SAMMIE NUNN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 79219**  
District Court Case No. C336184

**FILED**

**OCT - 7 2019**

*Elizabeth A. Brown*  
CLERK OF COURT

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS this appeal DISMISSED"

Judgment, as quoted above, entered this 4th day of September, 2019.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this September 30, 2019.

Elizabeth A. Brown, Supreme Court Clerk

By: Sandy Young  
Deputy Clerk



C-18-336184-1  
CCJD  
NV Supreme Court Clerks Certificate/Judgm  
4867874





**CERTIFIED COPY**

This document is a full, true and correct copy of  
the original on file and of record in my office.

DATE: 9/30/19

Supreme Court Clerk, State of Nevada

By S. Young Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAMMIE NUNN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 79219

**FILED**

SEP 04 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY [Signature]  
DEPUTY CLERK

**ORDER DISMISSING APPEAL**

This is a pro se appeal from a district court order denying a motion to dismiss counsel and appoint alternate counsel. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Because no statute or court rule permits an appeal from the aforementioned order, this court lacks jurisdiction. *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, this court  
ORDERS this appeal DISMISSED.<sup>1</sup>

[Signature], J.  
Hardesty

[Signature], J.  
Stiglich

[Signature], J.  
Silver

<sup>1</sup>Given this order, this court takes no action on the pro se motion filed on August 2, 2019.

cc: Hon. Mary Kay Holthus, District Judge  
Sammie Nunn  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk  
Anthony M. Goldstein



**CERTIFIED COPY**

This document is a full, true and correct copy of  
the original on file and of record in my office.

DATE: 9/30/19  
Supreme Court Clerk, State of Nevada

By: S. Young Deputy

062

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

SAMMIE NUNN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 79219**  
District Court Case No. C336184

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: September 30, 2019

Elizabeth A. Brown, Clerk of Court

By: Sandy Young  
Deputy Clerk

cc (without enclosures):

Hon. Mary Kay Holthus, District Judge  
Attorney General/Carson City \ Aaron D. Ford, Attorney General  
Clark County District Attorney \ Steven S. Owens, Chief Deputy District Attorney  
Sammie Nunn

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on OCT - 7 2019.

HEATHER UNGERMANN  
Deputy District Court Clerk

RECEIVED  
APPEALS

OCT 03 2019

CLERK OF THE COURT



**PET**  
MARISA BORDER, ESQ.  
Nevada Bar No. 8381  
400 South 4<sup>th</sup> Street, Suite 650  
Las Vegas, NV 89101  
Telephone: (702) 900-5114  
Facsimile: (702) 577-2304  
Email: mborderlaw@gmail.com  
Attorneys for Defendant  
SAMMIE NUNN

**DISTRICT COURT**

**CLARK COUNTY NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

SAMMIE NUNN,

Defendant.

Case No.: C-18-336184-1

Dept. No.: XVIII

**POST-CONVICTION PETITION FOR  
WRIT OF HABEAS CORPUS**

**Date of hearing: November 5, 2019**

**Time of hearing: 9:00am**

Petitioner, SAMMIE NUNN (hereinafter referred to as "Nunn"), by and through his counsel of record, MARISA BORDER, ESQ., hereby files this Post-Conviction Petition for Writ of Habeas Corpus Pursuant to NRS Chapter 34. This Petition, including the following Points and Authorities, is made upon the pleadings and papers already on file, and any evidentiary hearing and oral argument of counsel deemed necessary by the Court.

1 Petitioner, SAMMIE NUNN, alleges that he is being held in custody in violation of the  
2 Fifth, Sixth, and Fourteenth Amendments of the Constitution of the United States of America, and  
3 Articles I and IV of the Nevada Constitution.

4 DATED this 9<sup>th</sup> day of October, 2019.

7 By: /s/ Marisa Border  
8 MARISA BORDER, ESQ.  
9 Nevada Bar No.: 8381  
400 South 4<sup>th</sup> Street, Suite 650  
10 Las Vegas, NV 89101  
Attorney for Petitioner  
11 SAMMIE NUNN

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. STATEMENT OF FACTS**

14 In the instant case Nunn was charged after a grand jury proceeding with Battery with Use  
15 of a Deadly Weapon Resulting in Substantial Bodily Harm occurring on May 27, 2018 and Battery  
16 with Use of a Deadly Weapon occurring on June 3, 2018. The following facts are pertaining  
17 specifically to the events on May 27, 2018 and the case as laid out by witness testimony at the  
18 grand jury.

19 Prince Alidu testified that he was at the Your Stop shop on May 27, 2018. GJ Vol 1, page  
20 16, line 14-15. At that time, he stated that he was approached by Sammie Nunn who was asking  
21 for 50 cents. GJ Vol 1, page 16, line 16-17. Alidu told Nunn that he did not have the 50 cents to  
22 give him. GJ Vol 1, page 16, line 17. After that, Nunn started calling him names and eventually  
23 Nunn walked away. GJ Vol 1, page 17, lines 4-7. Alidu testified that a few minutes later Nunn  
24 returned with a tool in his hand. GJ Vol 1, page 17, lines 7-10. The tool was identified as a nine  
25 to twelve inch pair of pliers. GJ Vol 1, page 17, lines 15-16 and page 18, lines 1-2. In response  
26 to the States question, Alidu testified that Nunn then hit him in the face with the pliers. GJ Vol 1,  
page 18, lines 4-9.

1 **II. PROCEDURAL HISTORY**

2 After numerous court appearances regarding Nunn's competency and a Motion to Dismiss  
3 Counsel, which was granted, a Guilty Plea Agreement was entered into on June 6, 2019.  
4 Sentencing was held on June 11, 2019 where in Nunn was granted an opportunity on probation.  
5 Subsequently, a probation violation report was filed. On August 20, 2019 the Court allowed Mr.  
6 Goldstein to withdraw and appointed undersigned counsel to explore possible issues to substantiate  
7 a Motion to Withdraw the Guilty Plea Agreement.  
8

9 **III. GROUND FOR RELIEF**

10 **CLAIM ONE: NEW EVIDENCE, IN ADDITION TO THE EVIDENCE PRESENTED**  
11 **AT THE GRAND JURY, PERSUASIVELY DEMONSTRATES NUNN**  
12 **WAS ACTING IN SELF DEFENSE AND THEREFORE INNOCENT**  
13 **OF THE CHARGES STEMMING FROM MAY 27, 2018. AS SUCH,**  
14 **NUNN IS IMPRISONED IN VIOLATED ON HIS RIGHT TO DUE**  
15 **PROCESS UNDER THE FIFTH AND FOURTEENTH**  
16 **AMENDMENTS.**

17 In Schlup, v. Delo, the United States Supreme Court found that the standard a habeas  
18 petitioner must meet to establish a claim of actual innocence to overcome the procedural bars  
19 requires a petitioner to show that "a constitutional violation has probably resulted in the  
20 conviction of one who is actually innocent." Schlup v. Delo, 513 U.S. 298, 327, 115 S. Ct. 851,  
21 867, 130 L. Ed. 2d 808 (1995). To establish the requisite probability, the petitioner must show  
22 that it is more likely than not that no reasonable juror would have convicted him in the light of  
23 the new evidence. Id. The petitioner thus is required to make a stronger showing than that needed  
24 to establish prejudice.

25 In assessing the adequacy of a petitioner's showing, the district court is not bound by the  
26 rules of admissibility that would govern at trial. Instead, the emphasis on "actual innocence"  
allows the court to also consider the probative force of relevant evidence that was either excluded



1 or unavailable at trial. Id. at 327-328. The court must make its determination concerning the  
2 petitioner's innocence "in light of all the evidence, including that alleged to have been illegally  
3 admitted (but with due regard to any unreliability of it) and evidence tenably claimed to have  
4 been wrongly excluded or to have become available only after the trial." Id. at 328.

5  
6 The meaning of actual innocence does not merely require a showing that a reasonable  
7 doubt exists in the light of the new evidence, but rather that no reasonable juror would have found  
8 the defendant guilty. It is not the district court's independent judgment as to whether reasonable  
9 doubt exists; the standard requires the district court to make a probabilistic determination about  
10 what reasonable, properly instructed jurors would do. Thus, a petitioner does not meet the  
11 threshold requirement unless he persuades the district court that, in light of the new evidence, no  
12 juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt. Id. at  
13 329. The word "reasonable" in that formulation is not without meaning. Id. It must be presumed  
14 that a reasonable juror would consider fairly all of the evidence presented. Id. It must also be  
15 presumed that such a juror would conscientiously obey the instructions of the trial court requiring  
16 proof beyond a reasonable doubt. Id.

17  
18 Newly presented evidence may indeed call into question the credibility of the witnesses  
19 presented at trial. Id. at 30. In such a case, the court may have to make some credibility  
20 assessments. Id. Also, and more fundamentally, the focus of the inquiry is on the likely behavior  
21 of the trier of fact. Id.

22  
23 Courts have held that an evidentiary hearing regarding actual innocence is required where  
24 the new evidence, "if credited," would show that it is more likely than not that no reasonable jury  
25 would find the petitioner guilty beyond a reasonable doubt. See Berry v. State, 131 Nev. Adv. Op.  
26 96, 363 P.3d 1148, 1155 (2015); and Coleman v. Hardy, 628 F.3d 314, 319-20 (7th Cir.2010)

1 (holding that within the context of 28 U.S.C. § 2254(e)(2)(B) an evidentiary hearing “should be  
2 granted if it could enable a habeas applicant to prove his petition's factual allegations, which, if  
3 true, would entitle him to federal habeas relief”); Jaramillo v. Stewart, 340 F.3d 877, 883 (9th  
4 Cir.2003) (remanding for an evidentiary hearing to resolve whether the evidence proffered to  
5 show actual innocence was credible because that “evidence if credible, and considered in light of  
6 all the evidence, demonstrate[d] that it [was] more likely than not that no reasonable juror would  
7 have convicted [the petitioner] of the charged offenses”); Amrine v. Bowersox, 128 F.3d 1222,  
8 1229 (8th Cir.1997) (providing petitioner made a sufficient showing to require an evidentiary  
9 hearing on his actual innocence allegation because, “if credited, his evidence could establish  
10 actual innocence”).  
11

#### 12 **New Evidence Discovered**

13  
14 When released on probation Nunn learned of a new witness to the events transpiring on  
15 May 27, 2018. This new witness, Endalkachew Mekonnen, was found and interviewed by  
16 undersigned counsel’s investigator Mark Preusch. Mr. Mekonnen informed investigator Preusch  
17 that he was present at the Your Stop Liquor and watched the interaction between Mr. Alidu and  
18 Nunn. Mr. Mekonnen stated that Mr. Alidu was the primary aggressor and he aggressively  
19 walked towards Nunn. Nunn continuously backed up to avoid a confrontation. It was only once  
20 backed into a corner that Nunn reacted by swinging a wrench at Mr. Alidu.  
21

22 This witness was unknown to defendant Nunn and his attorney at the time the Guilty Plea  
23 Agreement was entered into. As such, based upon this new evidence, Nunn is requesting an  
24 evidentiary hearing and possible withdraw of his guilty plea.

25 Based on the foregoing, Nunn submits that he is actually innocent of Battery with Deadly  
26 Weapon Resulting in Substantial Bodily Harm. When reviewing all the evidence, it is more likely

1 than not that no reasonable juror would have convicted Nun of the charged offense on May 27,  
2 2019. Accordingly, justice demands that this Court grant Nunn a new trial. In the alternative,  
3 Nunn respectfully requests an evidentiary hearing to resolve any factual disputes.

#### 4 CONCLUSION

5 Based on the foregoing, Nunn's conviction is unconstitutional under the federal and state  
6 constitutions for the reason stated herein. Good cause exists for consideration of these claims. Mr.  
7 Nunn's judgment of conviction must therefore be vacated.

8 The Nevada Supreme Court has held that a post-conviction habeas petitioner "is entitled  
9 to a post-conviction evidentiary hearing when he asserts claims supported by specific factual  
10 allegations not belied by the record that, if true, would entitle him to relief." McConnell, 125 Nev.  
11 243, 212 P.3d at 314. In the instant matter, Nunn has asserted a claim, which, based on the  
12 foregoing, is clearly supported by specific factual allegations that would entitle him to relief. If  
13 not immediately granted, alternatively, this Court should grant Nunn an evidentiary hearing to  
14 resolve his claims of actual innocence.

15 DATED this 9<sup>th</sup> day of October, 2019.

16  
17 /s/ Marisa Border

18 MARISA BORDER, ESQ.

19 Nevada Bar No. 8381

20 400 South 4<sup>th</sup> Street, Suite 650

21 Las Vegas, NV 89101

22 Attorney for Petitioner

23 SAMMIE NUNN

#### 24 DECLARATION

25 Under the penalty of perjury, the undersigned declares that she is the appointed counsel for  
26 the petitioner named in the foregoing Petition and knows the contents thereof; that the pleading is

1 true of her own knowledge, except as to those matters stated on information and belief, and as to  
2 such matters she believes them to be true.

3 Under penalty of perjury, the undersigned declares that the Petitioner authorized her to  
4 commence this action.

5 Dated this 9<sup>th</sup> day of October, 2019.  
6

7  
8 /s/ Marisa Border  
9 MARISA BORDER, ESQ.

10 **CERTIFICATE OF SERVICE**

11 I hereby certify and affirm that this document was filed electronically with the Nevada  
12 State District Court in Clark County, Nevada on the 10<sup>th</sup> day of October, 2019. Electronic service  
13 of the foregoing document shall be made in accordance with the Master Service List as follows:  
14

15 STEVEN WOLFSON, Clark County District Attorney  
16 200 Lewis Avenue  
17 Las Vegas, Nevada 89101  
18 motions@clarkcountynvda.com  
19 Respondent

20 /s/ Marisa Border  
21 MARISA BORDER, ESQ.  
22  
23  
24  
25  
26

*Steven B. Wolfson*

1 **RET**

2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **ALEXANDER CHEN**  
6 **Chief Deputy District Attorney**  
7 **Nevada Bar #0010539**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2211**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

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

10 **THE STATE OF NEVADA,**

11 **Plaintiff,**

12 **-vs-**

13 **SAMMIE NUNN,**  
14 **#2751864**

15 **Defendant.**

**Case No. C-18-336184-1**

**Dept No. XVIII**

16 **STATE'S RETURN TO DEFENDANT'S POST-CONVICTION**  
17 **PETITION FOR WRIT OF HABEAS CORPUS**

18 **DATE OF HEARING: November 26, 2019**  
19 **TIME OF HEARING: 9:00 AM**

20 **COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,**  
21 **through ALEXANDER CHEN, Chief Deputy District Attorney, and files this Return to**  
22 **Defendant's Post-Conviction Petition for Writ of Habeas Corpus.**

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

26 **//**

27 **//**

28 **//**

**//**

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 6, 2019, Petitioner Sammie Nunn signed a Guilty Plea Agreement whereby he  
4 would plead guilty to one count of Battery with Use of a Deadly Weapon. The Guilty Plea  
5 Agreement was filed in Court and accepted as part of his plea. On June 11, 2019, Petitioner  
6 was sentenced pursuant to the Guilty Plea Agreement to probation with an underlying sentence  
7 of forty-eight (48) months to one hundred twenty (120) months in the Nevada Department of  
8 Corrections. A Judgment of Conviction was filed on June 20, 2019.

9 On July 23, 2019, Petitioner was brought before the Court on a probation violation  
10 hearing. At that time, Petitioner moved to remove his counsel. According to the court minutes  
11 on August 6, 2019, Petitioner made a claim that his prior attorney was ineffective for not using  
12 a witness the Petitioner wished to call at his trial, and thus that was the reason that the  
13 Defendant ultimately pled guilty in this case.

14 On August 20, 2019, the court allowed Petitioner to have new counsel appointed for  
15 the purpose of exploring the possibility of the Petitioner withdrawing his plea. On October  
16 10, 2019, Petitioner, through his newly appointed attorney, filed the instant petition to  
17 withdraw his plea based on his claim of a new witness who could support his self-defense  
18 theory.

19 **ARGUMENT**

20 **I. PETITIONER'S PLEA WAS FREELY AND VOLUNTARILY ENTERED**

21 Petitioner has not set forth a valid reason to vacate his plea. As the Nevada Supreme  
22 Court has repeatedly held, a "guilty plea is presumptively valid, and a petitioner carries the  
23 burden of establishing that the plea was not entered knowingly and intelligently." Hubbard v.  
24 State, 110 Nev. 671, 675 (1994). The validity of a guilty plea is based on looking at the totality  
25 of the circumstances. State v. Freese, 116 Nev. 1096, 1105 (2000).

26 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only be  
27 withdrawn to correct "manifest injustice." See also Baal v. State, 106 Nev. 69, 72, 787 P.2d  
28 391, 394 (1990). The law in Nevada establishes that a plea of guilty is presumptively valid

1 and the burden is on a defendant to show that the plea was not voluntarily entered. Bryant v.  
2 State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing Wingfield v. State, 91 Nev. 336,  
3 337, 535 P.2d 1295, 1295 (1975)). Manifest injustice does not exist if the defendant entered  
4 his plea voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394.

5 To determine whether a guilty plea was voluntarily entered, the Court will review the  
6 totality of the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721  
7 P.2d at 367. A proper plea canvass should reflect that:

8 [T]he defendant knowingly waived his privilege against self-  
9 incrimination, the right to trial by jury, and the right to confront his  
10 accusers; (2) the plea was voluntary, was not coerced, and was not the  
11 result of a promise of leniency; (3) the defendant understood the  
12 consequences of his plea and the range of punishments; and (4) the  
defendant understood the nature of the charge, i.e., the elements of the  
crime.

13 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.  
14 774, 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in  
15 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d  
16 107, 107 (1975). Bare” and “naked” allegations are not sufficient to warrant post-conviction  
17 relief, nor are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502,  
18 686 P.2d 222, 225 (1984). “A claim is ‘belied’ when it is contradicted or proven to be false by  
19 the record as it existed at the time the claim was made.” Mann v. State, 118 Nev. 351, 354, 46  
20 P.3d 1228, 1230 (2002).

21 Since Petitioner was sentenced on June 11, 2019, this claim is a post-sentencing request  
22 to withdraw a guilty plea. Pursuant to Baal, such a request can only be granted if Petitioner  
23 can demonstrate manifest injustice by showing that his plea was not entered into voluntarily.  
24 The complaint that Petitioner makes now has nothing to do with the voluntariness of his plea.  
25 Essentially, Petitioner is claiming that he has subsequently found an alleged witness who  
26 would corroborate a claim of self-defense. Based upon this newly found witness, Petitioner  
27 is claiming that he was actually innocent of the crime to which he was charged.

28 //

1 However, Petitioner is incorrect in this assertion. " 'Actual innocence' means factual  
2 innocence, not merely legal insufficiency." Bousley v. United States, 523 U.S. 614, 623-24  
3 (1992). A defense of self-defense is not a factual deficiency. It is a legal defense that may  
4 negate what would otherwise be considered unlawful conduct. The fact of the matter is that  
5 this defense was available to Petitioner prior to entering a plea. Certainly a newly found  
6 witness could potentially bolster his case, but the fact that he has a witness who now comes  
7 forward does not rise to the level of a manifest injustice because it was Petitioner, with his  
8 attorney, that decided to plead guilty. Petitioner had an attorney, signed a Guilty Plea  
9 Agreement, and was canvassed on the negotiation. The sentence that Petitioner received was  
10 exactly what he had bargained for in the Guilty Plea Agreement. Nothing about this situation  
11 presents a manifest injustice that warrants this Court grant the Petition.

12 **CONCLUSION**

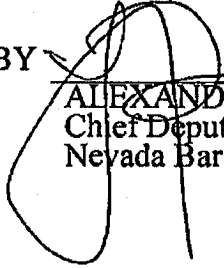
13 The State respectfully requests that this Court deny the Post-Conviction Petition for  
14 Habeas Corpus.

15 DATED this 16 day of October, 2019.

16 Respectfully submitted,

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

20 BY

21   
22 ALEXANDER CHEN  
23 Chief Deputy District Attorney  
24 Nevada Bar #0010539  
25  
26  
27  
28

//

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**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that service of State's Return to Petitioner's Post-Conviction Petitioner  
for Writ of Habeas Corpus was made this 16th day of October, 2019, by electronic filing  
to:

MARISA BORDER, ESQ.  
Email: [mborderlaw@gmail.com](mailto:mborderlaw@gmail.com)

BY: *Le Bush*  
Secretary for the District Attorney's Office

18F09747X/AC/ckb/L4

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

## COURT MINUTES

November 05, 2019

C-18-336184-1      State of Nevada  
vs  
Sammie Nunn

**November 05, 2019      09:00 AM      HEARING: MOTION TO WITHDRAW GUILTY PLEA**

**HEARD BY:** Holthus, Mary Kay      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Yorke, Dara

**RECORDER:** Sison, Yvette G.

**REPORTER:**

**PARTIES PRESENT:**

<b>John T. Jones, Jr.</b>	<b>Attorney for Plaintiff</b>
<b>Marisa Border</b>	<b>Attorney for Defendant</b>
<b>Sammie Nunn</b>	<b>Defendant</b>
<b>State of Nevada</b>	<b>Plaintiff</b>

## JOURNAL ENTRIES

Arguments by counsel regarding the merits of the motion. COURT ORDERED, motion DENIED based on the State's opposition; Plaintiff to prepare the Order. COURT FURTHER ORDERED, Revocation of Probation SET.

**CUSTODY**

11/14/19 9:00 AM REVOCATION OF PROBATION

076

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 14, 2019

C-18-336184-1      State of Nevada  
   vs  
   Sammie Nunn

November 14, 2019      09:00 AM      Revocation of Probation

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein      Attorney for Defendant

Megan Thomson      Attorney for Plaintiff

Sammie Nunn      Defendant

State of Nevada      Plaintiff

## JOURNAL ENTRIES

Officer A. Martinez present on behalf of Parole and Probation (P&amp;P).

Upon Court's inquiry, Mr. Goldstein indicated there was no offer; therefore, they would be stipulating to the violation and arguing. Colloquy between parties regarding underlying sentence. CONFERENCE AT BENCH. DEFT. STIPULATED to being in violation of probation; Court ACCEPTED stipulation. Ms. Thomson agreed that the underlying sentence of four to ten years should be imposed. Arguments by Ms. Thomson. Statements by Deft. Mr. Goldstein requested that the underlying sentence be modified to a two to five year sentence. Following colloquy, Court FINDS that Deft. was in violation of probation and ORDERED, Deft. Nunn s PROBATION is REVOKED and a MODIFIED underlying sentence of a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections (NDC) would be IMPOSED, with FIVE HUNDRED TEN (510) DAYS credit for time served.

NDC

*Steven D. Grierson*

AJOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAMMIE NUNN  
#2751864

Defendant.

CASE NO. C-18-336184-1

DEPT. NO. XVIII

ORDER FOR REVOCATION OF PROBATION AND  
AMENDED JUDGMENT OF CONVICTION

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.481; thereafter, on the 11<sup>th</sup> day of June, 2019, the Defendant was present in court for sentencing with counsel, wherein the Court did adjudge the Defendant guilty thereof by reason of the plea of guilty, suspended the execution of the sentence imposed and granted probation to the Defendant.


THEREAFTER, a parole and probation officer provided the Court with a written statement setting forth that the Defendant has, in the judgment of the parole and probation officer, violated the conditions of probation; and on the 14<sup>th</sup> day of November,

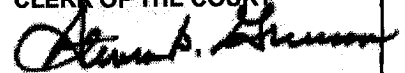


1 2019, the Defendant appeared in court with counsel ANTHONY GOLDSTEIN, ESQ.,  
2 and pursuant to a probation violation hearing/proceeding and good cause appearing to  
3 amend the Judgment of Conviction,  
4

5 IT IS HEREBY ORDERED that the probation previously granted to the  
6 Defendant is REVOKED; in addition to the original fees, fines and assessments, IT IS  
7 FURTHER ORDERED that the original sentence is MODIFIED and imposed as follows:  
8 a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole  
9 eligibility of THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections  
10 (NDC); with FIVE HUNDRED TEN (510) DAYS credit for time served.  
11

12 DATED this 15 day of November, 2019.

13  
14   
15 MARY KAY HOLTHUS  
16 DISTRICT COURT JUDGE  
17  
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28



1 FCL  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ALEXANDER G. CHEN  
6 Chief Deputy District Attorney  
7 Nevada Bar #10539  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 SAMMIE NUNN,  
13 #2751864

14 Defendant.

CASE NO: C-18-336184-1

DEPT NO: XVIII

15 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

16 DATE OF HEARING: NOVEMBER 5, 2019  
17 TIME OF HEARING: 9:00 AM

18 This cause having come on for hearing before the Honorable Mary Kay Holthus,  
19 District Judge, on November 5, 2019, the Petitioner being represented by Marisa Border, Esq.,  
20 the Respondent being represented by Steven B. Wolfson, District Attorney, through John T.  
21 Jones, Jr., Esq., Chief Deputy District Attorney, and the Court having considered the matter,  
22 including briefs, transcripts, arguments of counsel, and documents on file herein, now  
23 therefore, the Court makes the following findings of fact and conclusions of law:

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1 State, 110 Nev. 671, 675 (1994). The validity of a guilty plea is based on looking at the totality  
2 of the circumstances. State v. Freese, 116 Nev. 1096, 1105 (2000).

3 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only be  
4 withdrawn to correct "manifest injustice." See also Baal v. State, 106 Nev. 69, 72, 787 P.2d  
5 391, 394 (1990). The law in Nevada establishes that a plea of guilty is presumptively valid  
6 and the burden is on a defendant to show that the plea was not voluntarily entered. Bryant v.  
7 State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing Wingfield v. State, 91 Nev. 336,  
8 337, 535 P.2d 1295, 1295 (1975)). Manifest injustice does not exist if the defendant entered  
9 his plea voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394.

10 To determine whether a guilty plea was voluntarily entered, the Court will review the  
11 totality of the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721  
12 P.2d at 367. A proper plea canvass should reflect that:

13 [T]he defendant knowingly waived his privilege against self-  
14 incrimination, the right to trial by jury, and the right to confront his  
15 accusers; (2) the plea was voluntary, was not coerced, and was not the  
16 result of a promise of leniency; (3) the defendant understood the  
17 consequences of his plea and the range of punishments; and (4) the  
defendant understood the nature of the charge, i.e., the elements of the  
crime.

18 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.  
19 774, 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in  
20 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d  
21 107, 107 (1975). Bare" and "naked" allegations are not sufficient to warrant post-conviction  
22 relief, nor are those belied and repelled by the record. Hargrove v. State, 100 Nev. 498, 502,  
23 686 P.2d 222, 225 (1984). "A claim is 'belied' when it is contradicted or proven to be false by  
24 the record as it existed at the time the claim was made." Mann v. State, 118 Nev. 351, 354, 46  
25 P.3d 1228, 1230 (2002).

26 Since Petitioner was sentenced on June 11, 2019, this claim is a post-sentencing request  
27 to withdraw a guilty plea. Pursuant to Baal, such a request can only be granted if Petitioner  
28 can demonstrate manifest injustice by showing that his plea was not entered into voluntarily.



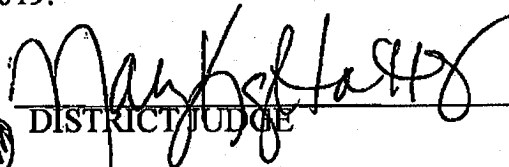
1 The complaint that Petitioner makes now has nothing to do with the voluntariness of his plea.  
2 Essentially, Petitioner is claiming that he has subsequently found an alleged witness who  
3 would corroborate a claim of self-defense. Based upon this newly found witness, Petitioner is  
4 claiming that he was actually innocent of the crime to which he was charged.

5 However, Petitioner is incorrect in this assertion. "Actual innocence" means factual  
6 innocence, not merely legal insufficiency." Bousley v. United States, 523 U.S. 614, 623-24  
7 (1992). A defense of self-defense is not a factual deficiency. It is a legal defense that may  
8 negate what would otherwise be considered unlawful conduct. The fact of the matter is that  
9 this defense was available to Petitioner prior to entering a plea. Certainly a newly found  
10 witness could potentially bolster his case, but the fact that he has a witness who now comes  
11 forward does not rise to the level of a manifest injustice because it was Petitioner, with his  
12 attorney, that decided to plead guilty. Petitioner had an attorney, signed a Guilty Plea  
13 Agreement, and was canvassed on the negotiation. The sentence that Petitioner received was  
14 exactly what he had bargained for in the Guilty Plea Agreement. Nothing about this situation  
15 presents a manifest injustice that warrants this Court grant the Petition. Thus, Petitioner has  
16 failed to provide an adequate basis to withdraw his plea.

17 **ORDER**

18 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief  
19 shall be, and it is, hereby denied.

20 DATED this 17 day of November, 2019.

21  
22   
DISTRICT JUDGE

23 STEVEN B. WOLFSON  
24 Clark County District Attorney  
Nevada Bar #001565

25 BY 

26 ALEXANDER G. CHEN  
27 Chief Deputy District Attorney  
28 Nevada Bar #10539

CERTIFICATE OF SERVICE

I certify that on the 20<sup>th</sup> day of NOV, 2019, I emailed a copy of the foregoing Findings of Fact, Conclusions of Law, and Order to:

MARISA BORDER, ESQ.  
mborderlaw@gmail.com

BY

  
Secretary for the District Attorney's Office

jm/L2

*Steven D. Grierson*

1 NEO

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

4 SAMMIE NUNN,

5  
6 Petitioner,

Case No: C-18-336184-1

Dept No: XVIII

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

10  
11 **PLEASE TAKE NOTICE** that on November 20, 2019, the court entered a decision or order in this  
12 matter, a true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
15 mailed to you. This notice was mailed on November 21, 2019.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17  
18 **CERTIFICATE OF E-SERVICE / MAILING**

19 I hereby certify that on this 21 day of November 2019, I served a copy of this Notice of Entry on the  
20 following:

21 ☒ By e-mail:

22 Clark County District Attorney's Office  
23 Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:

25 Sammie Nunn # 2751864  
330 S. Casino Center Blvd.  
Las Vegas, NV 89101

Marisa Border, Esq.  
400 South 4<sup>th</sup> St., Ste 650  
Las Vegas, NV 89101

26  
27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk

*Steven D. Grierson*

Sammie Nunn III  
330 S. CASINO CENTER BLVD  
LOS VEGAS, NV 89101

DISTRICT COURT  
STATE OF NEVADA  
CLARK COUNTY

Sammie Nunn III

APPEALANT

VS

THE STATE OF NEVADA  
RESPONDANT

CASE NO. C-18-336184-1

DEPT NO. XV III

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT I, SAMMIE NUNN III, APPEALANT,  
HEREBY APPEAL TO THE SUPREME COURT OF NEVADA FROM THE  
EIGHTH JUDICIAL DISTRICT COURT'S JUDGEMENT SENTENCING ON  
NOVEMBER 14<sup>th</sup> 2019 11:00 AM. SAID DECLARANT SUBJECT TO  
THE PENALTY OF PERJURY.

RESPECTFULLY

DATED: 11-RECEIVED

NOV 21 2019

CLERK OF THE COURT

*Sammie Nunn*  
DEFENDANT

SAMMIE NUNN  
PRINTED NAME

086

SAMMIE NUNN #2751864  
330 S. CASINO CENTER BLVD  
LAS VEGAS, NV 89101



LEGAL

STEVEN GRIERSON  
CLERK OF THE COURT  
200 LEWIS AVE  
3RD FLOOR  
LAS VEGAS NV 89155

087

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA IN THE COUNTY OF CLARK

FILED 7

THE STATE OF NEVADA

NOV 21 2019

RESPONDANT

CASE NO. C-18-336184-1

CLERK OF COURT

DEPT NO. XV III

SAMMIE NUNN

DEFENDANT

December 17, 2019

9:00 AM

MOTION TO WITHDRAW COUNSEL  
AND MOTION TO  
APPOINT APPEALANT COUNSEL

COMES HERE AND NOW APPEALANT, SAMMIE NUNN, MOVANT, MOVES  
TO DISMISS COUNSEL ANTHONY GOLDSTEIN DUE TO A  
CONFLICT OF INTEREST OF COUNSEL ANTHONY GOLDSTEIN AND  
I, THE DEFENDANT, HAS A CIVIL CASE AGAINST ONE ANOTHER  
IN THE UNITED STATES DISTRICT COURT CASE NUMBER #  
2:19-CV-01543-RFB-BNW ENTERED 9/4/2019 BY MOVANT  
CASE NAME: NUNN III V. GOLDSTEIN ET AL

SAID DECLARANT SUBJECT TO THE PENALTY OF PERJURY.

RESPECTFULLY

DATED 11-16-2019

DEFENDANT

RECEIVED

NOV 21 2019

SAMMIE NUNN  
PRINTED NAME

CLERK OF THE COURT

088

**Clerk Entries****2:19-cv-01543-RFB-BNW Nunn III v. Goldstein et al**

IFP, R9

**United States District Court****District of Nevada****Notice of Electronic Filing**

The following transaction was entered on 9/4/2019 at 1:33 PM PDT and filed on 9/4/2019

**Case Name:** Nunn III v. Goldstein et al**Case Number:** 2:19-cv-01543-RFB-BNW**Filer:****Document Number:** 2**Docket Text:****ADVISORY LETTER to litigant. (ADR)****2:19-cv-01543-RFB-BNW Notice has been electronically mailed to:****2:19-cv-01543-RFB-BNW Notice has been delivered by other means to:**

Sammie Nunn III  
2751864  
Clark County Detention Center  
330 South Casino Center  
Las Vegas, NV 89101

The following document(s) are associated with this transaction:

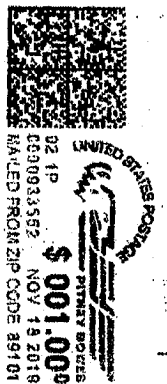
**Document description:**Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1101333072 [Date=9/4/2019] [FileNumber=9401807-0]  
[4e1cc6cd40fc59b660951339d3ba8dc4a56e668427de7052dac0f25383b4243ee59e  
cca3dde169fd126010c9e9615339baf3da6599fde23ffca70c6d9da8eeea]]

SAMMIE NUNN #2751864  
CCDC  
330 S. CASINO CENTER BLVD  
LAS VEGAS, NEVADA 89101

LEGAL

STEVEN GRIERSON  
200 LEWIS AVE  
LAS VEGAS, NV 89155



090



LEGAL

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 26, 2019

C-18-336184-1      State of Nevada  
vs  
Sammie Nunn

November 26, 2019      09:00 AM      Defendant's Post-Conviction Petition for Writ of Habeas Corpus

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

## PARTIES PRESENT:

Anthony M. Goldstein

Attorney for Defendant

Megan Thomson

Attorney for Plaintiff

State of Nevada

Plaintiff

## JOURNAL ENTRIES

Deft. not present. Mr. Goldstein informed the Court Deft. refused to be transported. Further, Mr. Goldstein indicated Deft. filed Notice of Appeal on his own and Motion to Dismiss Counsel as well. Mr. Goldstein requested matter be continued to be heard on December 17, 2019 with Deft.'s other Motion. COURT SO ORDERED.

NDC

12/17/19 9:00 AM CONTINUED: DEFENDANT'S POST CONVICTION PETITION FOR WRIT OF HABEAS CORPUS

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

December 17, 2019

C-18-336184-1      State of Nevada  
                                 vs  
                                 Sammie Nunn

December 17, 2019      09:00 AM      All Pending Motions

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Anthony M. Goldstein      Attorney for Defendant

John T. Jones, Jr.      Attorney for Plaintiff

State of Nevada      Plaintiff

**JOURNAL ENTRIES**

DEFENDANT'S POST CONVICTION PETITION FOR WRIT OF HABEAS  
CORPUS...MOTION TO WITHDRAW COUNSEL AND MOTION TO APPOINT APPELLANT  
COUNSEL

Deft. not present. Mr. Goldstein indicated there was an Order to Transport and Deft. should have been present. Mr. Jones noted the instant matter was on for post conviction; however, that Petition was argued at a previous hearing and set for revocation on November 14, 2019; COURT ORDERED, Defendant's Post Conviction Petition for Writ of Habeas Corpus was previously ruled on, and DENIED on November 5, 2019. CONFERENCE AT BENCH. Following colloquy, COURT FURTHER ORDERED, Motion to Withdraw Counsel and Motion to Appoint Appellant Counsel be CONTINUED for 30 days. COURT DIRECTED, the State to prepare a Transport Order. Colloquy between parties. Court noted it would give Deft. one more chance to be present; however, if Deft. was not present at the next hearing, Court would request that transport be, by any means necessary.

NDC

1/14/20 9:00 AM CONTINUED: MOTION TO WITHDRAW COUNSEL AND MOTION TO  
APPOINT APPELLANT COUNSEL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 14, 2020**

C-18-336184-1      State of Nevada  
vs  
Sammie Nunn

**January 14, 2020      9:00 AM      Motion**

**HEARD BY:** Holthus, Mary Kay

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Dara Yorke

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Goldstein, Anthony M.	Attorney
	Goodman, Laura	Attorney
	Nunn, Sammie	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Statements by Mr. Goldstein. Mr. Goldstein stated Deft. would be requesting for alternate counsel to be appointed, if not, he would like to represent himself for appeal. Upon Court's inquiry, Ms. Goodman indicated the State's position was that appeal had already been filed. COURT ORDERED, Motion to Withdraw Counsel and Motion to Appoint Appellant Counsel was hereby GRANTED IN PART/ DENIED IN PART. Court noted Motion was granted to the extent of withdrawing Mr. Goldstein; however, denied as to appointing new appellant counsel due to appeal already being filed.

NDC

FILED

JAN 24 2020

*John J. Hume*  
CLERK OF COURT

THE DISTRICT COURT OF NEVADA

SAMMIE NUNN

CLARK COUNTY

Petitioner PRO SE

VS.

DISTRICT COURT CASE NO. C 336184

CIVIL CASE NO. 18PO0861

THE STATE OF NEVADA

RESPONDENT

DATE OF HEARING:

TIME OF HEARING:

POST-CONVICTION PETITION FOR

WRIT OF HABEAS CORPUS

PETITIONER, SAMMIE NUNN (hereinafter referred to as "Nunn"),

BY AND THROUGH HIS COUNSEL OF RECORD IN PROPER PERSON. HEREBY

FILES THIS PETITION FOR WRIT OF HABEAS CORPUS IN RESPONSE TO NEW

EVIDENCE IN THE PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO

NRS CHAPTER 34. THIS PETITION, INCLUDING POINTS AND AUTHORITIES, IS

MADE UPON THE PLEADINGS AND PAPERS ON FILE, AND ANY EVIDENTIARY HEARING

AND ORAL ARGUMENT OF VICTIM AND COUNSEL DEEMED NECESSARY BY THE COURT.

PETITIONER, SAMMIE NUNN, ALLEGES AND CAN PROVE THAT HE IS BEING HELD IN

CUSTODY IN VIOLATION OF THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF

THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND ARTICLES I AND

IV OF THE NEVADA CONSTITUTION. THIS CASE WAS A ROBBERY GONE WRONG WHERE

NUNN DEFENDED HIMSELF BOTH TIMES VERY WELL.

RECEIVED

JAN 24 2020

MEMORANDUM OF POINTS AND AUTHORITIES

CLERK OF THE COURT

I. STATEMENT OF FACTS.

IN THE INSTANT CASE NUNN WAS CHARGED AFTER A GRAND JURY PROCEEDING WITH BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

095

OCCURRING ON MAY 27, 2018 AND BATTERY WITH USE OF DEADLY WEAPON OCCURRING ON JUNE 3, 2018. THE FOLLOWING FACTS ARE PERTAINING TO THE SPECIFIC EVENTS FROM MAY 27, 2018 AND JUNE 3, 2018 AS LAID OUT BY WITNESS TESTIMONY AT THE GRAND JURY AND AT THE TEMPORARY PROTECTIVE ORDER HEARING WHICH HAS CONFLICTING STATEMENTS. MR ANTHONY GOLDSTEIN SAID THE TEMPORARY PROTECTION ORDER TRANSCRIPT DID NOT EXIST OR WASNT RECORDED, NUNN WAS AT THE HEARING AND IMMEDIATELY PUT IN A MOTION TO WITHDRAW COUNSEL BECAUSE OF HIS UNWILLINGNESS TO WORK WITH NUNN ON RETREIVING EVIDENCE TO SUBMIT TO THE RECORD. NUNN WAS DENIED ACCESS THROUGH THE DISTRICT COURT TO WITHDRAW COUNSEL AND APPOINT ALTERNATE COUNSEL. BEING FORCED TO KEEP COUNSEL OR REPRESENT HIMSELF, NUNN CHOSE TO KEEP COUNSEL AND WORK FROM A DIFFERENT ANGLE. BEFORE GETTING INTO THE OTHER ANGLE HERE ARE THE CONFLICTING STATEMENTS:

GRAND JURY TRANSCRIPTS: PRINCE ALIDU TESTIFIED THAT HE WAS AT THE YOURSTOP LIQUOR STORE ON MAY 27, 2018. GJ VOL 1, PAGE 16, LINE 14-15. AT THAT TIME, HE STATED THAT HE WAS APPROACH BY NUNN WHO WAS ASKING FOR 50 CENTS. ALIDU TOLD NUNN THAT HE DID NOT HAVE 50 CENTS TO GIVE HIM. GJ VOL 1, PAGE 16, LINE 17. AFTER THAT, NUNN ALLEGEDLY STARTED CALLING HIM NAMES AND EVENTUALLY WALKED AWAY. EVEN THOUGH THERES NO LOITERING AT THIS STORE ALIDU TESTIFIED THAT HE WAS THERE A FEW MINUTES LATER WHEN NUNN RETURNED WITH A TOOL IN HIS HAND. GJ VOL 1, PAGE 17, LINES 7-10 THE TOOL WAS IDENTIFIED AS A NINE TO TWELVE INCH PAIR OF PLIERS. GJ VOL 1, PAGE 17, LINES 15-16 AND PAGE 18, LINES 1-2. IN RESPONSE TO THE STATES QUESTION, ALIDU TESTIFIED THAT NUNN THEN ALLEGEDLY HIT HIM IN THE FACE WITH THE PLIERS. GJ VOL 1, PAGE 18, LINES 4-9. CASE NO, C-18-336184-1...

THE FOLLOWING IS PRINCE ALIDU TESTIFYING AT THE TPO HEARING AND IS NEW EVIDENCE THAT WAS NOT SUBMITTED ON THE RECORD BY NEITHER ANTHONY GOLDSTEIN NOR

MARISA BORDER, CURRENT COUNSEL, BECAUSE ANTHONY GOLDSTEIN DIDNT FIND THEM TO GIVE TO COUNSEL FOR MARISA BORDER TO ADDRESS THE NEW EVIDENCE IN THE POST-CONVICTION WRIT OF HABEAS CORPUS. TEMPORARY PROTECTION ORDER CASE NO. 18PO0861 PRINCE ALIDU TESTIFIED TO THE FOLLOWING JUNE 19, 2018:

TEMPORARY PROTECTION ORDER TRANSCRIPTS: TPO PAGE 9, LINES 14-25.

MR. ALIDU: THE WAY IT STARTED, THERE IS A LADY THAT I WAS TALKING TO. THEN HE JUMP IN. HE SAID, WHAT DID YOU SAY TO THAT LADY? I SAID, I NEVER SAID NOTHING.

I DONT EVEN KNOW THE LADY'S NAME. I DONT KNOW HIS NAME IN THE POLICE REPORT. SO THEN HE CAME IN AND SAID, WHAT DID YOU SAY TO THE LADY? I DIDNT SAY NOTHING TO THE LADY. THEN THAT WAS IT. THEN HE GOT UPSET BEFORE I SEE HIM DISAPPEAR. THE NEXT 15 MINUTES HE CAME BACK.

THE COURT: AND THEN JUST OUT OF THE CLEAR BLUE? - - TPO PAGE 9, LINE 1 AND 2:

MR. ALIDU: OUT OF THE CLEAR BLUE.

THE COURT: HIT YOU UPSIDE THE HEAD?

ALREADY PRINCE ALIDU FLIPS HIS TESTIMONY FROM NUNN ASKING FOR 50 CENTS, TO NUNN ASKING WHAT HE SAID TO SOME LADY. HE ALSO SWITCH HIS TESTIMONY FROM SAYING NUNN WAS GONE A FEW MINUTES TO NUNN BEING GONE 15 MINUTES.

THE COURT ALSO HAD A HARD TIME BELIEVING THAT THE INCIDENT MAY 27, 2018 WAS UNPROVOKED: TPO PAGE 12, LINES 15-25. THE COURT: SO, MR. ALIDU, I HAVE TO BE HONEST WITH YOU, I HAVE A HARD TIME BELIEVING THAT THIS WAS UNPROVOKED.

MR. ALIDU: IT IS MAAM.

THE COURT: I KNOW YOU ARE GOING TO TELL ME THAT AND YOU'RE REALLY GOOD AT IT, BUT I DONT BELIEVE THAT BECAUSE I'VE LIVED LONG ENOUGH TO KNOW

FOLKS JUST NORMALLY-- UNLESS THERE IS SOMETHING-- BUT USUALLY THERE IS SOMETHING THAT PROVOKES FOLKS TO HIT OTHER PEOPLE. AND I AM TRYING TO UNDERSTAND WHAT IT WAS AND I DON'T KNOW IF YOU LIKE WHAT'S BEING-- TPO PAGE 13 LINES 1-25-- SAID ABOUT YOU. AND YOU TRAVEL IN A PACK AND SO-- YOU KNOW WHAT I'M SAYING. SO WHENEVER YOU SEE HIM, IT SEEMS TO ME AS THOUGH HE'S THE ONE THAT'S GOING TO BE ON THE LOSING END. IF I WAS HIM, I'D BE CARRYING TOO BECAUSE I NEVER KNOW WHEN YOU GOING TO COME WITH YOUR FOLKS.

MR. ALIDU: I'M JUST BY MYSELF

THE COURT: NO, YOU'RE --

MR. ALIDU: I GOT A FEW FRIENDS.

THE COURT: -- WITH AT LEAST TWO, THREE OTHER FOLKS WHEN YOU WALK TO THE LIQUOR STORE, WHEN YOU GO TO OTHER PLACES.

MR. ALIDU: NOT TRUE.

THE COURT: YOU GUYS LIVE TWAIN AND SWENSON. IT OUGHT TO BE TRUE IF IT IS NOT BECAUSE YOU DON'T WANT TO WALK OUT THERE AT NIGHT.

MR. ALIDU: I DON'T GO OUT LOOKING FOR TROUBLE. I WALK BY MYSELF.

THE COURT: IT'S A TROUBLE AREA, BUT YOU'RE GOING TO BE WITH YOUR FOLKS; RIGHT?

MR. ALIDU: I DON'T HAVE NO FOLKS. JUST ME. WHEN I GO OUTSIDE I DON'T HIDE FROM ANYBODY.

THE COURT: EVEN THIS REPORT THAT YOU'VE GIVEN ME DOESN'T SUPPORT THAT, DOES NOT SUPPORT IT.

...CASE NO. 18PO0861... STATEMENT OF FACTS II... JUNE 19, 2018...

PRINCE LATER BELLIED THE RECORD AND BROUGHT UP A SECOND INCIDENT  
JUNE 19, 2018 TEMPORARY PROTECTION ORDER HEARING PAGE 15, LINE 2-22

COURT: SO WHAT IS THE SECOND INCIDENT?



... NEW EVIDENCE CONTINUATION... TPO PAGE 5, LINES 2-22. CASE NO 18PO0861.

MR. ALIDU: HE PULLED A GUN ON ME.

THE COURT: HE PULLED A GUN ON YOU?

MR. ALIDU: YES.

THE COURT: FOR NO REASON?

MR. ALIDU: A DIFFERENT NIGHT AGAIN FOR NO REASON.

THE COURT: DIDN'T HAVE ANYTHING TO DO WITH THE BEEF AT THE LIQUOR STORE?

MR. ALIDU: NOTHING TO DO WITH THE LIQUOR STORE.

THE COURT: SO WHAT HAPPENED? HE JUST WALKED UP TO YOU OUT OF THE CLEAR BLUE?

MR. ALIDU: HE JUST WALK UP TO ME AND PULL A GUN.

THE COURT: WHAT TIME WAS IT?

MR. ALIDU: THAT'S ABOUT NIGHT TIME OR IN THE MORNING.

THE COURT: DID HE PULL IT OR DID HE SHOW IT TO YOU?

MR. ALIDU: HE PULL IT.

CONTRADICTION #2. PRINCE TESTIFIED TO GRAND JURY THAT NUNN HIT HIM WITH GUN!!!

... TPO PAGE 16, LINES 3-24 CASE NO. 18PO0861 JUNE 19, 2018. ...

THE COURT: HE PULLED IT AND WALKED AWAY?

MR. ALIDU: POLICE WAS CALLED

THE COURT: HE PULLED A GUN ON YOU AND YOU PULLED OUT YOUR PHONE AND CALLED THE POLICE?

MR. ALIDU: I DID.

THE COURT: WOW. THAT IS RARE. AND YOU DIDN'T EVEN GET SHOT OR ANYTHING?

MR. ALIDU: IM SURPRISED HE DIDN'T SHOOT ME.

THE COURT: HE DIDN'T TRY TO STOP YOU FROM CALLING THE POLICE OR ANYTHING?

MR. ALIDU: NO. I WALKED AWAY.

... CONTINUATION FROM TPO PAGE 16, LINES 3-24... CASE NO. 18PO0861...

THE COURT: YOU WALKED AWAY FROM THE GUN?

MR. ALIDU: I WALKED AWAY AND I GOT WITNESS.

THE COURT: SO YOU WEREN'T REALLY SCARED?

MR. ALIDU: NO--

THE COURT: BECAUSE YOU HAD YOUR BOYS THERE.

MR. ALIDU: LIKE YOU SAID, SHOOT ME THEN. THIS BOY RIGHT HERE-- MA'AM, I AM JUST BEING HONEST WITH YOU, I WOULD NEVER LET HIM TOUCH ME AGAIN.

... TPO PAGE 17 LINES 18-25, AND PAGE 18, LINES 1-6 CASE NO. 18PO0861...

THE COURT: WELL, HE PULLED A GUN ON YOU. YOU WALKED AWAY AND CALLED THE POLICE. I HAVE NEVER HEARD ABOUT PEOPLE WHO GET-- YOU KNOW, IF SOMEBODY PULLS A GUN, NORMALLY YOU DO WHAT THEY SAY DO, NOT WHAT YOU WANT TO DO, BUT YOU WEREN'T EVEN WORRIED ABOUT IT.

MR. ALIDU: UNLESS YOU WANT TO SCARE ME FOR THAT NOW.

THE COURT: HE SCARED YOU. YOU THINK YOU THOUGHT YOU WERE SCARED, YOU WALKED AWAY AND CALLED THE POLICE..

MR. ALIDU: I DID

THE COURT: YOU WEREN'T REALLY SCARED.

MR. ALIDU: I GOT TO DO WHAT I DO.

MR. ALIDU ADMITTED UNDER OATH THAT HE WAS NOT ASSAULTED JUNE 3, 2018!!!

... HABEAS CORPUS... STATEMENT OF FACTS III... NOV 5, 2019...

MORE NEW EVIDENCE FOUND CONTRADICTION #4... ALIDU WAS AGGRESSOR

WHEN RELEASE ON PROBATION AND HIGH LEVEL HOUSE ARREST WHILE HOMELESS, NUNN LEARNED OF A NEW WITNESS TO THE EVENTS TRANSPIRING ON MAY 27, 2018. THIS NEW WITNESS, ENDALKACHEW MEKONNEN, WAS FOUND AND INTERVIEWED BY UNDERSIGNED COUNSEL MARISA BORDER'S INVESTIGATOR MARK PREUSCH. MR. MEKONNEN INFORMED

INVESTIGATOR PREUSCH THAT HE WAS PRESENT AT THE YOURSTOP LIQUOR STORE AND WATCHED THE INTERACTION BETWEEN MR. ALIDU AND NUNN. MR. MEKONNEN WHO WORKS AT YOURSTOP LIQUOR STORE STATED THAT MR. ALIDU WAS THE PRIMARY AGGRESSOR AND HE AGGRESSIVELY WALKED TOWARDS NUNN. NUNN CONTINUOUSLY BACKED UP TO AVOID A CONFRONTATION. IT WAS ONLY ONCE BACKED INTO A CORNER THAT NUNN REACTED BY SWINGING A WRENCH AT MR. ALIDU, THE ROBER, DEFENDING HIMSELF FROM A ROBBERY.

THIS WITNESS WAS UNKNOWN TO DEFENDANT NUNN AND HIS ATTORNEY AT THE TIME THE GUILTY PLEA AGREEMENT WAS ENTERED INTO. AS SUCH, BASED UPON THIS NEW EVIDENCE, NUNN IS REQUESTING AN EVIDENTIARY HEARING AND POSSIBLE WITHDRAW OF HIS GUILTY PLEA.

#### PROCEEDURAL HISTORY IV

AFTER NUMEROUS MOTIONS TO DISMISS COUNSEL, WHICH WAS GRANTED, A GUILTY PLEA AGREEMENT WAS ENTERED INTO ON JUNE 6, 2019. SENTENCING WAS HELD JUNE 11, 2019. ON AUGUST 20, 2019 THE COURT WITHDREW MR. GOLDSTON AS COUNSEL AND APPOINTED UNDERSIGNED COUNSEL MARISA BORDER, ESQ. TO EXPLORE POSSIBLE ISSUES TO SUBSTANTIATE A MOTION TO WITHDRAW THE GUILTY PLEA AGREEMENT. COUNSEL LEARN AND INVESTIGATED A NEW WITNESS AND FILED A POST-CONVICTION WRIT OF HABEAS CORPUS WHICH WAS DENIED IN THE DISTRICT COURT AND THIS PETITION FOR **SECOND WRIT OF HABEAS CORPUS** IN DISTRICT COURT FOLLOWS.

#### GROUND FOR RELIEF

CLAIM TWO: MAY 24, 2019 HONORABLE JUDGE MARY KAY HOLTHUS

TOLD NUNN IF HE TAKES THE PLEA SHE'LL GIVE HIM HOUSE ARREST. NEW EVIDENCE, IN ADDITION TO THE EVIDENCE PRESENTED AT THE GRAND JURY AND CLAIM ONES HABEAS CORPUS POST-CONVICTION PETITION, PERSUASIVELY DEMONSTRATES NUNN WAS ACTING IN SELF DEFENSE AND THEREFORE INNOCENT OF THE CHARGES STEMMING FROM MAY 27, 2018. MORE NEW EVIDENCE PERSUASIVELY DEMONSTRATES THAT NUNN WAS ACTUALLY INNOCENT OF CHARGES STEMMING FROM JUNE 3, 2018. AS SUCH, NUNN IS IMPRISONED IN VIOLATED ON HIS RIGHT TO DUE PROCESS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS. NUNN'S PLEA AGREEMENT WAS ALSO VIOLATED WHEN DISTRICT ATTORNEY MEGAN THOMPSON WENT OUT OF THE SCOPE OF THE PLEA AGREEMENT AND ARGUED ON THE RECORD, WHEN THE PLEA AGREEMENT CLEARLY STATES, NO RIGHT TO ARGUE. JUDGE MARY KAY HOLTHUS SENTENCED NUNN TO A 3-10 YEAR PRISON TERM AND VIOLATED THE STIPULATED 2-5 YEAR AGREEMENT. NUNN DID NOT RECIEVE EXACLY WHAT HE BARGAIN FOR IN THE GUILTY PLEA AGREEMENT, INFAC, HE DIDN'T RECIEVE ANYTHING OUT OF THE STIPULATED AGREEMENT, NOV 12, 2019. HIS SECOND AMENDMENT RIGHT TO BEAR ARMS WAS ALSO VIOLATED AS NUNN WAS NOT A FELON. NUNN ALSO HAD IRRECONCILABLE DIFFERENCES WITH ATTORNEY GOLDSTEIN.

IN SCHLUP V. DELO, THE UNITED STATES SUPREME COURT FOUND THAT THE STANDARD A HABEAS PETITIONER MUST MEET TO ESTABLISH A CLAIM OF ACTUAL INNOCENCE TO OVERCOME THE PROCEEDURAL BARS REQUIRES A PETITIONER TO SHOW THAT "A CONSTITUTIONAL VIOLATION

HAS PROBABLY RESULTED IN THE CONVICTION OF ONE WHO IS ACTUALLY INNOCENT." Schiup v. Delo, 513 U.S. 298, 327, 115 S. Ct. 851, 867, 130 L. Ed. 2d 808 (1995). TO ESTABLISH THE REQUISITE PROBABILITY, THE PETITIONER MUST SHOW THAT IT IS MORE LIKELY THAN NOT THAT NO REASONABLE JUROR WOULD HAVE CONVICTED HIM IN THE LIGHT OF THE NEW EVIDENCE. THE PETITIONER THUS IS REQUIRED TO MAKE A STRONGER SHOWING THAN THAT NEEDED TO ESTABLISH PREJUDICE.

IN ASSESSING THE ADEQUACY OF A PETITIONER'S SHOWING, THE DISTRICT COURT IS NOT BOUND BY THE RULES OF ADMISSIBILITY THAT WOULD GOVERN AT TRIAL. INSTEAD, THE EMPHASIS ON "ACTUAL INNOCENCE" ALLOWS THE COURT TO CONSIDER THE PROBATIVE FORCE OF RELEVANT EVIDENCE THAT WAS EITHER EXCLUDED OR UNAVAILABLE AT TRIAL. Id. at 327-328. THE COURT MUST MAKE ITS DETERMINATION CONCERNING THE PETITIONER'S INNOCENCE "IN LIGHT OF ALL THE EVIDENCE, INCLUDING THAT ALLEGED TO HAVE BEEN ILLEGALLY ADMITTED (BUT WITH DUE REGARD TO ANY UNRELIABILITY OF IT) AND EVIDENCE TENABLY CLAIMED TO HAVE BEEN WRONGFULLY EXCLUDED OR TO HAVE BECOME AVAILABLE ONLY AFTER TRIAL." Id. at 328.

THE MEANING OF ACTUAL INNOCENCE DOES NOT MERELY REQUIRE A SHOWING THAT A REASONABLE DOUBT EXISTS IN THE LIGHT OF NEW EVIDENCE, BUT RATHER THAT NO REASONABLE JUROR WOULD HAVE FOUND THE DEFENDANT GUILTY. IT IS NOT THE DISTRICTS COURTS

INDEPENDENT JUDGEMENT AS TO WHETHER REASONABLE DOUBT EXISTS; THE STANDARD REQUIRES THE DISTRICT COURT TO MAKE A PROBABILISTIC DETERMINATION ABOUT WHAT REASONABLE PROPERLY INSTRUCTED JURORS WOULD DO. THUS, A PETITIONER DOES NOT MEET THE THRESHOLD REQUIREMENT UNLESS HE PERSUADES THE DISTRICT COURT, IN LIGHT OF THE NEW EVIDENCE, THAT NO JUROR ACTING REASONABLY, WOULD HAVE VOTED TO FIND HIM GUILTY BEYOND A REASONABLE DOUBT. *Id.* at 329. THE WORD "REASONABLE" IN THAT FORMULATION IS NOT WITHOUT MEANING. *Id.* IT MUST BE PRESUMED THAT A REASONABLE JUROR WOULD CONSIDER FAIRLY ALL OF THE EVIDENCE PRESENTED. *Id.* IT MUST ALSO BE PRESUMED THAT SUCH A JUROR WOULD CONSCIENTIOUSLY OBEY THE INSTRUCTIONS OF THE TRIAL COURT REQUIRING PROOF BEYOND A REASONABLE DOUBT. *Id.*

NEWLY PRESENTED EVIDENCE MAY INDEED CALL INTO QUESTION THE CREDIBILITY OF THE WITNESSES PRESENTED AT TRIAL. *Id.* at 30. IN SUCH A CASE, THE COURT MAY HAVE TO MAKE SOME CREDIBILITY ASSESSMENTS. *Id.* ALSO, AND MORE FUNDAMENTALLY, THE FOCUS OF THE INQUIRY IS ON THE LIKELY BEHAVIOR OF THE TIER OF FACT. *Id.*

COURTS HAVE HELD THAT AN EVIDENTIARY HEARING REGARDING ACTUAL INNOCENCE IS REQUIRED WHERE THE NEW EVIDENCE, "IF CREDITED," WOULD SHOW THAT IT IS MORE LIKELY THAN NOT THAT NO REASONABLE JURY WOULD FIND THE PETITIONER GUILTY BEYOND A REASONABLE DOUBT. SEE *Berry v. STATE*, 131 NEV. ADV. OP. 96, 363 P.3d. 1148, 1155 (2015);.

## CONCLUSION

BASED ON THE FOREGOING, NUNN'S CONVICTION IS UNCONSTITUTIONAL UNDER THE FEDERAL AND STATE CONSTITUTION'S FOR THE REASONS STATED HEREIN. "ACTUAL INNOCENCE" MEANS FACTUAL INNOCENCE, NOT MERELY LEGAL INSUFFICIENCY. BOUSLEY V. UNITED STATES 523 U.S. 614, 623-24 (1992). NUNN ALSO WAS NOT CANVASSED ON HIS UNDERSTANDING OF THE CONSEQUENCES OF HIS PLEA OR THE RANGE OF PUNISHMENT ON THE RECORD. NUNN WAS ALSO PROMISED LENIENCY, "HOUSE ARREST," MAY 24, 2019 BY JUDGE MARY KAY HOLTHUS. GOOD CAUSE EXISTS FOR CONSIDERATION OF THESE CLAIMS. M.R. NUNN'S JUDGMENT MUST THEREFORE BE VACATED.

THE NEVADA SUPREME COURT HAS HELD THAT A POST-CONVICTION HABEAS PETITIONER "IS ENTITLED TO A POST-CONVICTION EVIDENTIARY HEARING WHEN HE ASSERTS CLAIMS SUPPORTED BY SPECIFIC FACTUAL ALLEGATIONS NOT BELIED BY THE RECORD THAT, IF TRUE, WOULD ENTITLE HIM TO RELIEF." McConnell, 125 Nev. 243, 212 P.3d at 314. IN THE INSTANT MATTER, NUNN HAS ASSERTED A CLAIM, WHICH, BASED ON THE FOREGOING, IS CLEARLY SUPPORTED BY SPECIFIC FACTUAL ALLEGATIONS THAT WOULD ENTITLE HIM TO RELIEF. IF NOT IMMEDIATELY GRANTED, ALTERNATIVELY, THIS COURT SHOULD GRANT NUNN AN EVIDENTIARY HEARING TO RESOLVE HIS CLAIMS OF ACTUAL INNOCENCE.

NUNN AND COURT APPOINTED ATTORNEY ANTHONY GOLDSTEIN HAD IRRECONCILABLE DIFFERENCES AND ARGUED ON THE RECORD MULTIPLE TIMES INCLUDING MAY 24, 2019. THE DIFFERENCES

WERE SO BAD THAT NUNN FILED A LAWSUIT CASE NUMBER: 2:19-CV-01543-RFB-BNW NUNN ~~II~~ V. GOLDSTEIN. AFTER NUNN CONFIRMED MR GOLDSTEIN LIED ABOUT HIS INVESTIGATIONS DURING THE CASE THE PRESENCE AND ADVICE OF COUNSEL IS A SIGNIFICANT FACTOR IN DETERMINING THE VOLUNTARINESS OF A GUILTY PLEA. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d 107, 107 (1975). WHEN PROSECUTOR MEGAN THOMPSON VIOLATED THE PLEA AGREEMENT BY ARGUING ON THE RECORD, INSTEAD OF MR GOLDSTEIN POINTING OUT THAT SHE WENT AGAINST THE PLEA AGREEMENT'S AGREEMENT THAT THE PROSECUTOR HAS NO RIGHT TO ARGUE, HE SAYS, "I AGREE WITH EVERYTHING THE PROSECUTION JUST SAID." IT WAS AS IF NUNN HAD NO ATTORNEY AT ALL ON NOV 12, 2019. IN SAYING: SO I NOW SUBMIT. THIS CASE IS A ROBBERY DONE WRONG WHERE NUNN DEFENDED HIMSELF BOTH TIMES.

SAID DECLARATION MADE SUBJECT TO THE PENALTY OF PERJURY.



PETITIONER

DATED Jan 18, 2020

SAMMIE NUNN  
PRINTED NAME

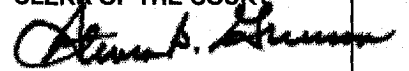


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INDIAN SPRINGS, NV 89070

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33 LAFONT 83155

STEVEN D. GRIERSON  
CLERK OF THE COURT  
200 LEWIS AVENUE  
3RD FLOOR  
LAS VEGAS NV 89155



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2 **TERRENCE M. JACKSON, ESQ.**  
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6 Las Vegas, NV 89101  
7 T: 702-386-0001 / F: 702-386-0085  
8 terry.jackson.esq@gmail.com  
9 *Counsel for Sammie Nunn*

6 **EIGHTH JUDICIAL DISTRICT COURT**  
7 **CLARK COUNTY, NEVADA**

8 **SAMMIE NUNN,**  
9 **#1226304**  
10 **Defendant / Petitioner,**  
11 **v.**  
12 **STATE OF NEVADA,**  
13 **Plaintiff/ Respondent.**

Case No.: **C-18-336184-1**

Dept. No.: **XVIII**

**HEARING REQUESTED**

14 **SUPPLEMENTARY MOTION FOR EVIDENTIARY HEARING FOR *PRO PER***  
15 **PETITION FOR SAMMIE NUNN FOR HABEAS CORPUS RELIEF**

16 COMES NOW the Defendant/ Petitioner, SAMMIE NUNN, by and through his newly  
17 appointed counsel, TERRENCE M. JACKSON, ESQ., and respectfully requests this Honorable  
18 Court to allow filing of Supplemental Points and Authorities in Support of Habeas Corpus Relief  
19 to Defendant Nunn's *Pro Per* Petition for Writ of Habeas Corpus filed on January 24, 2020, by  
20 requesting an evidentiary hearing for his Writ of Habeas Corpus.

21 As grounds for this Motion, counsel states that he was just appointed to represent Mr.  
22 Sammie Nunn on February 18, 2020. Counsel further states that reviewing Defendant's *Pro Per*  
23 Petition, counsel believes that it alleges sufficient material facts that an evidentiary hearing is  
24 required because there are material facts in dispute. This Motion is further based upon the  
25 accompanying Points and Authorities incorporated herein.

26 Respectfully submitted this 10th day of March, 2020.

27 /s/ Terrence M. Jackson  
28 **TERRENCE M. JACKSON, ESQ.**  
Nevada Bar No.: 00854  
terry.jackson.esq@gmail.com  
*Counsel for Sammie Nunn*

1 POINTS AND AUTHORITIES

2  
3 In *Marshall v. State*, 110 Nev. 1328, 885 P.2d 603 (1994), the Nevada Supreme Court  
4 reversed *Marshall's* conviction because he was denied an evidentiary hearing on post-conviction.  
5 The Court there stated:

6 "When a petition for post-conviction relief raises claims  
7 supported by specific factual allegations which, if true, would entitle  
8 the petitioner to relief, the petitioner is entitled to an evidentiary  
9 hearing unless those claims are repelled by the record." *Hargrove v.*  
10 *State*, 100 Nev. 498, 686 P.2d 222 (1984). *Id.* 1331

11 ...  
12 Although the Court rejected many of Marshall's claims as meritless, it found the issue of  
13 insufficiency of the evidence presented to the grand jury supporting the possession of controlled  
14 substance charge to have merit and reversed those counts stating:

15 "At most, the state presented evidence that appellant  
16 frequented an apartment that was rented to his brother and that  
17 appellant stored some of his personal belongings in the apartment.  
18 This evidence is not sufficient to establish that appellant, rather than  
19 one of the numerous other persons who frequented the apartment,  
20 possessed the cocaine and the marijuana the police found. Appellate  
21 counsel was ineffective for failing to raise this issue on appeal and  
22 counsel's failure prejudiced appellate. *Warden v. Lyons*, 100 Nev.  
23 430, 683 P.2d 504 (1984), *cert. den.*, 471 U.S. 1004 (1985). The  
24 district court erred in refusing to provide appellant an evidentiary  
25 hearing on this issue and in denying appellant relief."

26 "Because the record on appeal establishes that appellant was  
27 improperly convicted of the possession charges, we reverse  
28 appellant's judgment of conviction on these charges and we vacate  
the sentenced imposed with respect to those convictions." *Id.* 1333.  
(Emphasis added)

29 ...  
30 It is respectfully submitted that in this case Defendant, as in *Marshall, supra*, has raised  
31 factual claims which, if true, entitle him to an evidentiary hearing. Defendant also directs the Court  
32

1 to *Hatley v. State*, 100 Nev. 214 (1984), where the Supreme Court reversed stating:

2 "The district court, however, refused to conduct an evidentiary hearing and summarily denied  
3 appellant's petition.

4 We conclude that it was error for the district court to deny the  
5 petition without first holding an evidentiary hearing. It is well settled  
6 that when "a petition for post-conviction relief contains allegations of  
7 facts outside the record which, if true, would entitle the petitioner to  
8 relief, an evidentiary hearing thereon is required." (Emphasis added)

8 ...

9 Defendant in his *Pro Per* Petition has clearly alleged his 'factual innocence' and deserves a  
10 hearing on his claims. To deny him a full hearing will lead to reversal of his conviction.

11 Respectfully submitted this 10th day of March, 2020.

12  
13 /s/ Terrence M. Jackson  
14 TERRENCE M. JACKSON, ESQ.  
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20 terry.jackson.esq@gmail.com

21 *Counsel for Sammie Nunn*

1 **EIGHTH JUDICIAL DISTRICT COURT**

2 **CLARK COUNTY, NEVADA**

3 SAMMIE NUNN, )

Case No.: C-18-336184-1

4 #1226304 )

5 Defendant / Petitioner, )

Dept. No.: XVIII

6 v. )

7 )  
8 STATE OF NEVADA, )

9 Plaintiff/ Respondent. )  
10 \_\_\_\_\_ )

11 **NOTICE OF HEARING**

12 Please be advised that the Defendant's Supplementary Motion for Evidentiary Hearing for  
13 Pro per Petition for Habeas Corpus Relief in the above-entitled matter is set for hearing as follows:

14 **Date:**

15 **Time:**

16 **Location:** RJC Courtroom 3F  
17 Regional Justice Center  
200 Lewis Avenue  
18 Las Vegas, NV 89101

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

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

23 **CERTIFICATE OF SERVICE**

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

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

1 CERTIFICATE OF SERVICE

2  
3 I hereby certify that I am an assistant to Terrence M. Jackson, Esq., I am a person competent  
4 to serve papers and not a party to the above-entitled action and on the 10th of March, 2020, I served  
5 a copy of the foregoing Defendant/Petitioner, SAMMIE NUNN'S, SUPPLEMENTARY MOTION  
6 FOR EVIDENTIARY HEARING FOR PRO PER PETITION FOR HABEAS CORPUS RELIEF  
7 as follows:

8 [X] Via Electronic Service (CM/ECF) to the Eighth Judicial District Court and by United States  
9 first class mail to the Nevada Attorney General and Petitioner/Appellant as follows:

10  
11 STEVEN B. WOLFSON  
12 Clark County District Attorney  
13 steven.wolfson@clarkcountyda.com

JOHN T. NIMAN  
Clark County Deputy D.A. - Criminal  
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20  
21  
22  
23  
24 By: /s/ Ila C. Wills  
25 Assistant to T. M. Jackson, Esq.

*Steven B. Wolfson*

1 RSPN  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 JOHN 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

THE STATE OF NEVADA,

Plaintiff,

-vs-

SAMMIE NUNN, #2751864

Defendant.

CASE NO: C-18-336184-1

DEPT NO: XVIII

STATE'S RESPONSE TO SUPPLEMENTAL MOTION  
FOR EVIDENTIARY HEARING

DATE OF HEARING: APRIL 16, 2020  
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Petitioner's Supplemental Motion for Evidentiary Hearing for *Pro Per* Petition for Sammie Nunn for Habeas Corpus Relief.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On November 14, 2018, Sammie Nunn (hereinafter "Petitioner") was charged by way  
4 of Indictment with one count of BATTERY WITH USE OF A DEADLY WEAPON  
5 RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony – NRS 200.481) and  
6 one count of BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS  
7 200.481) for his actions on or between May 27, 2018 and June 3, 2018.

8 On June 6, 2019, pursuant to a Guilty Plea Agreement ("GPA"), Petitioner pled guilty  
9 to one count of BATTERY WITH USE OF A DEADLY WEAPON. As part of the GPA, the  
10 parties agreed that the State would not oppose probation, and would not oppose Petitioner's  
11 release on house arrest after the entry of Petitioner's plea. The parties also stipulated to an  
12 underlying sentence of two (2) to five (5) years in the Nevada Department of Corrections  
13 ("NDOC"). GPA at 1. The Court canvassed Petitioner and accepted Petitioner's guilty plea.

14 On June 11, 2019, Petitioner was adjudged guilty and was sentenced to a minimum of  
15 forty-eight (48) to one hundred twenty (120) months in NDOC. Petitioner's sentence was  
16 suspended, and Petitioner was placed on probation for a term not to exceed five (5) years.  
17 Petitioner was also placed on house arrest.

18 On July 10, 2019, a Violation Report was filed, indicating Petitioner had violated the  
19 terms of his probation by failing to abide by the curfew restrictions and by consuming  
20 controlled substances. While the revocation proceedings were ongoing, on July 15, 2019,  
21 Petitioner filed a Motion to Dismiss Counsel and Appoint Alternate Counsel. Petitioner's  
22 Motion to Dismiss Counsel was granted, for the limited purpose of having alternate counsel to  
23 determine whether there were grounds to withdraw Petitioner's guilty plea.

24 On October 10, 2019, Petitioner filed a Post-Conviction Petition for Writ of Habeas  
25 Corpus (his "first Petition"). In his first Petition, Petitioner raised a single argument: a new  
26 witness, E. Mekonnen, could testify to Petitioner's actual innocence. First Petition at 5-6. The  
27 State filed its Response to Petitioner's first Petition on October 16, 2019. The Court denied  
28 Petitioner's first Petition on November 5, 2019.



1 On November 14, 2019, the Court conducted a hearing regarding the revocation of  
2 Petitioner's probation. Following arguments by the parties, the Court found that Petitioner  
3 violated his probation and revoked the same. The Court modified Petitioner's sentence of  
4 imprisonment to thirty-six (36) to one hundred twenty (120) months in NDoC. The Court gave  
5 Petitioner five hundred ten (510) days credit for time served.

6 On January 24, 2020, Petitioner filed a Post-Conviction Petition for Writ of Habeas  
7 Corpus. On February 25, 2020, the State filed its Response and Motion to Dismiss Petition for  
8 Writ of Habeas Corpus. On March 5, 2020, the Court filed an Order Granting and Denying  
9 Defendant's Motion to Appoint Appellate Counsel and Defendant's Motion for Production of  
10 Transcript.

11 On March 10, 2020, Petitioner filed the instant Supplementary Motion for Evidentiary  
12 Hearing for *Pro Per* Petition for Sammie Nunn for Habeas Corpus Relief (the "instant  
13 Supplement").

#### 14 STATEMENT OF FACTS

15 On May 27, 2018, Prince Alidu (the "Victim") was at Your Stop Liquor, a convenience  
16 store, when he was approached by Petitioner, who asked Victim for fifty (50) cents. Grand  
17 Jury Transcript, Tuesday, November 6, 2018 ("GJT") at 16. Victim told Petitioner he did not  
18 have the money, after which Petitioner's female friend angrily approached Victim. Id.  
19 Petitioner then came back to Petitioner and called him names. Id. at 17. Victim asked Petitioner  
20 to leave him alone, and Petitioner left to the nearby apartment complex. Id. A few minutes  
21 later, however, Petitioner came back with a tool in his hand. Id. Victim described the tool as  
22 being approximately one foot long. Id. at 17-18. Petitioner hit Victim in the face with the tool,  
23 resulting in significant bleeding and an eventual scar. Id.

24 Officer Vesperas was in the area of Your Stop Liquor on May 27, 2018, when he was  
25 flagged down by a pedestrian. GJT at 6-7. That pedestrian directed Vesperas's attention to  
26 another individual down the street. Id. at 7. The individual to which Vesperas was directed had  
27 a foot-long wrench in his hand. Id. Vesperas identified that individual as Petitioner. Id. at 8.

28 //

Petitioner told Vesperas that he had been attacked and had hit an attacker with the wrench. GJT at 8. However, Vesperas did not notice any injuries that would require medical attention, and Petitioner did not complain of any such injuries. Id. at 9.

Officer Hawkins also responded to the area of Your Stop Liquor on May 27, 2018. GJT at 11. Hawkins came into contact with Victim, who was bleeding from his head. Id. at 12. Victim identified Petitioner to Hawkins at the scene of the interaction. Id.

On June 3, 2018, Victim was again outside Your Stop Liquor when he was approached by Petitioner. GJT at 20. At this encounter, Petitioner pulled out a handgun and again hit the Victim over the head. Id. at 21.

## ARGUMENT

**NRS 34.750(3) states,**

**After appointment by the court, counsel for the petitioner may file and serve supplemental pleadings, exhibits, transcripts and documents within 30 days after:**

...

**(b) The date of counsel's appointment.**

Therefore, to the extent Petitioner seeks to file a supplement, through counsel, he is entitled to do that pursuant to statute.

However, Petitioner's instant Supplement fails to make any substantive additional argument in support of an evidentiary hearing. A review of the instant Supplement demonstrates that Petitioner merely argues that the Petition itself "alleges sufficient material facts that an evidentiary hearing is required because there are material facts in dispute." Instant Supplement at 1:22-24. The State would note that such is *not* the standard by which a reviewing court determines whether or not an evidentiary hearing is necessary. See, State v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (holding that it is improper to hold an evidentiary hearing merely to "complete the record"). In the interest of judicial economy, and because Petitioner fails to raise any new substantive argument in support of an evidentiary hearing, the State hereby incorporates its Argument in

11

1 its Response and Motion to Dismiss Petition for Writ of Habeas Corpus (the "State's  
2 Response"), filed on February 25, 2020.

3 Insofar as Petitioner includes additional case law in the instant Supplement, the State  
4 responds that Petitioner's cited-to cases are inapplicable regarding the instant habeas corpus  
5 proceeding because Petitioner previously acknowledged that his Petition is his second attempt  
6 to receive habeas corpus relief. Petitioner does not allege good cause or prejudice to overcome  
7 his procedural default. See, NRS 34.810(3). Petitioner's failure to demonstrate good cause and  
8 prejudice to overcome his procedural default constitutes an abuse of the writ. Therefore,  
9 because the Petition is barred for the reasons as contained in the State's Response, there is no  
10 reason for the Court to conduct an evidentiary hearing.

11 **CONCLUSION**

12 For the forgoing reasons, the State respectfully renews its request that the Petition for  
13 Writ of Habeas Corpus be DISMISSED as procedurally barred, and Petitioner's Request for  
14 Evidentiary Hearing be DENIED.

15 DATED this 31st day of March, 2020.

16 Respectfully submitted,

17 STEVEN B. WOLFSON  
18 Clark County District Attorney  
19 Nevada Bar #1565

20 BY

21  #9598  
22 JOHN NIMAN  
23 Deputy District Attorney  
24 Nevada Bar #014408

25 **CERTIFICATE OF SERVICE**

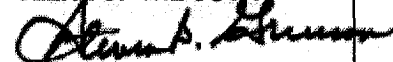
26 I hereby certify that service of the above and foregoing was made this 31st day of  
27 March, 2020, by email to:

28 TERRENCE M. JACKSON, ESQ.  
Email: terry.jackson.esq@gmail.com

BY:

  
Secretary for the District Attorney's Office

18F09747X/JN/eg/L4



1 **REQT**  
2 **TERRENCE M. JACKSON, ESQ.**  
3 Nevada Bar No.: 00854  
4 Law Office of Terrence M. Jackson  
5 624 South Ninth Street  
6 Las Vegas, NV 89101  
7 T: 702-386-0001 / F: 702-386-0085  
8 terry.jackson.esq@gmail.com  
9 Counsel for Sammie Nunn

6 EIGHTH JUDICIAL DISTRICT COURT  
7 CLARK COUNTY, NEVADA

8 STATE OF NEVADA,

9 Plaintiff,

10 v.

11 SAMMIE NUNN,  
12 #1226304,  
13 Defendant.

Case No.: **C-18-336184-1**

Dept. No.: **XVIII**

**HEARING REQUESTED**

14 **DEFENSE REQUEST FOR APPOINTMENT OF INVESTIGATOR**

15 COMES NOW the Defendant, SAMMIE NUNN, by and through counsel, TERRENCE M.  
16 JACKSON, ESQ., and moves this Court to enter an Order appointing an investigator to assist  
17 counsel to aid Defendant in his *pro per* Petition for Writ of Habeas Corpus filed on January 24,  
18 2020, set for hearing on June 16, 2020.

19 This Motion is further based upon the accompanying Points and Authorities incorporated  
20 herein and such further facts as will come before the Court on a hearing of this Motion.

21 Respectfully submitted this 17th day of April, 2020.

22 /s/ Terrence M. Jackson

23 TERRENCE M. JACKSON, ESQ.

24 Nevada Bar No.: 00854

25 Law Office of Terrence M. Jackson

26 624 South Ninth Street

27 Las Vegas, NV 89101

28 T: 702.386.0001 / F: 702.386.0085

terry.jackson.esq@gmail.com

*Counsel for Sammie Nunn*

1 POINTS AND AUTHORITIES

2  
3 The Defendant in his *Pro Per* Petition filed on January 24, 2020, alleges he is “factually  
4 innocent” of the charge of battery with a deadly weapon. The Defendant claims that an eye witness  
5 to the altercation, Mr. McConnell, will testify that the Defendant was acting lawfully in self-defense  
6 during the alleged incident.

7 An investigator is needed to subpoena this eyewitness to testify at the evidentiary hearing set  
8 for June 16, 2020 at 9:00 a.m. *Ake v. Oklahoma*, 470 U.S. 68 (1985) and *Widdis v. State*, 968 P.2d  
9 1165 (1998), provides an indigent should have necessary expert services. Wherefore, Defendant  
10 respectfully requests he be granted an investigator to interview and subpoena the witness necessary  
11 for the evidentiary hearing on June 16, 2020.

12 Respectfully submitted this 17th day of April, 2020.  
13  
14

15 /s/ Terrence M. Jackson

16 TERRENCE M. JACKSON, ESQ.

17 Nevada Bar No.: 00854

18 Law Office of Terrence M. Jackson

19 624 South Ninth Street

20 Las Vegas, NV 89101

21 T: 702-386-0001 / F: 702-386-0085

22 terry.jackson.esq@gmail.com  
23

24 *Counsel for Sammie Nunn*  
25  
26  
27  
28

1 **EIGHTH JUDICIAL DISTRICT COURT**

2 **CLARK COUNTY, NEVADA**

3 STATE OF NEVADA,

Case No.: C-18-336184-1

4 Plaintiff,

Dept. No.: XVIII

5 v.

6 SAMMIE NUNN,  
7 #1226304

8 Defendant.

9 **NOTICE OF HEARING**

10 Please be advised that the Defendant's Request for Appointment of Investigator in the above-  
11 entitled matter is set for hearing as follows:

12 **Date:**

13 **Time:**

14 **Location:** RJC Courtroom 3F  
15 Regional Justice Center  
200 Lewis Avenue  
16 Las Vegas, NV 89101

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

20 By: /s/ Ila C. Wills

21 Assistant to T. M. Jackson, Esq.

22 **CERTIFICATE OF SERVICE**

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

26  
27 By: /s/ Ila C. Wills

28 Assistant to T. M. Jackson, Esq.

1 CERTIFICATE OF SERVICE

2  
3 I hereby certify that I am an assistant to Terrence M. Jackson, Esq., I am a person competent  
4 to serve papers and not a party to the above-entitled action and on the 17th of April, 2020, I served  
5 a copy of the foregoing Defendant/Petitioner, SAMMIE NUNN'S, DEFENSE REQUEST FOR  
6 APPOINTMENT OF INVESTIGATOR as follows:

7  
8 [X] Via Electronic Service (CM/ECF) to the Eighth Judicial District Court and by United States  
9 first class mail to the Nevada Attorney General and Petitioner/Appellant as follows:

10  
11 STEVEN B. WOLFSON  
12 Clark County District Attorney  
13 steven.wolfson@clarkcountyda.com

JOHN T. NIMAN  
Clark County Deputy D.A. - Criminal  
john.niman@clarkcountyda.com

14  
15 SAMMIE NUNN  
16 ID# 1226304  
17 High Desert State Prison  
18 Post Office Box 650  
19 Indian Springs, NV 89070-0650

AARON D. FORD  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

20  
21  
22  
23  
24 By: /s/ Ila C. Wills  
25 Assistant to T. M. Jackson, Esq.



1 RTRAN

2  
3  
4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-18-336184-1  
DEPT. XVIII

10 vs.

11 SAMMIE NUNN,  
12 Defendant.

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 TUESDAY, APRIL 16, 2019

17 ***RECORDER'S TRANSCRIPT OF HEARING:***  
18 ***FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT***

19  
20 APPEARANCES:

21 For the State:

ASHLEY LACHER, ESQ.  
Deputy District Attorney

22  
23 For the Defendant:

ANTHONY GOLDSTEIN, ESQ.

24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER



1 Las Vegas, Nevada, Tuesday, April 16, 2019

2  
3 [Hearing began at 9:00 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 MR. GOLDSTEIN: Your Honor, Anthony Goldstein for the  
7 Defendant. He's here in custody.

8 THE COURT: All right. This is a return from competency?

9 MR. GOLDSTEIN: That's correct.

10 THE COURT: Where were we before we went there?

11 MR. GOLDSTEIN: Just need a trial date at this point, Your  
12 Honor.

13 THE COURT: Okay, has he been arraigned?

14 MR. GOLDSTEIN: Yes.

15 THE COURT: Post-comp determination?

16 MR. GOLDSTEIN: No, we just were in Competency Court  
17 this past Friday, so. I mean returned from Competency this past  
18 Friday.

19 THE COURT: So should we go ahead and arraign him?

20 MR. GOLDSTEIN: Sure.

21 THE COURT: No harm right?

22 MR. GOLDSTEIN: Right. So this will be a not guilty plea  
23 Your Honor. Starting from scratch, so we'll waive the formal  
24 reading and invoke his right to a speedy trial.

25 THE COURT: Okay. Mr. Nunn, what's your full name?

1 THE DEFENDANT: Sammie Nunn.

2 THE COURT: How old are you?

3 THE DEFENDANT: I'm 29.

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

5 THE DEFENDANT: Some college.

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

8 THE DEFENDANT: Yes ma'am.

9 THE COURT: Are you under the influence of any drug  
10 medication or alcoholic beverage right now?

11 THE DEFENDANT: No ma'am.

12 THE COURT: Do you understand the proceedings that are  
13 happening here today?

14 THE DEFENDANT: Yes ma'am.

15 THE COURT: Have you received a copy of the indictment  
16 charging you with battery with use of a deadly weapon resulting in  
17 substantial bodily harm and battery with use of a deadly weapon?

18 THE DEFENDANT: Yes ma'am.

19 THE COURT: Do you understand the charges contained in  
20 the indictment?

21 THE DEFENDANT: Yes ma'am.

22 THE COURT: Have you discussed the case with your  
23 attorney?

24 THE DEFENDANT: Yes ma'am.

25 THE COURT: As to the charges set forth in the indictment,

1 how do you plead, guilty or not guilty?

2 THE DEFENDANT: Not guilty.

3 THE COURT: You have the right to a jury trial within 60  
4 days, would you like to invoke or waive that right?

5 THE DEFENDANT: Invoke.

6 THE COURT: Okay. Calendar call and trial.

7 THE COURT CLERK: Calendar call June 11<sup>th</sup>, 9 a.m. Jury  
8 trial June 17<sup>th</sup>, 1 p.m.

9 THE COURT: That works?

10 MR. GOLDSTEIN: Yes, thank you Your Honor.

11 THE COURT: Thanks.

12 THE DEFENDANT: What was that again?

13 THE COURT: Trial date is –

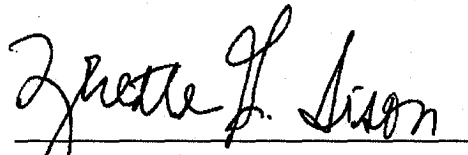
14 THE COURT CLERK: June 17<sup>th</sup>, 1 p.m.

15 THE COURT: -- June 17<sup>th</sup>. Okay.

16 [Hearing concluded at 9:02 a.m.]

17 \* \* \* \* \*

18  
19  
20  
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
audio/video proceedings in the above-entitled case to the best of my ability.

22  
23   
24 Yvette G. Sison  
25 Court Recorder



1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 SAMMIE NUNN,

9 Defendant.

CASE NO. C-18-336184-1

DEPT. NO. XVIII

10  
11 BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE

12  
13 TUESDAY, MAY 14, 2019

14  
15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**  
16 **MOTION TO DISMISS COUNSEL**

17  
18 APPEARANCES:

19 For the Plaintiff:

ALICIA A. ALBRITTON  
Chief Deputy District Attorney

20  
21  
22 For the Defendant:

ANTHONY M. GOLDSTEIN, ESQ.

23  
24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, MAY 14, 2019, 9:08 A.M.

2 \* \* \* \* \*

3 THE CLERK: Page 8, State of Nevada versus Sammie Nunn,  
4 C336184.

5 MR. GOLDSTEIN: Your Honor, Anthony Goldstein for the defendant.  
6 He's here in custody.

7 THE COURT: Hello, what's going on?

8 MR. GOLDSTEIN: Your Honor, this is the defendant's second motion  
9 of this nature. He was found incompetent, came back competent, filed this shortly  
10 thereafter. I can address the matter set forth in the motion if you'd like.

11 THE COURT: Okay.

12 MR. GOLDSTEIN: I mean, I've visited him, I don't know how many  
13 times, many times. I've personally visited the alleged crime scene and spoke with  
14 the manager, tried to get a copy of the video tape, tried to interview employees. I've  
15 talked about plea bargains with him many, many times, including with Ms. Thomson,  
16 who's not here. She's out – not coming today, but it's her case.

17 I'm not really sure about some of the other claims he's making. I don't  
18 understand a good portion of the motion, Your Honor, but I've done what I can. I'm  
19 the second attorney on the case. He had Ms. Waldo prior to me. I'm sure the file  
20 indicates what happened with his previous attorney, but everything's moving  
21 forward, Your Honor, from my end anyway.

22 THE COURT: Mr. Nunn, here's the reality; you have an excellent  
23 attorney assigned to you. I don't see anything in your motion. I'm not – I'm not sure  
24 – I'm not even sure really what you're complaining about, frankly.

25 THE DEFENDANT: Okay, what I'm complaining about is there's

1 evidence that, basically, I didn't do the crime. He said that it doesn't exist. My mom  
2 came down and got the transcripts from the Court. I gave him the transcripts, then  
3 he told me he hasn't looked at them. Then after he told me he had looked at them,  
4 he said that he don't know about them, and then he pulled it up on his phone. I  
5 mean, we're having a failure to communicate.

6 MR. GOLDSTEIN: Yeah, that's true.

7 THE DEFENDANT: We haven't –

8 MR. GOLDSTEIN: I actually emailed it to Ms. Thomson last week  
9 because she asked me for it, so I had it. There was a miscommunication. I agree  
10 about that, but there is a transcript, yeah.

11 THE DEFENDANT: We haven't – we haven't brought that transcript  
12 into evidence. On top of that, we haven't gone over the Grand Jury –

13 THE COURT: The transcript is already in the record. So it's not trial  
14 time –

15 THE DEFENDANT: It's not –

16 THE COURT: – there's no evidence in right now.

17 THE DEFENDANT: It's not – it's not in the record as far as this case.  
18 It's a TPO hearing that was done outside of this case. So he –

19 THE COURT: Well, it's not time to bring in evidence here. It's – the  
20 trial isn't until June.

21 THE DEFENDANT: Yeah, that's fine. He also – we haven't gone over  
22 any other evidence or talked about any of the other transcripts or the Grand Jury  
23 indictment transcripts. I don't think that we should be able to just wait 'til trial and  
24 then start going over everything.

25 THE COURT: Okay, well –

1 THE DEFENDANT: I think I have – I need a fair chance at trial. On top  
2 of that, he haven't – he hasn't given – or called back my mom. She calls him all the  
3 time.

4 THE COURT: He is not required to call back your mom.

5 THE DEFENDANT: That's fine, but I –

6 MR. GOLDSTEIN: And I've spoke with his mom.

7 THE DEFENDANT: – but I – but I granted her to be able to get  
8 information from him.

9 MR. GOLDSTEIN: Your mom in Oakland, right?

10 THE DEFENDANT: He doesn't – he doesn't answer the phone for me  
11 at all, so I stopped trying to call. We haven't – we haven't – we also haven't had any  
12 contact visits. I mean, there's a lot, there's a lot. We're not getting anywhere.

13 MR. GOLDSTEIN: If you want me to respond to it. I spoke with his  
14 mom.

15 THE COURT: Please, I do.

16 MR. GOLDSTEIN: She's in Oakland, California, right, Sammie?

17 THE DEFENDANT: And also –

18 MR. GOLDSTEIN: Prior to recommending him for – or request to he be  
19 evaluated for competency, I spoke with his mom. She doesn't have any information  
20 about the case. She wasn't involved in any way, but I spoke with her about him a  
21 while back. There hasn't been any reason to talk to his mom recently, so I haven't.

22 THE DEFENDANT: Also, we called the store that he claimed that he  
23 went to go talk to the employees and all that stuff; nobody's seen him, heard of him,  
24 or anything. The owner at the store doesn't know what he's talking about. The  
25 witness, Brook, he actually works there. I had a witness on my side of somebody

1 that works there, and Brook hasn't talked to him, been interviewed by anybody, he's  
2 waiting. He's like, if somebody was going to interview me, I'm sitting here, I work  
3 here every night, you know what I'm saying, I'm sitting here, it's a 24-hour store,  
4 you could come anytime and interview me. He hasn't been to the store. I mean – I  
5 mean, I know you might buying a little of his crap that he's trying to give you, but he  
6 hasn't done anything.

7 MR. GOLDSTEIN: Your Honor, November 13<sup>th</sup>, 2018, I went to 820  
8 East Twain, which is the Your Stop store. I spoke with a manager by the name of  
9 A.J. and asked if there's any video.

10 THE DEFENDANT: A.J., what's –

11 MR. GOLDSTEIN: I gave –

12 THE DEFENDANT: – his real name?

13 MR. GOLDSTEIN: He gave me the name of A.J. I didn't –

14 THE DEFENDANT: That doesn't make any sense.

15 MR. GOLDSTEIN: I didn't check his birth certificate, but –

16 THE DEFENDANT: You haven't been down there. That's not –

17 THE COURT: Excuse me.

18 THE DEFENDANT: – his real name.

19 THE COURT: Somebody's speaking, you don't speak over them,  
20 okay?

21 THE DEFENDANT: He just spoke over me.

22 THE COURT: He did not. I asked him to answer the question.

23 MR. GOLDSTEIN: And I gave my card to Fidel, the manager, on  
24 November 13<sup>th</sup>, in case anything popped up. So I went to the store, not that that  
25 was in doubt, but –



1 THE DEFENDANT: You're –

2 MR. GOLDSTEIN: Whether he believes me – or whether the defendant  
3 believes me or not is a different issue, Your Honor, but I'm doing my job. And,  
4 again, I'm –

5 THE DEFENDANT: We called down –

6 MR. GOLDSTEIN: – just not sure what his – all of his complaints are all  
7 about. I've done all this work personally.

8 THE COURT: And I appreciate it. I don't see any grounds here to  
9 dismiss counsel.

10 Here are your options, Mr. Nunn: You may – are free to retain your  
11 own counsel, hopefully by the trial date – the trial date is June 17<sup>th</sup> – or if you  
12 choose, you can proceed on your own, but you'd be required to undergo a Faretta  
13 canvass, and I will tell you, you don't want to represent yourself. It's not a good  
14 idea. You have a right to.

15 THE DEFENDANT: If you're giving me the option to represent myself  
16 or have this guy represent me –

17 THE COURT: Or retain another attorney.

18 THE DEFENDANT: – I will represent myself.

19 THE COURT: Okay, we will – you need to think about it and do a little  
20 research.

21 THE DEFENDANT: I don't wanna think. I've been thinking for –

22 THE COURT: Well, I don't have –

23 THE DEFENDANT: I've been here over a year.

24 MR. GOLDSTEIN: Sammie, don't interrupt the Judge.

25 THE COURT: What part of stop don't you get, okay?

1 THE DEFENDANT: I've been a whole year. You don't think I've  
2 thought about this?

3 THE COURT: I'm just going to give you a – I want you to ask around  
4 and consider whether you're certain you want to have a Faretta canvass and  
5 represent yourself, okay. I don't have time to do it today and I don't want to do it  
6 without you having done some research and thought about it. Representing yourself  
7 is huge, so we're going to put it –

8 THE DEFENDANT: Getting time in the penitentiary for something you  
9 haven't done is huge.

10 THE COURT: Okay. I'm going to pass this for – what's our next  
11 available that's good?

12 THE DEFENDANT: This guy sucks, man. That's on the record.

13 MR. GOLDSTEIN: Knock it off.

14 THE COURT: You know what, perhaps if you would show a little more  
15 respect.

16 THE DEFENDANT: Respect.

17 THE CLERK: May 23<sup>rd</sup>.

18 THE COURT: Okay, May 23<sup>rd</sup>.

19 MR. GOLDSTEIN: Your Honor, I'll go visit him prior to that and go over  
20 Nevada Supreme Court Rule 253 with him, which goes over self-representation,  
21 okay.

22 THE COURT: I appreciate that. Thank you.

23 ///

24 ///

25 ///

1 THE DEFENDANT: I don't know why you didn't just grant my motion. I  
2 don't get along with him.

3 PROCEEDING CONCLUDED AT 9:15 A.M.

4 \* \* \* \* \*

5 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-  
6 video recording of this proceeding in the above-entitled case.

7   
8 LARA CORCORAN  
9 Court Recorder/Transcriber  
10  
11  
12  
13  
14  
15  
16  
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18  
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25



1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 SAMMIE NUNN,

9 Defendant.

CASE NO. C-18-336184-1

DEPT. NO. XVIII

10  
11 BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE

12  
13 THURSDAY, MAY 23, 2019

14  
15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**  
16 **MOTION TO DISMISS COUNSEL**

17  
18 **APPEARANCES:**

19 For the Plaintiff:

MEGAN THOMSON  
Chief Deputy District Attorney

20  
21  
22 For the Defendant:

ANTHONY M. GOLDSTEIN, ESQ.

23  
24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, MAY 23, 2019, 10:31 A.M.

2 \* \* \* \* \*

3 THE CLERK: State of Nevada versus Sammie Nunn, C336184.

4 MR. GOLDSTEIN: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. GOLDSTEIN: Anthony Goldstein for the defendant. He's here in  
7 custody. Your Honor, just briefly, we're on for a Faretta canvass. The State gave  
8 me a new and improved offer yesterday afternoon, which I consider very fair. I  
9 conveyed it to the defendant today. He rejected that offer, specifically, battery with  
10 use of a deadly weapon. The State would not oppose probation. It would also  
11 agree to an OR with house arrest after entry of plea.

12 I guess the issue is he doesn't have a house right now, so he might not  
13 be able to get released anyway, so he rejected that offer and he wants to go forward  
14 with the Faretta canvass this morning. Last week I visited him after our hearing,  
15 went over Nevada Supreme Court Rule 253 with him and went over Faretta and all  
16 matters relating to self-representation, so he should be ready to go forward with the  
17 canvass today, Your Honor.

18 THE COURT: That's what you want to do?

19 THE DEFENDANT: That's what I'm being forced to do here.

20 THE COURT: You're not being forced to do anything. You have an  
21 excellent attorney that the State is providing you free of charge. If – I can't make  
22 you, although I can tell you that – I guess there's one of – Mr. Hudson will tell you,  
23 he went to trial on his own the first time and was convicted of everything, and the –  
24 he went with counsel the next time and they were able to get it down to one charge,  
25 but you can do what you want to do. So what do you want to do?

1 THE DEFENDANT: I would like to get alternate counsel?

2 THE COURT: You're free to hire counsel.

3 THE DEFENDANT: I'm indigent.

4 THE COURT: There – you have a – like I said, you have a good  
5 counsel there. There's nothing in your motion that warrants alternate counsel. So  
6 do you want to – you want to consider the offer?

7 THE DEFENDANT: Do I – do I have a right to have my evidence? I  
8 mean, because there was video tapes in the beginning, there was witnesses.

9 THE COURT: I'm certain that Mr. Goldstein will get all of the discovery  
10 if it gets – is it –

11 THE DEFENDANT: I don't even have the discovery. I've had him for  
12 eight months. I don't have discovery in either case. All I have is the Grand Jury  
13 indictment transcript.

14 THE COURT: Okay, well, your trial is still almost a month away. I'm  
15 assuming you – do you have everything you need, Mr. Goldstein?

16 MR. GOLDSTEIN: I've sent it to him. I mean, it's possible when he  
17 went up to – when he was found incompetent, it's possible that some of the items  
18 got misplaced somewhere in transport, but he has everything for sure. I mean, I've  
19 given it to him. Whether it's been misplaced by him or in transport, I don't know, but  
20 he has everything, or at least at one point he's –

21 THE COURT: Can you –

22 MR. GOLDSTEIN: – had everything.

23 THE COURT: Can you re-give it to him?

24 MR. GOLDSTEIN: Sure.

25 THE COURT: All right, let's put this on next week, status check the

1 discovery, and then we'll do your Faretta then, okay. And you can think about it as  
2 well, in the meantime, make sure.

3 THE DEFENDANT: Okay. Oh, for the record, I know – I came out here  
4 to Nevada as an electrician. I'm a journeyman. I came out here just to work at  
5 Tesla. I worked at Tesla for a year, did a great job at doing commission and selling  
6 parts and then making sure that things went right. And when I – when they  
7 transferred me back to Las Vegas I rented an apartment for a year, which the lease  
8 was just up while I've been incarcerated. I paid the money upfront. So I don't have a  
9 place to live, so I can't – I don't know about taking house arrest. I don't have  
10 anybody out here. I'm just out here for work.

11 THE COURT: All right. Well, why don't you talk with Mr. Goldstein and  
12 have Mr. Goldstein talk with the State and see if – what they could work out, if  
13 anything, okay?

14 THE DEFENDANT: Okay.

15 THE COURT: Mr. Goldstein, stay on another week and just see if –  
16 see if there's anything you can do with the kinks of that deal maybe.

17 MR. GOLDSTEIN: It's Megan –

18 MS. THOMSON: It was already a modified down from the prior offer.  
19 I'm not going anymore off of that.

20 MR. GOLDSTEIN: It's Megan's case. I –

21 THE COURT: Well, or maybe you can find him a house.

22 THE DEFENDANT: Well, I gotta go back to work.

23 MR. GOLDSTEIN: Find him a house. Okay.

24 THE COURT: I'll allow – Ms. – I'm going to give him a little –

25 MR. GOLDSTEIN: Spanish Trail or where – anywhere specific?

1 THE COURT: I'm just going to give him – I'm going to just give him a  
2 little time just to – will you guys approach?

3 (Conference at the Bench)

4 MR. GOLDSTEIN: Sorry about that.

5 THE COURT: That's all right. I just – I mean if that's the sticking point  
6 if he wants the deal, but it's an –

7 MS. THOMSON: I – here's –

8 THE COURT: – impossibility, then it seems silly not to do it, right?

9 MS. THOMSON: My offer from pretty much go has been like right to  
10 argue. Mr. Goldstein gave me some stuff. I'm willing to let him out with house  
11 arrest, but he's attacked this man twice. He sent people to tell him that he'll be killed  
12 if he comes to court. I'm not releasing him without house arrest. I don't –

13 THE COURT: Oh, no, I get it.

14 MS. THOMSON: That's unfortunate for him, but that's, frankly, not my  
15 problem.

16 THE COURT: But –

17 MR. GOLDSTEIN: He's not a great candidate for like one of those  
18 temporary housings because of his general attitude, but I can try and get him into –  
19 like I don't think he's going to stay a like a mission-type place, like a, you know,  
20 rescue-mission-type place. He's –

21 THE COURT: Yeah.

22 MR. GOLDSTEIN: I can try. And he doesn't have a drug problem  
23 either that I'm aware of, so this isn't a drug case, it's a –

24 MS. THOMSON: It's just an attitude problem.

25 MR. GOLDSTEIN: – mental-health-issue case. I mean, some of it's his



1 fault, some of it's mental health issues.

2 MS. THOMSON: Right.

3 MR. GOLDSTEIN: But it's not a drug case, so I can't – he won't be  
4 accepted into any kind of like, you know, Salvation-Army-type place because he  
5 doesn't have a drug problem. So he's –

6 MS. THOMSON: I'm not trying to be a dick, I just –

7 THE COURT: No, I totally get it. I'm – I was just – if that was what was  
8 holding it up, I was trying to think of how we can structure house arrest without a  
9 house.

10 MR. GOLDSTEIN: It's – and it's also no opp probation, so he'll try and  
11 leave the State as soon as possible, once – if he gets probation because the deal is  
12 no opp now. Megan was very flexible when it come – when it came to that, but it's  
13 the house arrest thing, which I asked yesterday and she said no about the regular,  
14 so fair enough. It was – she came down fairly. I say it was fair.

15 MS. THOMSON: Thanks, I think so too.

16 THE COURT: Well, I guess technically I'm not supposed to get  
17 involved in this. I'm like, all right –

18 MR. GOLDSTEIN: That's okay.

19 THE COURT: – already have, so. But I mean, I – we could maybe  
20 facilitate a faster sentencing date for him if – you know, if you do – if you did the deal  
21 – he took the deal but couldn't get out, but maybe we could –

22 MS. THOMSON: Do we have a PSI?

23 MR. GOLDSTEIN: No.

24 MS. THOMSON: Okay. I didn't remember how early he –

25 MR. GOLDSTEIN: No.

1 MS. THOMSON: – moved to a trial. Are you sure? Let me go get my  
2 file. You stay here.

3 MR. GOLDSTEIN: Because he got – if you read the file, I only got on  
4 this because he had some very serious issues with Ms. Waldo. Did you read that?

5 THE COURT: No.

6 MR. GOLDSTEIN: Judge Togliatti was aware of it.

7 MS. THOMSON: Oh, maybe we don't. Maybe we have one in the –  
8 what case –

9 MR. GOLDSTEIN: He told psychologists that he had ideations of killing  
10 his attorney, which was at the time, Ms. Waldo.

11 THE COURT: Oh my God.

12 MR. GOLDSTEIN: So she withdrew, obviously –

13 MS. THOMSON: One time.

14 MR. GOLDSTEIN: – and I got appointed, and he's just very up and  
15 down. I mean, but that's not confidential, that's – that was all on the record and  
16 that's why I was appointed to begin with. It wasn't a serious threat, but it's still – you  
17 know, it –

18 MS. THOMSON: Bam.

19 MR. GOLDSTEIN: Oh, we do have a PSI. So for other reasons, I got  
20 appointed and then withdrew his guilty plea, which –

21 MS. THOMSON: Now we have to see if it's his.

22 MR. GOLDSTEIN: – Judge Togliatti granted, so that's why we kind of  
23 went back to square one. But Megan is smarter than me, she noticed there was a  
24 PSI made after his first plea.

25 MS. THOMSON: So the only thing is we'd have to kind of waive

1 defects because it's the PSI from the information, not including both for when it was  
2 indicted.

3 MR. GOLDSTEIN: Yeah, but that's easy.

4 MS. THOMSON: But that –

5 MR. GOLDSTEIN: There's a PSI from six months ago.

6 MS. THOMSON: Yeah.

7 THE COURT: Well, let's put it on for next week. Let me know what's  
8 going on. At least I'm going to have to give victims the opportunity to speak and  
9 stuff.

10 MR. GOLDSTEIN: Yeah.

11 THE COURT: So we wouldn't –

12 MR. GOLDSTEIN: He's around too.

13 THE COURT: – be able to something sooner, like that day, unless we  
14 call and the victim says she doesn't – they don't want to come, because we're not  
15 going to do the plea, obviously, now.

16 MR. GOLDSTEIN: We couldn't – well, I have the GPA, but we couldn't  
17 do it now. Well, I'll talk to him.

18 THE COURT: I don't see – well –

19 MR. GOLDSTEIN: This is all new, so.

20 MS. THOMSON: Yeah, I didn't think about the fact that this existed –

21 MR. GOLDSTEIN: Okay.

22 MS. THOMSON: – until –

23 MR. GOLDSTEIN: Yeah, we can come back in a week or whatever,  
24 that's fine.

25 THE COURT: You want to do that?

1 MR. GOLDSTEIN: You got a lot going on to hear anyway today.

2 THE COURT: I do.

3 MR. GOLDSTEIN: When Rabb comes up you'll have more going on.

4 THE COURT: I don't know what's going on over there, but –

5 MR. GOLDSTEIN: It's a rough group today.

6 THE COURT: All right.

7 MR. GOLDSTEIN: Thank you.

8 (Conference at the Bench concluded)

9 MR. GOLDSTEIN: Based on our conversation at the bench, Your  
10 Honor, I'll talk to Mr. Nunn for a few moments. You can trail this if you need.

11 THE COURT: Okay.

12 (Matter recalled at 11:16 a.m.)

13 THE CLERK: State of Nevada versus Sammie Nunn, C336184.

14 THE COURT: Have you talked to him?

15 MR. GOLDSTEIN: Yes, and I gave him a copy of the PSI that he  
16 requested. If we could come back in a week? I want to go over to visit him again.  
17 I'll go over the GPA. I don't know where he's at in accepting the deal, but I just – if  
18 we come back in a week, hopefully we can get him potentially pled and sentenced  
19 next week.

20 THE COURT: Okay.

21 MR. GOLDSTEIN: I'll speak with Ms. Thomson as well.

22 THE COURT: All right. If you guys are going to want to go forward with  
23 sentencing next week, get me what I need and –

24 MR. GOLDSTEIN: We'll keep your staff looped in.

25 THE COURT: – make sure you come in with the victim understanding

1 that that could be happening.

2 MS. THOMSON: Yes.

3 THE COURT: Please. Okay.

4 THE CLERK: May 30<sup>th</sup>, 9 a.m.

5 THE COURT: It's for possible negotiations and possible sentencing.

6 PROCEEDING CONCLUDED AT 11:17 A.M.

7 \* \* \* \* \*

8 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-  
9 video recording of this proceeding in the above-entitled case.

10   
11 LARA CORCORAN  
12 Court Recorder/Transcriber  
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1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-18-336184-1  
DEPT. XVIII

10 vs.

11 SAMMIE NUNN,

12 Defendant.

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 THURSDAY, JUNE 6, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **STATUS CHECK: POSSIBLE NEGOTIATIONS OR SENTENCING**

19  
20 APPEARANCES:

21 For the State:

MEGAN THOMSON, ESQ.  
Deputy District Attorney

22  
23 For the Defendant:

ANTHONY GOLDSTEIN, ESQ.

24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, June 6, 2019

2  
3 [Hearing began at 9:53 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 MR. GOLDSTEIN: Your Honor, Anthony Goldstein for the  
7 Defendant; he's present in custody. I just submitted a GPA that the  
8 Defendant has already signed.

9 THE COURT: What are the negotiations?

10 MR. GOLDSTEIN: Your Honor, today, the Defendant will  
11 plead guilty to battery with use of a deadly weapon; that's a  
12 Category B Felony. The State will not oppose probation. The GPA  
13 also states that the State will not oppose the Defendant's release on  
14 house arrest after entry of plea; however, we have a PSI from a  
15 related case that we're asking the Court to use today, so if you'd  
16 like, we can go forward with sentencing the Defendant today.

17 In addition, Your Honor, we're stipulating to an underlying  
18 sentence of 2 to 5, which we interlineated; and both Ms. Thomson  
19 and I initialed that change in Court today.

20 MS. THOMSON: That's correct.

21 MR. GOLDSTEIN: So, on lines 21 and 22, when it first OR  
22 after – OR with house arrest after entry of plea, that's moot,  
23 assuming the Court is going to sentence the Defendant today.

24 THE COURT: You know, here's my issue with that; I – I  
25 don't – especially on violent PSI –

1 MR. GOLDSTEIN: Can we approach?

2 THE COURT: Yes.

3 [Bench Conference]

4 THE COURT: Oh, oh, oh is the PSI the same offense?

5 MS. THOMSON: Yes, it is.

6 MR. GOLDSTEIN: It's the same case.

7 THE COURT: Okay.

8 MS. THOMSON: Yes, he waived up, and then I indicted  
9 and added another case to this but –

10 THE COURT: It's all good then.

11 MR. GOLDSTEIN: And he entered a plea and  
12 subsequently Judge Togliatti –

13 MS. THOMSON: Yeah.

14 THE COURT: Okay. That's fine. I just wanted – if he ends  
15 up in prison, I want to make sure they have the underlying.

16 MS. THOMSON: It's a different case number because I  
17 indicted in between –

18 THE COURT: All good.

19 MS. THOMSON: -- but it's not a different case.

20 THE COURT: All good. We're good. Thank you.

21 [Bench Conference Concluded]

22 THE COURT: Okay. Mr. Nunn, is that your understanding  
23 of the negotiations?

24 THE DEFENDANT: Yes ma'am.

25 THE COURT: What's your full name?



1 THE DEFENDANT: Sammie Nunn [unintelligible] –  
2 THE COURT: How old are you?  
3 THE DEFENDANT: I'm 29.  
4 THE COURT: How far did you go in school?  
5 THE DEFENDANT: Vocational.  
6 THE COURT: Do you read, write, and understand the  
7 English language?  
8 THE DEFENDANT: Yes ma'am.  
9 THE COURT: Are you currently under the influence of any  
10 drug, medication, or alcoholic beverage right now?  
11 THE DEFENDANT: No ma'am.  
12 THE COURT: Do you understand the proceedings that are  
13 happening here today?  
14 THE DEFENDANT: Yes ma'am.  
15 THE COURT: Have you received a copy of the  
16 information charging you with battery with use of a deadly  
17 weapon?  
18 THE DEFENDANT: Yes ma'am.  
19 THE COURT: Do you understand the charges contained in  
20 the information?  
21 THE DEFENDANT: Yes ma'am.  
22 THE COURT: Have you discussed this case with your  
23 attorney?  
24 THE DEFENDANT: Yes ma'am.  
25 THE COURT: As to the charge set forth in the information

1 how do you plead, guilty or not guilty?

2 THE DEFENDANT: Guilty.

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

5 THE DEFENDANT: Yes ma'am.

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

8 THE DEFENDANT: No ma'am.

9 THE COURT: Has anyone made you promises other than  
10 what is contained in the guilty plea agreement to get you to enter  
11 this plea?

12 THE DEFENDANT: No ma'am.

13 THE COURT: I have before me a written plea agreement.  
14 Have you signed this plea agreement?

15 THE DEFENDANT: Yes ma'am.

16 THE COURT: Is that your signature on page 5?

17 THE DEFENDANT: Yes ma'am.

18 THE COURT: Before you signed it, did you read it and  
19 discuss it with your attorney?

20 THE DEFENDANT: Yes ma'am.

21 THE COURT: Do you understand everything contained in  
22 this agreement?

23 THE DEFENDANT: Yes ma'am.

24 THE COURT: Do you understand the constitutional rights  
25 you're giving up by entering this plea of guilty?

1 THE DEFENDANT: Yes ma'am.

2 THE COURT: Do you understand the appellate rights that  
3 you are giving up by entering this plea of guilty?

4 THE DEFENDANT: Yes ma'am.

5 THE COURT: Do you understand if you are not a United  
6 States Citizen, that entering a plea of guilty may have immigration  
7 consequences including deportation?

8 THE DEFENDANT: Yes ma'am.

9 THE COURT: Do you understand the range of punishment  
10 is from 2 to 10 years in the Nevada Department of Corrections and  
11 you may also be fined up to \$10,000?

12 THE DEFENDANT: Yes ma'am.

13 THE COURT: Do you understand that whether or not you  
14 receive probation is strictly up to me?

15 THE DEFENDANT: Yes ma'am.

16 THE COURT: And that sentencing is up to me including  
17 whether the counts will run consecutive or concurrent?

18 THE DEFENDANT: Yes ma'am.

19 THE COURT: And no one can promise you probation,  
20 leniency, or any special treatment?

21 THE DEFENDANT: Yes ma'am.

22 THE COURT: Are you pleading guilty in truth and in fact  
23 because you did – between May 27, 2018 and June 3, 2018 here in  
24 Clark County, Nevada, willfully, unlawfully, and feloniously use  
25 force or violence upon Prince Alidu with use of a deadly weapon,

1 that being a firearm and/or 12-inch pair of pliers, by hitting Prince  
2 Alidu in the head with a firearm or striking him with the pliers?

3 THE DEFENDANT: Yes ma'am.

4 THE COURT: Is that sufficient for the State?

5 MS. THOMSON: Yes, Your Honor.

6 MR. GOLDSTEIN: Your Honor, before you accept the plea,  
7 you asked the question about is he under the influence of any  
8 drugs. He is definitely taking prescribed medications from the  
9 Detention Center Medical Staff. He's very lucid today. I have no - I  
10 visited him twice since the last hearing, Your Honor. He  
11 understands the terms of the deal, and I just want to clarify for the  
12 record that he is taking prescribed medications from the Detention  
13 Center Staff.

14 THE COURT: Do they help you understand things better?

15 THE DEFENDANT: Yes ma'am.

16 THE COURT: Okay. Do you have any questions you  
17 would like to ask me or your attorney before I accept your plea? Do  
18 you have any question for anybody?

19 THE DEFENDANT: No ma'am.

20 THE COURT: Okay. The Court finds the Defendant's plea  
21 of guilty is freely and voluntarily made and that the Defendant  
22 understands the nature of his offense and the consequences of his  
23 plea and, therefore, accepts his plea of guilty.

24 This matter is referred to the Department of Parole and  
25 Probation -

1 MS. THOMSON: It doesn't need to be.

2 THE COURT: -- no it's not, it's undone. Okay. That's  
3 accepted. Thank you. This is a right to argue?

4 MR. GOLDSTEIN: No op *[sic]* probation.

5 MS. THOMSON: It is the no op *[sic]* probation. It had  
6 been a right to argue, I believe, on the original negotiation that he  
7 was permitted to withdraw his plea, and that is the PSI from the fact  
8 pattern. The only difference now is the no op *[sic]* probation from  
9 the State's perspective.

10 THE COURT: All right. Counsel approach.

11 [Bench Conference]

12 THE COURT: I'm going to make a record of the no op *[sic]*  
13 probation before I move to go along with it. I'm not inclined to go  
14 along with no op *[sic]* probation.

15 MR. GOLDSTEIN: In the GPA, he accepted it.

16 MS. THOMSON: So, what happened is I obtained --

17 THE COURT: No, they're not opposing it but that doesn't  
18 mean I'm giving it --

19 MR. GOLDSTEIN: Oh I know.

20 THE COURT: -- so I wanted to give you the heads up  
21 before we do the sentencing, that when I've got P&P  
22 recommending a 3 to 10 and when I look at it, it appears to be -- my  
23 recollection is that it was an unprovoked pretty vicious attack.

24 MR. GOLDSTEIN: I think we can --

25 MS. THOMSON: That's obviously our perspective. But

1 your perspective is different – well his perspective, I don't know  
2 about yours. His perspective is certainly different. We can address  
3 them or given if the Court wants –

4 MR. GOLDSTEIN: You want it right now or on the record?

5 THE COURT: This is on the record.

6 MR. GOLDSTEIN: Okay –

7 THE COURT: But you could – I mean we can do it anyway;  
8 I'm just telling you right now that I'm going to need something else  
9 before you going to convince me that probation is appropriate.

10 MR. GOLDSTEIN: Okay, I can have that. The main reason  
11 is there was a restraining order hearing between this defendant and  
12 the named victim, Prince Alidu. Judge Bennett-Heron presided  
13 over it. The victim, Prince Alidu – I mean I emailed you the –

14 MS. THOMSON: Yeah.

15 MR. GOLDSTEIN: -- his statements were very  
16 inconsistent. Judge Bennett – and I can show it to you if you want,  
17 didn't believe anything Prince was saying. So I think that was part  
18 of the reason the State decided to lower its offer, because Prince  
19 came into court, gave conflicting factual accounts of the encounters  
20 and then also the Judge was saying things like – I don't know  
21 verbatim but –

22 MS. THOMSON: -- I –

23 MR. GOLDSTEIN: -- how can I believe he did this? Why is  
24 – how is the Court going to believe sir that did this and this?

25 MS. THOMSON: -- my –

1 MR. GOLDSTEIN: This was on the record during a –

2 MS. THOMSON: -- my modification of the offer, I want to  
3 be very clear, had nothing to do with Judge Bennett's perspective  
4 because that frankly was irrelevant to me.

5 The – when I indicted the case, there had been a second  
6 case that was outstanding, so our case here is the one with the  
7 wrench – what – this packet that you have. There was another case  
8 that's out in the system, but where he -- the victim indicated that he  
9 had been at a convenient store, the same Your Stop Liquor, with a  
10 friend of his, who throughout was uncooperative; would not talk to  
11 us, would not do anything, like literally hung up on our investigator,  
12 kind of like not talk to us.

13 The victim told police that he was there with a friend, that  
14 the friend knew the Defendant, but that he didn't know the  
15 defendant; however, I think that was a secondary incident – my  
16 recollection is the date was later –

17 MR. GOLDSTEIN: [unintelligible] –

18 MS. THOMSON: -- then he realized who it was, that the  
19 Defendant without reason came up, pulled a gun, made some  
20 statement to his friend that was threatening and then pistol  
21 whipped him, and that he was bleeding, knocked unconscious, then  
22 he was able to get up and called the police.

23 In the TPO hearing, he said that he never lost  
24 consciousness. When the Defendant pulled the gun, that he  
25 immediately called police. He doesn't make any reference to being

1 pistol whipped at all. Obviously, that gave me concern because  
2 when you have such very inconsistent statements as to one  
3 incident, then that creates a problem when we're setting a trial on --

4 THE COURT: Well isn't that this incident?

5 MS. THOMSON: I think that's the right incident isn't it?

6 THE COURT: The pistol whipping is this one.

7 MR. GOLDSTEIN: They're like three days apart in the  
8 same location. I didn't represent him for that initial --

9 THE COURT: No but, I mean this offense is -- this is the --

10 MS. THOMSON: Oh, you're right it is.

11 THE COURT: -- he pulled a gun, threatened him, pistol  
12 whipped him --

13 MS. THOMSON: You're right.

14 THE COURT: -- on top of the head; \$22,000 in  
15 medications.

16 MS. THOMSON: So, the other incident was the victim,  
17 from his perspective, the allegations is he's walking down the  
18 street, minding his own business, defendant comes up to him and  
19 hits him with a wrench. When the police arrived, the Defendant is  
20 still in the area, and he does in fact have a wrench. Defendant tells  
21 police upon the scene and has been consistent throughout in his  
22 rendition that he was with -- he was by himself. The victim was  
23 with friends. They came up and jumped him because at some  
24 point, the Defendant's mother said -- basically told the community  
25 the victim is gay; correct me if anything is wrong generally about



1 that.

2 MR. GOLDSTEIN: -- there's more of it -- yeah that's  
3 probably about right.

4 MS. THOMSON: That's -- that's basically -- and then there  
5 was some interaction between some girl; but the short version  
6 being, the Defendant has always said it's self-defense. The victim  
7 has always said it was completely a random attack, but when I have  
8 the problem of two very inconsistent versions of events with the  
9 Your Stop Liquor firearm incident, it created a position where if I'm  
10 standing in front a jury, I'm having to say completely believe him  
11 on this one but, you know, that one you make your decision, and  
12 that's certainly worth probation.

13 MR. GOLDSTEIN: And I can tell the Court that I spoke with  
14 Kerick Hines about a week ago. He's the main victim on one of the  
15 counts --

16 MS. THOMSON: Oh, he would talk to you?

17 MR. GOLDSTEIN: -- he called me about a week ago.

18 MS. THOMSON: Congratulations.

19 MR. GOLDSTEIN: He says the victim was -- I don't  
20 remember which incident that Kerick Hines was at; he literally didn't  
21 show up for Grand Jury. [unintelligible] inquiry.

22 MS. THOMSON: He was the one who was at the firearm  
23 one.

24 MR. GOLDSTEIN: He says Prince was drunk and started  
25 popping flash to Sammie, that would've been his testimony had

1 this case gone to trial. This is the named victim on – I don't  
2 remember which case, but –

3 MS. THOMSON: It's the firearm one.

4 MR. GOLDSTEIN: -- the firearm one. So, it's –

5 THE COURT: What's his mental health issue? He appears  
6 to have one.

7 MR. GOLDSTEIN: It's terrible. His – I'm in good contact  
8 with his mother who lives in Oakland. If he gets probation, he's  
9 going to go live with his mother in Oakland. I spoke with her as  
10 recently as last week. He [unintelligible] mental health. I don't  
11 know – was from an acute injury, TDI.

12 THE COURT: All right. Can you give me something that I  
13 can order as a special condition? Can you look into something –  
14 can you do mental health court or something that makes me feel  
15 more protected.

16 MR. GOLDSTEIN: He's really trying to go to Oakland – I  
17 mean as soon as possible to go live with his mom. I mean  
18 interstate compact, so when – right away.

19 THE COURT: Well does she have a program there that I  
20 can agree that he can go to?

21 MR. GOLDSTEIN: I don't know when the last time he went  
22 there was, but his mom has lived forever I know. His mom has  
23 lived there forever, and I can only assume there's some kind of – he  
24 has doctors out there because he used to live there; but I can ask if  
25 there's any kind of program.

1 THE COURT: Well I'm just – I don't – I'm not going to just  
2 release him to the streets. I need something in place.

3 MS. THOMSON: Can mom –

4 THE COURT: Honestly, I didn't look at this for anything  
5 but prison.

6 MR. GOLDSTEIN: Okay.

7 THE COURT: I gotta be – you know, I didn't realize it was  
8 a – it was a no op *[sic]* probation. My notes indicate it was a right to  
9 argue. P&P is recommending 3 to 10. I really wasn't –

10 MR. GOLDSTEIN: Yeah well –

11 THE COURT: -- fashioning anything.

12 MR. GOLDSTEIN: -- everything – the game changed  
13 recently, so I guess that's why.

14 THE COURT: Well, and that's all fine, I'll go along with it,  
15 if you give me something other than releasing him to the streets  
16 and hoping he goes –

17 MR. GOLDSTEIN: Can you give me a minute –

18 THE COURT: -- I need something –

19 MR. GOLDSTEIN: -- give me a minute to see what he has –  
20 what we can set up in Oakland, and I'll – what he – if he has a  
21 doctor in Oakland or hospital or whatever he's been going to;  
22 because I don't know what his status is. I didn't –

23 THE COURT: -- I was thinking giving – well that's why I  
24 was going to give you a week to prepare for this.

25 MR. GOLDSTEIN: -- can I talk to him right now?

1 THE COURT: You can.

2 MR. GOLDSTEIN: -- I can get ahold of the mom probably  
3 just to -- a list -- I'm not getting ready to -- I'm not going to argue. I  
4 just want to see if we can get it resolved this morning somehow  
5 with him because he really wants to go, and his mom wants him to  
6 come soon and I --

7 MS. THOMSON: Can mom --

8 THE COURT: I know but --

9 MR. GOLDSTEIN: -- didn't promise anything, but I made it  
10 clear that I thought he was going to get out on the street today.

11 THE COURT: -- he can't go because he's going to have to  
12 go to P&P. He's going to have to do interstate compact.

13 MR. GOLDSTEIN: A few days here, and then I told him he  
14 was going to be here a week -- and he had people in Court. They're  
15 not here today, but they were here last week; his friends or family  
16 he was going to stay with for the few days until he gets transferred.

17 THE COURT: Well then you bring somebody in here that I  
18 can house arrest him to -- I mean I don't know -- I gotta -- I'm not  
19 going to put him in the streets.

20 MR. GOLDSTEIN: Okay.

21 THE COURT: And I don't care what he says this morning.

22 MR. GOLDSTEIN: Fair enough. I'll talk to him.

23 THE COURT: I don't mean to be --

24 MR. GOLDSTEIN: You're doing your job, it's fine. I'll just  
25 -- let me -- just give me a second before we continue it. Let me just

1 talk to him and see what I can come up with.

2 THE COURT: Okay.

3 MS. THOMSON: Thank you.

4 [Bench Conference Concluded]

5 THE COURT: You want to trail this a little bit?

6 MR. GOLDSTEIN: I appreciate that.

7 THE COURT: Okay.

8 [Case trailed at 10:07 a.m.]

9 [Case recalled at 10:26 a.m.]

10 THE COURT CLERK: State of Nevada versus Sammie  
11 Nunn, C336184.

12 MR. GOLDSTEIN: Thank you for recalling the case. Can  
13 we approach?

14 THE COURT: Yes.

15 [Bench Conference]

16 MR. GOLDSTEIN: I talked to the mom. She's in Oakland.  
17 The Defendant left Oakland to move here last Summer, right before  
18 – in May or June of last year. He has treatment with Dr. Stanburg  
19 [phonetics] at Kaiser Permanente Hospital in Oakland, not far from  
20 the house. He has a set doctor –

21 THE COURT: But you haven't told me how you're getting  
22 him there –

23 MR. GOLDSTEIN: I asked mom –

24 THE COURT: -- and where he is here.

25 MR. GOLDSTEIN: -- he gets there. I asked mom – she can

1 wire him money to get him from here to there after he's approved,  
2 assuming he's approved for interstate compact.

3 In the meantime, there are -- there have been people in his  
4 previous hearings. They're not here today, local friends of his --

5 THE COURT: Bring the people here that will stand up and  
6 I can release him to them kind of thing, and house arrest --

7 MR. GOLDSTEIN: Okay.

8 THE COURT: -- whatever.

9 MR. GOLDSTEIN: Totally fair. Can we do Tuesday?

10 THE COURT: Yes.

11 MR. GOLDSTEIN: Yeah Tuesday.

12 THE COURT: Okay.

13 MS. THOMSON: I don't want to be difficult. Is this some --  
14 that sentencing something where the Court feels like it would be  
15 best if I'm him here or are we all comfortable --

16 MR. GOLDSTEIN: Say that again?

17 MS. THOMSON: -- is it something where it's best if I'm  
18 him here or are we all comfortable with just the calendar deputy?

19 THE COURT: I prefer you be here but --

20 MS. THOMSON: Okay.

21 THE COURT: -- if you can't be --

22 MS. THOMSON: Okay.

23 THE COURT: -- I mean as long as I -- I mean I have the  
24 reasons on the record so that --

25 MS. THOMSON: Yeah.

1 THE COURT: -- if it goes badly it's --  
2 MS. THOMSON: It's my fault.  
3 MR. GOLDSTEIN: But you accepted his plea where that's  
4 --  
5 THE COURT: -- I've accepted his plea --  
6 MR. GOLDSTEIN: -- we moved on to sentencing -- the  
7 thing --  
8 THE COURT: -- I've accepted his plea, yes. We're just --  
9 MR. GOLDSTEIN: Okay.  
10 THE COURT: -- continuing the sentencing.  
11 MR. GOLDSTEIN: That's fine. I just want to make sure.  
12 THE COURT: Yes.  
13 MR. GOLDSTEIN: You were going to ask that, so I helped  
14 you.  
15 MS. THOMSON: Yes and -- based upon that --  
16 THE COURT: And it wasn't a stipulated negotiation. It  
17 was just a no op *[sic]* so --  
18 MS. THOMSON: -- and --  
19 MR. GOLDSTEIN: -- well it wasn't a conditioned -- it was  
20 stipulated but unconditioned.  
21 THE COURT: -- well --  
22 MS. THOMSON: -- here's the one thing I'm going to kind  
23 of throw out there, is based upon that guilty plea, he should be  
24 OR'd with house arrest today.  
25 MR. GOLDSTEIN: He's not going to get approved for

1 house arrest anyway –

2 MS. THOMSON: Oh okay.

3 MR. GOLDSTEIN: So, you're right but –

4 MS. THOMSON: Okay.

5 THE COURT: -- and again that's your deal –

6 MS. THOMSON: I know.

7 THE COURT: -- between the two of you.

8 MR. GOLDSTEIN: -- understood Judge, understood. Okay

9 –

10 THE COURT: Tuesday?

11 MR. GOLDSTEIN: -- if we can put it on Tuesday. Tuesday  
12 is on for calendar call, I'm not sure if we vacated it when you first  
13 called it.

14 THE COURT: Yes, we're going to – we'll vacate the trial  
15 date.

16 MS. THOMSON: Thank you.

17 MR. GOLDSTEIN: And calendar call, and we'll just make it  
18 a status check, and I'll get people her.

19 THE COURT: Get me something.

20 MR. GOLDSTEIN: I will. Understood.

21 MS. THOMSON: Okay.

22 THE COURT: All right. Thank you.

23 MS. THOMSON: Thank you.

24 [Bench Conference Concluded]

25 THE COURT: All right. We're going to continue this until



1 Tuesday for sentencing, and trial date vacated.

2 THE COURT CLERK: June 11<sup>th</sup>, 9 a.m.

3 THE COURT: Thank you.

4 [Hearing concluded at 10:28 a.m.]

5 \* \* \* \* \*

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

10  
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12 Yvette G. Sison  
13 Court Recorder/Transcriber  
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*Steven D. Grierson*

1 TRAN

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

)

8

Plaintiff,

)

CASE NO. C-18-336184-1

9

vs.

)

DEPT. XVIII

10

SAMMIE NUNN,

)

11

Defendant.

)

**Transcript of Proceedings**

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14

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE

15

**SENTENCING**

16

TUESDAY, JUNE 11, 2019

17

18

APPEARANCES:

19

FOR THE STATE:

LAURA J. GOODMAN

20

Deputy District Attorney

21

FOR DEFENDANT:

ANTHONY M. GOLDSTEIN, ESQ.

22

23

24

25

RECORDED BY: YVETTE SISON, COURT RECORDER

164

1 LAS VEGAS, NEVADA, TUESDAY, JUNE 11, 2019, 9:12 A.M.

2  
3 THE CLERK: State of Nevada versus Sammie Nunn,  
4 C336184.

5 MR. GOLDSTEIN: Judge, Anthony Goldstein for the  
6 defendant. He's here in custody.

7 THE COURT: What'd we come up with?

8 MR. GOLDSTEIN: Your Honor, we have -- your concern  
9 which we talked about both on the record and the bench last week  
10 was if Your Honor sees fit to grant the defendant probation,  
11 basically follow the deal and give him probation, looking for a  
12 residence for him to stay at. I've been in contact with his  
13 mother a million times in Oakland. She made an arrangement with  
14 One Day at a Time, it's a local we'll call it a halfway house.  
15 Ashley Dickson, she's here in court today, she provided me with  
16 the information from this facility. It's a local -- she's  
17 placed defendants at this facility from this courthouse, as well  
18 as North Las Vegas, in the past. She could provide whatever  
19 details the Court needs. It's just basically a local residence,  
20 sober, and designed for inmates in Mr. Nunn's situation with  
21 these types of issues. And she's prepared to answer any  
22 questions.

23 THE COURT: Can we house arrest him there?

24 MR. GOLDSTEIN: What's that?

25 THE COURT: Can we put him on house arrest there?

1 MR. GOLDSTEIN: You can ask Ms. Dickson. I just met  
2 Ms. Dickson this morning. We have communicated via text and  
3 email, but this is the first time I've met her, Your Honor,  
4 moments ago. If you have any questions, ask -- I think she's  
5 prepared to answer any questions you might have.

6 THE COURT: Is he able to be on house arrest at your  
7 program?

8 MS. DICKSON: To be honest, we've never had anyone on  
9 house arrest there. We do groups each day. So if he would  
10 -- you want him to come to those, he can, he cannot, it's up to  
11 you. If he can't leave the house and he has on a bracelet,  
12 then, I mean, he'll know the rules, and we'll help him follow  
13 them.

14 THE COURT: What's the name of the program?

15 MS. DICKSON: One Day at a Time.

16 THE COURT: And how long is the program?

17 MS. DICKSON: We recently opened in October.

18 THE COURT: And so how long would he be there?

19 MS. DICKSON: He can be there as long as he chooses  
20 to.

21 THE COURT: Well, I thought the plan was to get him to  
22 his family.

23 MR. GOLDSTEIN: This is the local residence here  
24 that's transitioning him from in custody at the Clark County  
25 Detention Center to moving with his mother in Oakland. There's

1 going to be a --

2 THE COURT: Pending the --

3 MR. GOLDSTEIN: Interstate compact.

4 THE COURT: -- interstate compact.

5 MR. GOLDSTEIN: Yeah. This is -- I don't know how  
6 long the interstate compact is going to take with California. It  
7 could be a couple days or a couple weeks. We don't know yet.  
8 But --

9 THE COURT: What if they don't take him?

10 MR. GOLDSTEIN: It would be -- in a case like this,  
11 Your Honor, it would be unlikely they wouldn't take him.

12 THE COURT: Okay.

13 MR. GOLDSTEIN: Is it possible? Yeah. But I've never  
14 seen a situation like that where especially California denies  
15 interstate compact. But this provides him with sort of  
16 transitional housing until the paperwork's clear for him to go  
17 with his mother in California and resume his -- I mentioned his  
18 doctor's name from Kaiser in Oakland last week when we were in  
19 court.

20 THE COURT: So does he -- does he have doctors here,  
21 as well?

22 MR. GOLDSTEIN: Sammie -- he went to Stein when he was  
23 found incompetent for this case. So the doctors here were at  
24 Stein.

25 Did you go to Stein, or Lakes Crossing?

1 THE DEFENDANT: Stein.

2 MR. GOLDSTEIN: It was Stein. So he doesn't have  
3 doctors here, but, again, it's doctor Stanberg [phonetic], I  
4 think his name was or her name was, in Oakland who's his primary  
5 mental health care physician at Kaiser in Oakland.

6 THE COURT: So what other -- what do you offer at the  
7 program, or is it just monitoring basically?

8 MS. DICKSON: It's a transitional living home, but  
9 also he can receive therapy services there. We do that twice a  
10 week, and also group three times a week, and biofeedback also  
11 twice a week. But he can come and get all of those services as  
12 he chooses to.

13 THE COURT: And is somebody paying for that? How does  
14 that get --

15 MS. DICKSON: His insurance pays for it.

16 THE COURT: It does. Okay.

17 And I believe we put the reasons for the negotiation  
18 on the record last time. Did we not?

19 MR. GOLDSTEIN: At the bench, which was on the record.  
20 So, yes.

21 THE COURT: And we still have no contact with the  
22 victim; correct? Is that your understanding?

23 MR. GOLDSTEIN: No. The victim -- are you talking  
24 about for victim speaker purposes, or for --

25 MS. GOODMAN: For victim speaker, that's correct, Your

1 Honor.

2 MR. GOLDSTEIN: I think he was -- he's been  
3 cooperating. He's testified a couple of times in the case, but  
4 I don't -- I can't speak to the victim whether Megan talked to  
5 him about speaking today.

6 MS. GOODMAN: With regards to speaking at sentencing,  
7 yes, we haven't talked to him. We haven't had any contact with  
8 the victim for that purpose.

9 THE COURT: What is the restitution of this?

10 MR. GOLDSTEIN: Medical bills for the victim.

11 THE COURT: 22,042. Is that right?

12 MS. GOODMAN: That is correct. And I should note --  
13 and, Judge, in all candor, the Victims of Crime did agree to pay  
14 the 5,000. There just haven't been any payments from the victim  
15 -- to the victim yet of that 5,000.

16 THE COURT: All right. Mr. Nunn, you want to -- we  
17 haven't done anything yet, have we?

18 MR. GOLDSTEIN: I'm sorry?

19 THE COURT: We haven't done anything, have we, because  
20 I wasn't --

21 MR. GOLDSTEIN: You accepted his plea last Thursday.  
22 And you were going to -- it was possible for you to sentence him  
23 that same day because you had the PSI, but you wanted to address  
24 the residency issue.

25 THE COURT: All right. Anything else from the State?

1 MS. GOODMAN: No, Your Honor. I'll submit it on the  
2 negotiations.

3 THE COURT: Okay. Mr. Nunn, is there anything else  
4 you want to tell me before I pronounce sentence or your attorney  
5 speaks?

6 THE DEFENDANT: No.

7 MR. GOLDSTEIN: Your Honor, I'm just going to ask the  
8 Court to follow the negotiation. I know there's some hesitancy  
9 on behalf of the Court, but I think when Mr. Nunn is properly  
10 medicated and getting his -- following his doctors' advice, he  
11 gets along in society just fine. Hopefully his paperwork with  
12 the interstate compact will clear quickly, and he'll be under  
13 the watchful eye of his mother in Oakland, who I'm in very good  
14 contact with. We've exchanged -- we've spoken several times  
15 since this past Thursday, Your Honor. I know she's planning on  
16 keeping an eye on Sammie like she has in the past, and hopefully  
17 he'll start to conform better once his medication and his mental  
18 health treatment gets back on track.

19 THE COURT: Can you all approach.

20 (Bench conference)

21 THE COURT: Not only I don't [unintelligible] the  
22 probation part, but I don't really love the suspended sentence  
23 part, either. Is there a reason that it was so low?

24 MR. GOLDSTEIN: No. Well, yes.

25 THE COURT: I mean, I'm giving him a chance to do



1 better, but if he doesn't do better, then maybe he can't do  
2 better. Do you know what I'm saying? Historically he's got  
3 issues.

4 MR. GOLDSTEIN: We worked out the suspended sentence  
5 in court on Thursday, you see we interlineated it to 2 to 5. I  
6 would be ecstatic if you gave him probation. And if you want to  
7 raise the underlying, that's your call, but -- I mean  
8 everything's your call, but, you know, I wouldn't --

9 THE COURT: I get it. I'm going to raise it to 48 to  
10 120. So -- okay.

11 MR. GOLDSTEIN: Thanks for the heads up.

12 THE COURT: Yep.

13 MR. GOLDSTEIN: Thank you.

14 (End of bench conference)

15 THE COURT: Anything else?

16 According to the laws of the State of Nevada this  
17 Court does now sentence you to confinement in the Nevada  
18 Department of Prisons for a maximum term of 120 months, with a  
19 minimum parole eligibility of 48 months.

20 I am going to -- that's in addition to the \$25  
21 administrative assessment, \$150 DNA fee, and a DNA  
22 administrative assessment.

23 I am pursuant to negotiations going to suspend that  
24 sentence for a period of probation not to exceed 5 years with  
25 the standard conditions.

1           Additionally, you are to have no alcohol whatsoever,  
2 you're also going to be subject to special conditions that you  
3 are to remain on house -- you're to be released only to the One  
4 Day program.

5           Can I do that? Do they have somebody to come get him?  
6 Or P&P for transport to. How about that? That's what I'm going  
7 to do.

8           MR. GOLDSTEIN: Ms. Dickson's not here anymore, Your  
9 Honor, so I can't ask her about the --

10          THE COURT: All right. He's to be released only to  
11 P&P for transportation to the One Day at a Time program, where  
12 he's to remain on house arrest until he can be interstate  
13 compacted to California, where his mom is.

14          Also, to complete a mental health evaluation or just  
15 to stay being treated on the evaluation that he currently has.

16          Taking any medications that's required.

17          Curfew's probably not necessary, but I'll give them  
18 the power to do that if they need it.

19          Mr. Nunn, do you work?

20          THE DEFENDANT: Yeah. I'm an electrician.

21          THE COURT: Okay.

22          THE DEFENDANT: I kind of need to go to work.

23          THE COURT: Okay. Well, to the extent that it all  
24 works, full-time employment, 16 hours of community service or  
25 school.

1 THE DEFENDANT: So the house arrest --

2 MR. GOLDSTEIN: I'll answer your question.

3 THE COURT: Anything else we can -- that I need?

4 MS. GOODMAN: Not from the State, Your Honor.

5 THE COURT: No contact with the victim.

6 MR. GOLDSTEIN: And just if I could just clarify your  
7 sentence for the defendant's benefit. There was an agreement  
8 between us, the defense and the State, for an underlying  
9 sentence of 2 to 5, with an [unintelligible] to probation. You  
10 chose to give him probation, but she exercised her discretion to  
11 raise the underlying sentence; instead of a 2 to 5, it's a 4 to  
12 10.

13 So we agreed to it, but that's not binding on the  
14 Judge, and the Judge --

15 THE DEFENDANT: And I have to do house arrest on top  
16 of me doing the 4 to 10?

17 THE COURT: You're not doing the 4 to 10 as long as  
18 you get out and stay out of trouble. If you stay in your  
19 counseling and stay on your meds and don't hurt anybody or break  
20 any laws, then you won't have to do the 4 to 10. You're just  
21 going to be on house arrest until we can get you to your mom  
22 where you can get back with your doctor in California and get  
23 the treatment.

24 If you get in trouble, though, you're going to go to  
25 prison for 10 years.

1 THE DEFENDANT: But I'm not going to be able to do the  
2 groups or anything?

3 THE COURT: You're going to be at the house. I'm  
4 ordering you to the treatment program there. Okay?

5 THE DEFENDANT: But the deal I signed was a 2 to 5,  
6 and an OR upon sentencing.

7 THE COURT: You did.

8 THE DEFENDANT: Those are the reasons I took the deal.

9 THE COURT: Well, I understand that, but you also -- I  
10 didn't make any promises. I'm giving you probation. My  
11 inclination was actually to put you in prison for 3 to 10 like  
12 P&P was recommending. Okay? So I'm going along with the deal  
13 to try and help you get your act together better for the long  
14 run, but that's the trade off. If you want to just do the 3 to  
15 10 right now, I'll give it to you.

16 THE DEFENDANT: Can I take the deal back?

17 MR. GOLDSTEIN: For a second time? No, Your Honor. I  
18 mean, I'll talk to him about it, but --

19 THE COURT: Okay. That'll be the order.

20 MR. GOLDSTEIN: Thank you.

21 THE CLERK: Judge, does he [inaudible] restitution?

22 THE COURT: Oh, yeah. I'm so sorry. Restitution in  
23 the amount of \$22,042 payable to -- huh?

24 THE CLERK: I'm sorry.

25 THE COURT: What do you need?

1 THE CLERK: I was going to ask who it's payable to.

2 THE COURT: Prince Alidu.

3 MR. GOLDSTEIN: His name is Prince Alidu, A-L-I-D-U.

4 (Court recessed at 9:24 a.m., until 9:55 a.m.)

5 THE CLERK: State of Nevada versus Sammie Nunn,  
6 C336184.

7 THE COURT: Sorry to call you back here, but I have  
8 some real concerns. Your client has not been able to control  
9 himself in a courtroom filled with marshals and where I've just  
10 given him probation. I'm wondering how I'm supposed to feel  
11 comfortable sending him out in the community on a probation  
12 grant.

13 And I'm wondering if maybe he doesn't want that and  
14 maybe he'd prefer just to go to prison, because that would make  
15 me feel more comfortable at this moment.

16 MR. GOLDSTEIN: Your Honor, I understand your  
17 concerns. I just spoke with him. I mean, his -- he doesn't  
18 understand that probation is a privilege and he's fortunate to  
19 get it in this case based on Your Honor's comments when we were  
20 at the bench last week basically saying you're planning to send  
21 him to prison and probably would be doing so if it weren't all  
22 the efforts --

23 THE COURT: For the maximum period of time, by the  
24 way.

25 MR. GOLDSTEIN: Right. On behalf of his mom, Ashley

1 Dickson, and all these other people who are out there trying to  
2 work for him, me, but that's my job. All these other people are  
3 trying to work for him and a lot of people -- there was a lot of  
4 parts in motion to get him that place to stay. And he  
5 apparently doesn't appreciate it, but I hope that he gets that  
6 probation's a privilege and he could very well be going to High  
7 Desert instead of his mother's house in Oakland over the next  
8 few days.

9           So I spoke with him. He talked about withdrawing his  
10 plea because you didn't follow the negotiation to the letter.  
11 My opinion that's not a valid legal basis to withdraw his plea.  
12 If that were the case 99 --

13           THE COURT: It's not even an opinion, it's actually  
14 the law, but, okay.

15           MR. GOLDSTEIN: It is. And 99 percent of people  
16 sitting in the box would want to withdraw their plea if the  
17 judge didn't follow exactly the negotiations. So it's not in  
18 any way, shape, or form a legal basis. If he wants to ask the  
19 Court to appoint a lawyer to look in to see whether that  
20 constitute legal grounds, you could appoint him, just like I was  
21 appointed to withdraw his previous plea when there was the issue  
22 with his previous lawyer, but I hope he gets -- kind of gets  
23 with the program at this point, and realizes if he steps out of  
24 line to his probation officer, he's just going to prison.  
25 There's no other option. If he's disrespectful to anybody in

1 the system, whether it's here or in California, he's going to do  
2 a 4 to 10. That's where he's sitting right now.

3 THE COURT: Do you want probation or not?

4 THE DEFENDANT: Yeah.

5 THE COURT: Are you going to control yourself and be  
6 respectful and do what you're supposed to do?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. Thank you for coming back, Mr.  
9 Goldstein.

10 MR. GOLDSTEIN: Of course, Your Honor.

11 THE COURT: Good luck, Mr. Nunn.

12 THE PROCEEDINGS CONCLUDED AT 9:57 A.M.

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

24  
25 

JILL HAWKINS, Court Recorder

*Steven D. Grierson*

1 RTRAN

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4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,  
9 Plaintiff,  
10 vs.  
11 SAMMIE NUNN,  
12 Defendant.

CASE#: C-18-336184-1  
DEPT. XVIII

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 TUESDAY, JULY 23, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **REVOCATION OF PROBATION**

19 APPEARANCES:

20 For the State:

MEGAN THOMSON, ESQ.  
Deputy District Attorney

21  
22 For the Defendant:

ANTHONY GOLDSTEIN, ESQ.

23 Also Present:

OFFICER A. MARQUEZ  
PAROLE AND PROBATION

24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER



1 Las Vegas, Nevada, Tuesday, July 23, 2019

2  
3 [Hearing began at 10:49 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 MR. GOLDSTEIN: Your Honor, Anthony Goldstein for the  
7 Defendant. He's present in custody. There was no offer made, so  
8 it'll be a stip and argue.

9 THE COURT: Okay. I'm going to take two seconds, be  
10 right back. All right. So this is stip and argue?

11 MR. GOLDSTEIN: It is Your Honor, and there's a couple  
12 other matters as well.

13 First, on the violation report itself, July 10<sup>th</sup> of this year,  
14 they list the sentence, the underlying sentence as a 12 to 48, you  
15 actually sentenced him to a 48 to 120, so instead of a 1 to 40 – you  
16 sentenced him to a 4 to 10, just so we all are aware of what the  
17 potential is today.

18 Also, Your Honor, as a housekeeping matter, the  
19 defendant filed a motion to dismiss me. It's scheduled to be heard  
20 on August 6<sup>th</sup>. He also filed a notice of appeal of your decision  
21 denying his prior motion to dismiss me as his attorney, so that  
22 decision, not the conviction, but that decision to deny his previous  
23 motion to dismiss me, he filed a notice of appeal on; so that's  
24 somewhere in the appellate process, that's relatively recent.

25 THE COURT: Okay.

1 MR. GOLDSTEIN: Just so you're aware of what's going  
2 on. I'm sure you already knew that, but that's what's going on.

3 THE COURT: I did not actually. So, I appreciate it. Does  
4 anyone have a copy of the PSI in this case?

5 MS. THOMSON: I do. May I approach?

6 THE COURT: Is it this case?

7 MS. THOMSON: This is the one we –

8 THE COURT: We couldn't find one on Odyssey.

9 MS. THOMSON: -- where we had the PSI created and  
10 then ultimately, I went to the Grand Jury and included another  
11 charge, and then we negotiated but because the same underlying  
12 facts were associated, we used the PSI from the previous –

13 THE COURT: That's why we couldn't find it.

14 MS. THOMSON: So, it's the same case but different case  
15 number.

16 MR. GOLDSTEIN: Judge Togliatti granted my motion to  
17 withdraw his plea prior to sentencing, so there's already in a PSI in  
18 the file, and then we re-dealt the case, so to speak. He had Ms.  
19 Waldo prior to me.

20 THE DEFENDANT: The PSI isn't current.

21 THE COURT: Okay, so now where are we today? We're  
22 stippling?

23 MS. THOMSON: I think that we should probably even  
24 though it's not on calendar that they address the basis for the  
25 defendant seeking it too, have a different attorney so that we don't

1 end up with any issues on that.

2 THE COURT: Haven't we addressed that already?

3 MR. GOLDSTEIN: There's a new one. He filed a new  
4 motion to dismiss for Your Honor that's set in this court on August  
5 6<sup>th</sup>.

6 THE COURT: So, you're not prepared to stip?

7 MR. GOLDSTEIN: Well, I'm prepared to go forward today,  
8 Your Honor. The State made the request that I guess to address  
9 that motion first, but I can go forward I think – I mean –

10 THE COURT: Well I mean I hate to make P&P come back  
11 but –

12 MS. THOMSON: Well my thought is just to ask the  
13 defendant if he's –

14 THE COURT: Are you still – you still want to proceed with  
15 trying to get Mr. Goldstein off?

16 THE DEFENDANT: Yes ma'am, definitely.

17 THE COURT: All right. Pull the motion. We'll trail this,  
18 sorry.

19 MS. THOMSON: Thank you.

20 THE COURT: You need to be somewhere?

21 MR. GOLDSTEIN: Can we approach real quick?

22 THE COURT: Yeah.

23 MR. GOLDSTEIN: Scheduling.

24 THE COURT: For sure.

25 [Bench Conference]

1 MR. GOLDSTEIN: I have to leave to pick up kids at  
2 summer camp at 11:30. I have to be somewhere at noon to pick up  
3 kids from half day summer camp, so – I can come back.

4 THE COURT: Why don't we just put it over to August 6.  
5 He's not –

6 MS. THOMSON: That's fine.

7 MR. GOLDSTEIN: He's definitely not going anywhere.

8 MS. THOMSON: My thought is that his reason to kick you  
9 off is all bullshit, sorry – pooppy and we would just –

10 MR. GOLDSTEIN: Right.

11 MS. THOMSON: Get rid of it. Are you good with the 6<sup>th</sup>?

12 PAROLE AND PROBATION: Sure.

13 THE COURT: If you want something –

14 MR. GOLDSTEIN: Do you remember this one, Your  
15 Honor? This is a lengthy plea – he came back from Stein. It's a  
16 whole – he's going to –

17 THE COURT: Did I give him the 4 to 10 like on my own?

18 MS. THOMSON: You did.

19 MR. GOLDSTEIN: It was a 2 to – it was a stip 2 to 5, you  
20 gave him the 4 to 10, fair enough; and then it was – he's supposed  
21 to go interstate compact to his mom in Oakland, who I've spoken to  
22 many times; instead he goes to that little goal place, transition until  
23 he got approved for interstate.

24 MS. THOMSON: This was the one where I had agreed to  
25 the release, and you were like, I'm not letting him out. You didn't

1 want to give him the probation, and we essentially talked you into it  
2 because it was the negotiation.

3 MR. GOLDSTEIN: Right.

4 THE COURT: I've been doing a lot of that lately. I feel bad  
5 but –

6 MR. GOLDSTEIN: Don't – I mean not in confined to this  
7 case, but in general.

8 MS. THOMSON: Right.

9 MR. GOLDSTEIN: You can do what you like, Your Honor.

10 MS. THOMSON: It's true. Plus we're soft on crime, so we  
11 need stuff like that.

12 MR. GOLDSTEIN: So, if you want to pass it to the 6<sup>th</sup>, he's  
13 not going anywhere. He has nowhere to go anyway so.

14 MS. THOMSON: Are you okay for the 6<sup>th</sup>?

15 PAROLE AND PROBATION: The 6<sup>th</sup> is fine.

16 MS. THOMSON: Okay.

17 MR. GOLDSTEIN: If it's okay with the officer.

18 THE COURT: And your position is still revocation I  
19 presume. Everybody is on board with that? On the 4 to 10?

20 MS. THOMSON: So, it's short.

21 THE COURT: Yeah, but I want to go back and re-read  
22 everything and – sorry.

23 PAROLE AND PROBATION: No, it's fine.

24 THE COURT: Do a clean –

25 MS. THOMSON: Just because you're going to because it

1 has the weird background, the fact pattern in the PSI is not the  
2 totality of the fact pattern that came up through the indictment.

3 THE COURT: Do you have something to supplement to  
4 give me or –

5 MS. THOMSON: Let me give you a copy of each report  
6 because I can't remember –

7 THE COURT: Okay.

8 MS. THOMSON: -- which set of facts –

9 THE COURT: Perfect.

10 MS. THOMSON: -- okay.

11 THE COURT: Perfect.

12 MR. GOLDSTEIN: It was two fights with the same victim –

13 MS. THOMSON: Yeah.

14 MR. GOLDSTEIN: -- same neighborhood. Three days  
15 later – hey I – two guys were –

16 MS. THOMSON: Yep.

17 MR. GOLDSTEIN: -- he and the victim were going back  
18 and forth.

19 MS. THOMSON: I'm confident that once you get into it,  
20 you'll like oh –

21 THE COURT: The name is familiar, and he's looking at me  
22 like he's familiar, but I mean for me to up to a 4 to 10, they already  
23 recommended 36 to 120, with time. Okay. Come back.

24 [Bench Conference Concluded]

25 All right, we pulled – I have now a copy of the PSI, and I

1 want to look that over, and we also need to address the defendant's  
2 motion to dismiss which is set for August 6<sup>th</sup>. So, we'll go ahead  
3 and do that, assuming the motion to dismiss counsel is denied. Do  
4 you want to be ready to go forward or do you want to get the ruling  
5 on that and then set it for the revo, so if it's granted P&P doesn't  
6 have to be here. State, preference?

7 MS. THOMSON: I will submit it to the Court and Defense  
8 Counsel.

9 THE COURT: Mr. Goldstein what do you want to do?

10 MR. GOLDSTEIN: Your Honor, I'm fine with the 6<sup>th</sup>. I think  
11 if -- you asked him. He said he wants his motion to be heard. I  
12 think he has that right so I think we'll just come back on the 6<sup>th</sup>, and  
13 we can probably handle both matters, just depending on how you  
14 rule on the motion to dismiss.

15 THE COURT: Well the problem is, if I'm going to give him  
16 a new attorney, I don't necessarily want P&P to have to come down  
17 here again, since he's here ready to go today, so we'll set it on for  
18 the 6<sup>th</sup> for the motion, and then P&P won't have to be there on the  
19 6<sup>th</sup>. If -- assuming you stay on it Mr. Goldstein or --

20 MR. GOLDSTEIN: I see.

21 THE COURT: -- or new counsel.

22 MR. GOLDSTEIN: I misunderstood you. That makes more  
23 sense. I misunderstood what you said.

24 THE COURT: So then whoever -- whoever is going to  
25 represent you can --

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MR. GOLDSTEIN: So, the 6<sup>th</sup> will be the motion to dismiss

-- THE COURT: Just the motion to dismiss --

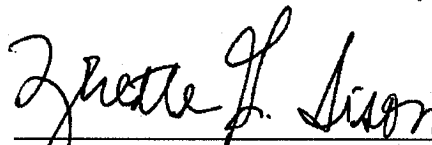
MR. GOLDSTEIN: -- meaning a status check to reset the  
motion -- to reset the revo.

THE COURT: -- and status check reset -- perfect.

[Hearing concluded at 10:59 a.m.]

\* \* \* \* \*

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



Yvette G. Sison  
Court Recorder/Transcriber



Alvin B. Hanson

## RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

**VS.**

SAMMIE NUNN,  
Defendant.

CASE#: C-18-336184-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS,  
DISTRICT COURT JUDGE  
TUESDAY, AUGUST 6, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE  
COUNSEL/STATUS CHECK: RESET REVOCATION OF PROBATION**

**APPEARANCES:**

For the State: **CHAD LEXIS, ESQ.**  
Deputy District Attorney

For the Defendant: **ANTHONY GOLDSTEIN, ESQ.**

RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, August 6, 2019

2  
3 [Hearing began at 9:02 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 MR. GOLDSTEIN: Anthony Goldstein for the Defendant;  
7 he is present in custody, Your Honor.

8 THE COURT: Can I have counsel approach?

9 [Bench Conference]

10 THE COURT: What are we doing with this? Is he  
11 competent?

12 MR. GOLDSTEIN: Hard to tell because he goes in and out  
13 of competency in my opinion. It depends on the condition,  
14 depends on his mood. I can't – I don't know if the letter is  
15 malingering effort to look more, to go back into competency or not.  
16 I really don't know.

17 I thought about re-evaluating him for competency, but I  
18 don't know – it's a permanent – he's not – I don't think he's ever  
19 going to get normal, unfortunately.

20 THE COURT: Are you all going to file any opposition to  
21 any of this?

22 MR. LEXIS: No.

23 THE COURT: Megan doesn't care?

24 MR. LEXIS: Megan doesn't care.

25 THE COURT: Initially, on basis, he got – is there any –

1 anything to any of this that these – included in the letter. Are there  
2 witnesses? Are there people that –

3 MR. GOLDSTEIN: Judge, I've talked to people – I did a lot  
4 on this case. I talked to people --

5 THE COURT: Okay, this is all recorded, let's make a –

6 MR. GOLDSTEIN: -- I'm trying to – I spoke with several  
7 witnesses, they were at the mini mart to where in that area he gave  
8 me the names for.

9 THE COURT: Some names and numbers?

10 MR. GOLDSTEIN: Yes. Somewhere in that letter, it said  
11 something about – I submit this is not believable. Yeah, I talked to a  
12 person, I'm not going to say his name, but I talked to a person, and  
13 there's no way that person is credible. I interviewed that person  
14 myself over the phone. They said they were there and it was very  
15 clear that that person wasn't credible, wouldn't be a valuable  
16 witness in any way, shape, or form. Seemed to be a friend of  
17 Sammie's who may or may have not actually been there, but the  
18 testimony would have been worthless at the trial; probably worked  
19 against Sammie in trial.

20 I talked to the people who worked at the mini mart store.  
21 Sammie says; oh, they're going to stand up for me. They're going  
22 to stand with the guy, so it doesn't matter what they're going to do.  
23 They weren't witnesses to this, and I went to the store personally to  
24 talk to the manager in some other – it's a mini mart on Twain and  
25 Swenson. I went there and talked to these people. They're not,

1 they weren't there. They didn't see it. They didn't have the  
2 videotape anymore. By the time I got on the case, they didn't have  
3 any --

4 THE COURT: Does he have the video? Have you checked  
5 his phone? Didn't he say something about he downloaded a video  
6 on his phone and it's in his property?

7 MR. GOLDSTEIN: He's never mentioned that to me.

8 THE COURT: Maybe then --

9 MR. GOLDSTEIN: -- I wasn't his first lawyer on the case.  
10 Jen Waldo had him first, but I -- he's never mentioned it to me.

11 THE COURT: -- the only information is they don't really  
12 think there's a basis to dismiss you, it's not going to have the same  
13 with every attorney, but I'm going to ask him, you know, about --  
14 and if there's a video on his phone, can you access that in his  
15 property and look at it?

16 MR. GOLDSTEIN: It might not be in his property. Metro  
17 might have confiscated it, but either way it's out there. If there's a  
18 phone --

19 THE COURT: Can we follow-up with it?

20 MR. GOLDSTEIN: -- out there, you can sign an order --

21 THE COURT: Okay.

22 MR. GOLDSTEIN: -- but I doubt that exists. Seems like  
23 that's something he would've mentioned to me.

24 THE COURT: But that's -- you know, that's why it's an  
25 easy --

1 MR. GOLDSTEIN: Correct.

2 THE COURT: -- easy follow-up; and then we'll go ahead  
3 and reset that other one? Yeah?

4 MR. LEXIS: Sounds good, Judge.

5 THE COURT: Thank you for all your assistance Mr. Lexis.  
6 I appreciate it.

7 MR. LEXIS: Hope I get a response to this.

8 THE COURT: I know. Okay.

9 [Bench Conference Concluded]

10 THE COURT: Okay, this is Mr. Nunn's motion to dismiss  
11 counsel and appoint counsel. I think we've kind of addressed this  
12 previously.

13 THE DEFENDANT: We -- when we addressed it, Your  
14 Honor, we never counting back -- to fully air out the inquiry.

15 So, there were some things that Mr. Goldstein was  
16 supposed to do, and you gave him about a month to do the things,  
17 and he didn't fulfill any of the things that he needed to do.

18 THE COURT: What was he supposed to do?

19 THE DEFENDANT: He's was supposed to interview  
20 witnesses.

21 THE COURT: Okay, Mr. Goldstein, have you interviewed  
22 the witnesses?

23 MR. GOLDSTEIN: Several, Your Honor; two that worked  
24 at the mini mart outside of which this took place, and one witness  
25 whose name is escaping me right now. He put me in contact with,

1 who is allegedly an eyewitness, and I spoke – personally spoke with  
2 that person. I didn't find that person – my opinion was that person  
3 would not have been a beneficial witness for the Defense in the  
4 trial, Your Honor.

5 THE COURT: Okay, so he did that.

6 MR. GOLDSTEIN: And I told Sammie that already, that I  
7 had spoken to that person too.

8 THE DEFENDANT: He did not, Your Honor, and he doesn't  
9 have any record from a prior investigator who has done that.

10 MR. GOLDSTEIN: I went there myself personally, Your  
11 Honor.

12 THE DEFENDANT: I don't know if he's supposed to go  
13 personally and talk to witnesses without anything that's on the  
14 record. These things that he hasn't done, pushing me – push me  
15 into a corner to take the deal instead of not being prepared for trial  
16 because practically – personally I'm innocent, and I didn't need – I  
17 didn't want to take that deal, but he kind of forced me into a corner  
18 by telling me he's not going to use eyewitnesses; by telling me he's  
19 not going to use the victim that wanted to come forward and  
20 express exactly what happened.

21 I actually have new evidence of a statement that a victim  
22 made because they seen me when I was out. I didn't want to be a  
23 part of anything, so I whipped out a phone and started recording  
24 right then; and these things need to be addressed. I think we need  
25 to air this out and have an evidentiary hearing.

1           There's more things he didn't do. For the record, he did  
2 talk to Kirra Tyme [phonetics] you said?

3           MR. GOLDSTEIN: I'm sorry.

4           THE DEFENDANT: You said you talked to Kirra Tyme  
5 [phonetics]?

6           MR. GOLDSTEIN: I don't recall the name, that was the  
7 second named victim.

8           THE DEFENDANT: Second name victim, they're victims  
9 right? He didn't tell me the details of the conversation, of him  
10 talking to Kirra Tyme [phonetics]. He said he talk to them,  
11 something, something.

12           But I asked him; well, what was the conversation about,  
13 and he said we're not going to get into this right now. These are  
14 things that I needed to know before trial in order to be prepared to  
15 see exactly what my outcome would be, for the simple fact, that I  
16 know I'm – I know I'm innocent because I didn't do anything. The  
17 first incident when I protected myself, I gave him a –

18           MR. GOLDSTEIN: And I'd advise the Defendant not to talk  
19 about the facts of the case right now, in case, for future purposes  
20 this could come back to haunt him.

21           THE COURT: Here's where we are Mr. Nunn, the only  
22 thing that's in front of me is the motion to dismiss counsel –

23           THE DEFENDANT: Yes ma'am.

24           THE COURT: -- all of this other stuff –

25           THE DEFENDANT: Yes.

1 THE COURT: -- may be the subject of something else, but  
2 it's not on for today. Today all I can do is address your counsel,  
3 and I'm not finding any basis to appoint alternative counsel. You  
4 are free to represent yourself --

5 THE DEFENDANT: I can't -- if I can represent myself I'd  
6 rather do that than deal with the consequences that has already  
7 come behind having him as my counsel.

8 MR. GOLDSTEIN: Your Honor, we should keep in mind  
9 that that was -- mine was the second deal that he took. His previous  
10 attorney, he pled and was pending sentencing when Judge Togliatti  
11 appointed me, I filed a motion to withdraw his plea, which Judge  
12 Togliatti granted, and then this is the second time -- mine was  
13 affected with the second guilty plea agreement he went through.  
14 Mine was a much better offer than the first one because it was -- on  
15 paper it was for probation, Your Honor, so -- to say that I forced  
16 him, I mean he had already taken an arguably worst deal months  
17 prior to that before I even was involved with the case so, this  
18 doesn't really comport with the facts, Your Honor.

19 THE DEFENDANT: And that -- that issue was because I  
20 was -- I was coerced. The DA thought that I had 11 felonies, so she  
21 said either you take this deal or I'm going to file a habitual criminal  
22 on you, and so I said, I don't have another felonies, I actually have  
23 zero felonies, and I've never been a felon in my entire life, so the  
24 reason --

25 MR. GOLDSTEIN: That was basis for the motion to



1 withdraw plea, but that was again in the past.

2 THE DEFENDANT: Yeah, yeah, and so we went forward  
3 because they didn't want to pull my real record up until the PSI  
4 came back, and the PSI came back before sentencing and it proved  
5 that I have zero felonies.

6 THE COURT: Okay so what's the issue with it? I mean yes  
7 it's zero felonies, you've entered your plea. You were given  
8 probation, and now you're on for revocation of probation so, that's  
9 all in the past.

10 THE DEFENDANT: Yeah, and I want to withdraw the plea,  
11 he's telling me no.

12 THE COURT: Okay, well you don't have a motion  
13 pending to do that, so if –

14 THE DEFENDANT: I'm asking my attorney to put in the  
15 motion because you guys aren't going to put in a motion unless my  
16 attorney puts in; this is going to be a copy that goes to my attorney  
17 because I've tried this before, so –

18 MR. GOLDSTEIN: Your Honor, I visited him a couple  
19 times, many times. Most –

20 THE DEFENDANT: And I've asked you to withdraw the  
21 plea.

22 MR. GOLDSTEIN: -- right, and I don't believe – I pled him,  
23 so I know that there's no legal grounds. I'm very confident that he  
24 was aware of all –

25 THE DEFENDANT: Newly discovered evidence is legal

1 grounds.

2 MR. GOLDSTEIN: I'm very confident he was aware of  
3 everything he was signing, and he was very –

4 THE DEFENDANT: There's a brand new statement from  
5 the victim. There's new grounds.

6 MR. GOLDSTEIN: -- I'm just trying to talk.

7 THE COURT: Can you let Mr. Goldstein please?

8 THE DEFENDANT: Sure.

9 MR. GOLDSTEIN: I specifically addressed his points about  
10 withdrawing his plea. I can only file motions that I believe there's a  
11 legal basis for. I pled him. I visited him many times before he pled.  
12 I talked to him after he pled. There's the whole issue of his getting  
13 into that transitional housing that I worked on for a long long time,  
14 with a lot of different people. I know, Your Honor, that – I'm  
15 confident that it was a clean plea. I don't find any legal basis. I'm  
16 not going to file a motion when I don't think there's any merit, so  
17 that's – he and I fully discussed this. I visited him multiple times.

18 THE DEFENDANT: So what happens with conflict of  
19 interest when it comes to that issues? And on top of that, I wasn't –  
20 I wasn't disclosed on my appeal rights. There was one –

21 THE COURT: Okay this is way – this is way outside of  
22 where we are –

23 THE DEFENDANT: Okay that's fine –

24 THE COURT: - we're strictly here to reset the revocation.

25 THE DEFENDANT: -- I'm saying that I'm having ineffective

1 assistance of counsel, and the things that I want to move forward  
2 on with my case, my attorney is not moving on with it, and he's  
3 telling me no. I'm not doing this, I'm not doing that. I have no time  
4 to do that, I have no time to do –

5 THE COURT: That's not what he's saying. He said he  
6 doesn't see a legal basis, and he's – he's

7 THE DEFENDANT: -- okay we can try. We can at least try,  
8 and there is a legal basis.

9 THE COURT: No that's not – that's not how this works.  
10 That's not how – let's just throw stuff up and stick it out there –

11 THE DEFENDANT: I didn't say throw stuff up –

12 THE COURT: -- and stick up there whether we believe in it  
13 or not.

14 THE DEFENDANT: -- but, but how about this, how about  
15 an evidentiary hearing to see if the new evidence is –

16 THE COURT: No. There's no basis.

17 THE DEFENDANT: -- there's no basis? New evidence isn't  
18 a basis?

19 THE COURT: What's the new evidence?

20 THE DEFENDANT: The new evidence is a video of the  
21 victim confessing.

22 THE COURT: Where's that?

23 MR. GOLDSTEIN: Judge, I've never heart of it until very  
24 recently.

25 THE DEFENDANT: It's on my property on my phone. It's

1 also on Facebook, all over Facebook, it's brand new --

2 THE COURT: Okay, well I'm not going on Facebook.

3 THE DEFENDANT: -- okay, it's on my phone, in my  
4 property.

5 THE COURT: Is it somewhere Mr. Goldstein can access?

6 THE DEFENDANT: Oh he can go get my phone off my  
7 property as soon as he wants to. It's --

8 MR. GOLDSTEIN: This is the first I've heard of his phone  
9 with exculpatory evidence --

10 THE DEFENDANT: -- actually --

11 MR. GOLDSTEIN: -- after however long I mentioned it so.

12 THE DEFENDANT: -- it's not, because --

13 MR. GOLDSTEIN: Perhaps in the letter.

14 THE DEFENDANT: -- it's actually -- it's in the motion to  
15 dismiss counsel. I wrote it in the motion.

16 THE COURT: Correct, and that's what he's saying. It's the  
17 first he's heard of it.

18 THE DEFENDANT: He visited me when the motion was  
19 already in, so it's not the first time he's heard of it, and we've had  
20 time to talk about it, but he just got up and left the visiting room.

21 THE COURT: I'm going to -- how long do you need to take  
22 a look at this? I'll sign an order to release the phone to you for the  
23 purpose of viewing the phone to follow-up on the new evidence.

24 MR. GOLDSTEIN: Exculpatory video on his phone that  
25 someone else took? It's that what I'm hearing?

1 THE DEFENDANT: I know you want to --

2 MR. GOLDSTEIN: I just want to make sure I get the right  
3 phone from the right person.

4 THE DEFENDANT: -- I know we're going through a issue,  
5 but these are legal things, and we're in court.

6 MR. GOLDSTEIN: Okay. What type of phone is it? I'll talk  
7 to him about what type of phone it is before I send the order, Your  
8 Honor.

9 THE COURT: Mr. Goldstein is trying to help you, so  
10 disrespecting isn't working for me okay.

11 THE DEFENDANT: I'm just trying to get through the deal --

12 THE COURT: If that's how you're dealing with him.

13 THE DEFENDANT: -- I'm trying to get through the legal  
14 parts ma'am.

15 THE COURT: Well you're not being super successful. I  
16 would suggest that you be respectful to the person whose trying to  
17 help you out here.

18 THE DEFENDANT: Yes ma'am.

19 THE COURT: He's going to go over to your property, get  
20 your phone out, and take a look and see if there's something there.  
21 If there's something there, we'll come back and talk about it. If  
22 there's not, we're going to go ahead and set the revocation hearing.

23 If you'd like to represent yourself at that point, I'll do a  
24 Faretta Canvass and you can do that. For now though, he's going  
25 to go ahead and take a look at that.

1 THE DEFENDANT: That's awesome. Thank you. Should I  
2 sit down now or –

3 THE COURT: You can sit, yes.

4 THE DEFENDANT: Thank you.

5 THE COURT: Logistically, I don't – not sure how this is  
6 going to work.

7 MR. GOLDSTEIN: I'll visit the Defendant ASAP. I'll give  
8 you the order once I find out –

9 THE COURT: Okay.

10 MR. GOLDSTEIN: -- once I find out details about the  
11 phone. I'll try and get the phone from property. It's different from  
12 getting it from CCDC versus from the evidence vault. Usually it's a  
13 little bit smoother through CCDC if I have your order so --

14 THE COURT: Okay.

15 MR. GOLDSTEIN: It would also be quicker if the DA signs  
16 off on the order. So I'll submit it to Ms. Thomson, it's her case.  
17 Usually that makes things smoother, because they like to call  
18 somebody from the DA's Office just to verify everything –

19 THE COURT: Okay.

20 MR. GOLDSTEIN: -- so I'll do all that to find this video.

21 THE COURT: And then you'll just look at it.

22 THE DEFENDANT: And I would also like the DA to look at  
23 it, everybody to have it. I want the –

24 THE COURT: I am positive, beyond positive, if there is  
25 exculpatory evidence on your phone –

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THE DEFENDANT: Yes ma'am.

THE COURT: -- Mr. Goldstein will go run it to Mr.  
Thomson, I promise.

THE DEFENDANT: Thank you, Judge, thank you.

MR. GOLDSTEIN: I'll sprint.

THE COURT: Right. I know you will.

MR. GOLDSTEIN: Could we do two weeks please, Your  
Honor?

THE COURT: Sure.

THE COURT CLERK: August 20<sup>th</sup> at 9 a.m.

MR. GOLDSTEIN: Thank you.

THE COURT: Thank you.

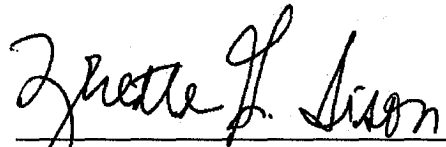
THE DEFENDANT: Thank you, Your Honor.

THE COURT: You're welcome.

[Hearing concluded at 9:16 a.m.]

\* \* \* \* \*

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

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

SAMMIE NUNN,

Defendant.

CASE NO. C-336184-1

DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE

AUGUST 20, 2019

**RECORDER'S TRANSCRIPT OF HEARING RE**

**MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATIVE COUNSEL /  
STATUS CHECK**

**APPEARANCES:**

For the Plaintiff:

MEGAN S. THOMSON, ESQ.  
Deputy District Attorney

For the Defendant:

ANTHONY GOLDSTEIN, ESQ.  
Deputy Public Defender

For the Defendant: [appointed counsel]

MARISA BORDER, ESQ.

RECORDED BY: YVETTE SISON, COURT RECORDER



1 TUESDAY, AUGUST 20, 2019 AT 9:37 A.M.

2  
3 THE COURT CLERK: Page 17, State of Nevada versus Sammie Nunn, C-  
4 336184.

5 MR. GOLDSTEIN: Anthony Goldstein for the Defendant, Your Honor. He's  
6 here in custody.

7 THE COURT: Okay. This was – we're gonna –

8 MR. GOLDSTEIN: You signed an order –

9 THE COURT: Did you get a chance to look at the phone?

10 MR. GOLDSTEIN: I have the phone. I've reviewed the evidence that the  
11 Defendant wanted me to. I – the individual depicted on the phone I had spoke –  
12 personally spoken with a couple of months ago, I don't know the exact date but I  
13 received a call from this individual a couple of months ago telling me very – I mean,  
14 basically the same information. There's a couple of videos on here. But I was  
15 aware of – this person, he's a – there are two originally named victims, this was  
16 Cara Kines, the other one was named Prince Alidu. This was Cara who I spoke with  
17 a couple of months ago long before the Defendant entered his plea in this case. He  
18 contacted my office then I mentioned that in court at a previous hearing as well. So,  
19 I was able to watch this since the last hearing. It doesn't change my opinion; it  
20 doesn't change the state of evidence at all because again I spoke with this person  
21 personally –

22 THE DEFENDANT: Your Honor –

23 MR. GOLDSTEIN: -- sometime before that. So, I –

24 THE DEFENDANT: It changes the evidence because – I mean, Cara Kines  
25 [phonetics] has admitted that I didn't do the crime and that they actually chased me

1 down. The evidence is on the phone and he's not willing to bring the evidence  
2 forward. Also, Prince Alidu had -- had filed a temporary protective order on me and  
3 Judge [indecipherable].

4 MR. GOLDSTEIN: We addressed this in depth previously, Your Honor.

5 THE DEFENDANT: Yeah. And he also admitted that I didn't do the crime  
6 and his story actually corroborates -- but he added something about a pistol which  
7 Cara Kines faithfully states I didn't -- I had no physical -- this evidence needs to  
8 come to light, all these things need to come forward.

9 THE COURT: Okay. Well, it sounds to me like Mr. Goldstein was already  
10 aware of it and --

11 THE DEFENDANT: He wasn't aware of it.

12 THE COURT: -- and the reality is we're at revocation, you've already pled  
13 guilty. So, if there are other vehicles to file this you're gonna have to look at those.

14 THE DEFENDANT: What are the --

15 THE COURT: We're just here to -- I'm not here to advice you, I'm just here to  
16 set a revocation. So, we're gonna go ahead and re-set the revocation --

17 THE DEFENDANT: So -- so, me and --

18 THE COURT: As a favor --

19 THE DEFENDANT: -- me and my attorney are having a conflict of interest in  
20 bringing this evidence forward. If he was already aware of the evidence why didn't it  
21 come forward --

22 THE COURT: He just explained that it didn't change anything.

23 THE DEFENDANT: It does change --

24 THE COURT: He was aware of it, he spoke to those people. He spoke to --

25 THE DEFENDANT: He did --

1 THE COURT: You –  
2 THE DEFENDANT: -- not – he did not –  
3 THE COURT: -- you can't talk –  
4 THE DEFENDANT: -- set a meeting.  
5 THE COURT: -- over me. You can't talk –  
6 THE DEFENDANT: He didn't set a meeting.  
7 THE COURT: He talked to those people, he's represented he's talked –  
8 THE DEFENDANT: He didn't –  
9 THE COURT: -- to these people –  
10 THE DEFENDANT: -- talk to them.  
11 THE COURT: You took a plea so – I mean –  
12 THE DEFENDANT: What –  
13 THE COURT: -- that's kind of where we are.  
14 THE DEFENDANT: -- what – what is the evidence that he talked to them?  
15 Can you show me some evidence –  
16 THE COURT: I'm not showing you –  
17 THE DEFENDANT: -- where Anthony –  
18 THE COURT: -- anything.  
19 THE DEFENDANT: -- Goldstein talked to – talked to –  
20 THE COURT: I'm not gonna –  
21 THE DEFENDANT: -- talked to –  
22 THE COURT: -- show you anything.  
23 THE DEFENDANT: -- talked to –  
24 THE COURT: We're gonna go ahead and re-set the revocation. We're  
25 gonna re-set it for a revocation hearing. If you want to hire your own counsel –

1 THE DEFENDANT: There's also --

2 THE COURT: -- you may do that.

3 THE DEFENDANT: -- there's also a new witness his name is Andolfachu

4 Nikonen [phonetics], he works at the Your Stop Liquor store.

5 THE COURT: Mr. Nunn --

6 THE DEFENDANT: His number is 702 881-92 --

7 MR. GOLDSTEIN: I haven't heard --

8 THE DEFENDANT: -- 93.

9 MR. GOLDSTEIN: -- this name before, Your Honor, but --

10 THE DEFENDANT: He hasn't talked to Andolfachu Nikonen [phonetics]

11 neither. This is -- Mr. Goldstein --

12 MR. GOLDSTEIN: I would remember --

13 THE DEFENDANT: -- isn't doing --

14 MR. GOLDSTEIN: -- speaking to somebody --

15 THE DEFENDANT: -- his job.

16 MR. GOLSTEIN: -- named -- whatever the name was. This is the first of even  
17 hearing of the name --

18 THE DEFENDANT: His name is --

19 MR. GOLDSTEIN: -- standing here in court today.

20 THE DEFENDANT: -- Andolfochu [phonetics], I have his number, he works at  
21 Your Stop Liquor store at night. This is -- this is readily accessible information for  
22 Mr. Goldstein.

23 MR. GOLDSTEIN: And as I told the Court, I personally went to Your Stop,  
24 spoke with the manager. The employee --

25 THE DEFENDANT: [indecipherable] hasn't worked there in over a year. You

1 got that from the police report.

2 MR. GOLDSTEIN: I spoke with [indecipherable]. We've gone over this, Your  
3 Honor. I personally went there and spoke --

4 THE COURT: Will you guys approach?

5 MR. GOLDSTEIN: -- with the manager of the store.

6 THE DEFENDANT: You haven't talked to [indecipherable]. I'm giving you  
7 evidence.

8 [Bench conference]

9 THE COURT: All right. Mr. Nunn, I am going to have counsel appointed to  
10 you for the limited purpose to see if you have any grounds upon which you could file  
11 a motion to withdraw your guilty plea. That's what you're telling me you want to do,  
12 correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. Mr. Goldstein, if -- he'll be back on later after this is  
15 done but for the moment you're gonna get a attorney to look into it.

16 THE DEFENDANT: I appreciate it.

17 THE COURT: Who's next? Continued for Ms. Border to be appointed.

18 MS. BORDER: I'm here -- I'm here, Your Honor.

19 THE COURT: Oh. I didn't see you.

20 MR. GOLDSTEIN: And I have the phone, Your Honor. Since Ms. Border is  
21 here now I'll just give it to her and I'll give her the rest of discovery later.

22 THE COURT: We're actually at a revo stage, but he had filed a motion -- Mr.  
23 Nunn had filed a motion to discharge his attorney. And so there's all this new  
24 evidence and has been sending numerous letters and motions. One of the things  
25 he had said was that he had a phone in property that had exculpatory video on it. I

1 asked Mr. Goldstein to take a look at it, he's done that. He's made his record that  
2 he didn't see anything, but in any event I suppose you can all talk about it.

3 You are appointed pre-revocation hearing to look into whether he has  
4 any legal basis upon which to withdraw his guilty plea before we proceed to  
5 revocation.

6 MS. BORDER: And just for the record, I do have the phone in my  
7 possession. Okay.

8 THE COURT: So, how long do you need, Ms. Border, to –

9 MS. BORDER: Are we able to pass this until September 5<sup>th</sup>?

10 THE COURT: We are.

11 MS. BORDER: Okay. That's two weeks, a little over two weeks.

12 THE COURT: Sure. And that'll just be the status check. And if you find  
13 grounds then we can set a briefing schedule if you –

14 MS. BORDER: Yeah. That's fine.

15 THE COURT: Or you file or whatever. Okay.

16 MS. BORDER: Okay.

17 THE COURT: All right. Mr. Nunn, Ms. Border will be over to see you.

18 THE DEFENDANT: Thank you.

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1 THE COURT CLERK: September 5<sup>th</sup> at 9:00 a.m.

2 [Proceedings concluded at 9:49 a.m.]

3 \* \* \* \* \*

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

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

SAMMIE NUNN,

Defendant.

CASE#: C-18-336184-1

DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS,  
DISTRICT COURT JUDGE

THURSDAY, SEPTEMBER 5, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
STATUS CHECK: MOTION TO WITHDRAW GUILTY PLEA  
AGREEMENT**

APPEARANCES:

For the State:

ASHLEY LACHER, ESQ.  
Deputy District Attorney

For the Defendant:

MARISA BORDER, ESQ.

RECORDED BY: YVETTE SISON, COURT RECORDER



1 Las Vegas, Nevada, Thursday, September 5, 2019

2  
3 [Hearing began at 9:08 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 THE COURT: Ms. Border did you get a chance to look at  
7 the phone and –

8 MS. BORDER: Your Honor, I've reviewed the mass  
9 amounts of underlying discovery, spoken to Mr. Goldstein  
10 regarding his defenses and his conversations with Mr. Nunn. I do  
11 have the phone in possession now. I just need an additional week  
12 to go through some things with Mr. Nunn himself. There was  
13 another witness that I'd like to try and make contact with.

14 So this was a status check just to see if there was a basis  
15 to file a motion. Are we able to –

16 THE COURT: Are you still not sure if there's a basis or are  
17 we continuing it to see if there's a basis and then going to set a  
18 briefing schedule? If so, what are we doing?

19 MS. BORDER: -- yes.

20 THE COURT: You want just a week.

21 MS. BORDER: I would rather do the week –

22 THE COURT: Right.

23 MS. BORDER: -- because if there's not a basis then –

24 THE COURT: Okay.

25 MS. BORDER: Thank you.

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THE COURT CLERK: September 12<sup>th</sup> at 9 a.m.

MS. BORDER: Thank you.

[Hearing concluded at 9:09 a.m.]

\* \* \* \* \*

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



Yvette G. Sison  
Court Recorder/Transcriber



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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-18-336184-1  
DEPT. XVIII

10 vs.

11 SAMMIE NUNN,  
12 Defendant.

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 THURSDAY, SEPTEMBER 12, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **STATUS CHECK: MOTION TO WITHDRAW GUILTY PLEA**  
19 **AGREEMENT**

20 APPEARANCES:

21 For the State: HETTY WONG, ESQ.  
22 Deputy District Attorney

23  
24 For the Defendant: DANIEL GILLIAM, ESQ.

25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, September 12, 2019

2  
3 [Hearing began at 10:46 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 THE COURT: Where are we on this? Do you know? Did  
7 she say?

8 MR. GILLIAM: Good Morning, Judge, Dan Gilliam, #92 67  
9 on behalf of Ms. Border for Mr. Nunn. Judge, my understanding is,  
10 according – from Ms. Border, a briefing schedule needs to be made.

11 THE COURT: Okay. You talk to Ms. Border, and she's  
12 going to go ahead and put together a motion for you right?

13 THE DEFENDANT: I haven't talked to her about it, but can  
14 you explain to me what that means?

15 THE COURT: That means – remember that you wanted to  
16 withdraw your guilty plea?

17 THE DEFENDANT: Yes ma'am.

18 THE COURT: And I appointed Ms. Border to look into – if  
19 you have a basis –

20 THE DEFENDANT: Yes ma'am.

21 THE COURT: She must think that there's something  
22 worth filing at least, so she's going to do it – prepare a motion to  
23 withdraw guilty plea, then the State will respond, and then she'll  
24 reply, then we'll set it for argument.

25 THE DEFENDANT: Oh.

1 THE COURT: Okay?

2 THE DEFENDANT: Thank you.

3 THE COURT: Yes. She say how long she wants? I'm going  
4 to keep the original letter in the file, left side, and then – you all  
5 want copies?

6 THE MARSHAL: We need to recall page 20.

7 THE COURT: Wait, we need a briefing schedule. How long  
8 does she want to file? Do you know?

9 MR. GILLIAM: Can we have 30 days please?

10 THE COURT: So, 30 days for opening.

11 THE COURT CLERK: That'll be October 10<sup>th</sup>.

12 THE COURT: State, you want two weeks to respond?

13 MS. WONG: Please.

14 THE COURT CLERK: October 24<sup>th</sup>.

15 MR. GILLIAM: Judge, she probably will not want to reply,  
16 but if the Court wants to give her time to do one, she can.

17 THE COURT: All right. We'll give her a week to reply.

18 THE COURT CLERK: October 31<sup>st</sup>.

19 THE COURT: And then the next date for hearing.

20 THE COURT CLERK: November 5<sup>th</sup> at 9 a.m.

21 THE COURT: And that will be just for the hearing and the  
22 motion to withdraw guilty plea. If it's denied, we'll set a sentencing  
23 date after that so that the State can let the victims know if they want  
24 to appear, okay; but I'm not going to plan to go forward in  
25 sentencing unless somebody calls me ahead of time. Is that it?

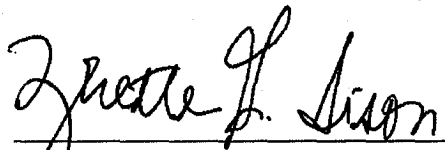
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MR. GILLIAM: Judge, thank you.

[Hearing concluded at 10:49 a.m.]

\* \* \* \* \*

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

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-18-336184-1  
DEPT. XVIII

10 vs.

11 SAMMIE NUNN,  
12 Defendant.

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 TUESDAY, NOVEMBER 5, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **MOTION TO WITHDRAW GUILTY PLEA**

19  
20 APPEARANCES:

21 For the State: JOHN JONES, ESQ.  
22 Deputy District Attorney

23 For the Defendant: MARISA BORDER, ESQ.

24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Tuesday November 5, 2019

2  
3 [Hearing began at 11:15 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 MS. BORDER: Good Morning present with Ms. Nunn,  
7 who is in custody – Mr. Nunn, who is in custody.

8 MR. JONES: And John Jones on behalf of the State; and  
9 Your Honor, I did reach out to your law clerk –

10 THE COURT: I'm sorry, what page?

11 MS. BORDER: It's 21, Your Honor.

12 MR. JONES: It's 21, Sammie Nunn.

13 THE COURT: Yes.

14 MR. JONES: And Your Honor, I reached out to your law  
15 clerk because originally, the Defense in this case was talking about  
16 filing a motion to withdraw a guilty plea, and I think they realized  
17 procedurally, a writ of habeas corpus was probably best avenue in  
18 which to challenge what their challenging. So, they did file a writ.

19 We filed a response. Today is the status check on the  
20 motion to withdraw guilty plea, in which the Defendant did not file;  
21 11/26 is when the writ is scheduled.

22 So, I emailed just to see what was happening today, and I  
23 didn't know if Your Honor is ready to decide the writ today, I think  
24 we're ready to at least argue. I think we're both are just going to  
25



1 submit; but if you want to pass it to 11/26, that's fine with us as  
2 well.

3 THE COURT: I'm ready. Mr. Nunn, you ready to go  
4 forward?

5 THE DEFENDANT: I'm ready.

6 THE COURT: All right.

7 MS. BORDER: And yes, Your Honor, Mr. Jones was  
8 correct in that I – upon further reflection realized that because of it  
9 was post-sentencing that it probably was required to be called a  
10 writ, so with that information in hand, I did file the writ.

11 I think that everything including the facts learned from the  
12 investigator, the potential new witness that would come forward at  
13 a jury trial, if granted, the relief requested, that this does rise to the  
14 level required for the writ hearing, and we would be submitting on  
15 the writ, asking for him to be able to withdraw the guilty plea.

16 MR. JONES: And Your Honor, the question is – just  
17 briefly, manifest injustice; and according to the Defendant's  
18 arguments, Your Honor, they're asserting a factual, excuse me, self-  
19 defense, which is not a factual deficiency, thus we don't have a  
20 legal insufficiency here, Judge, and you should deny the  
21 Defendant's petition for a writ of habeas corpus.

22 THE COURT: I am going to deny the petition. I don't see  
23 that the plea was not freely and voluntarily entered. This wasn't a  
24 jury trial, this was actually a guilty plea, with a self-defense issue –  
25 actually in a sense, I'm not even sure we get there, but in any event,

1 I do not find manifest injustice, and I'm going to deny it based on  
2 the State's opposition. If you guys would prepare the findings and  
3 order, I'd appreciate it.

4 MS. BORDER: So, Your Honor, this was kind of an odd  
5 juncture in that he was back on a probation revocation. Did we –

6 THE COURT: Okay – right, right. We need to reset the  
7 revocation.

8 MS. BORDER: And does that go back to the original  
9 attorney?

10 THE COURT: Yes.

11 MS. BORDER: Okay.

12 THE COURT: It should.

13 MS. BORDER: I don't recall who that was, if it was the  
14 Public Defender's Office or if it was Mr. Goldstein.

15 MR. JONES: It was Mr. Goldstein.

16 THE DEFENDANT: It was Goldstein. Because he didn't –  
17 he didn't talk to the new witness. There was a – there's a new  
18 witness – I don't know –

19 MS. BORDER: And the new witness was the one that was  
20 the basis for the writ that we had filed.

21 THE DEFENDANT: Right and the new witness submitted  
22 an affidavit stating what's happening, and that's what we were  
23 supposed to be here for today.

24 THE COURT: And that's – that's what I just ruled on. I  
25 don't find that there's sufficient information there for me to make a

1 finding of manifest injustice, which is what I would have to find in  
2 order to allow you to withdraw your plea at this point, so.

3 THE DEFENDANT: Did you read over the affidavit?

4 THE COURT: I did. I read everything. I did.

5 THE DEFENDANT: So –

6 THE COURT: So, my question is we need to set this back  
7 for revocation, probation hearing, and I think we put Mr. Goldstein  
8 back on it because you were just on for a limited purpose, correct?

9 MS. BORDER: That was my understanding, Your Honor.

10 THE DEFENDANT: -- so Your Honor, even though I was  
11 being attacked, that's not manifest injustice?

12 THE COURT: Even though what?

13 THE DEFENDANT: Even though – if I was being attacked,  
14 and I had to defend myself, that's not manifest injustice?

15 THE COURT: That's – you mixed up the standards, but  
16 I've already ruled on that, so let's just set the revocation hearing.  
17 Do we need to bring Mr. Goldstein back in before we set it?

18 MR. JONES: If you want to set it, and as long as you  
19 notify Mr. Goldstein, if the Court will, I'll notify the officer to be  
20 present on the date that you set.

21 THE COURT: Okay.

22 THE DEFENDANT: Do I – what's the next process in this?  
23 Do I go to a higher court or what happens after you dismiss it?

24

25

1 THE COURT: Talk to Mr. Goldstein about it. Right now,  
2 you're going to come back here on a revocation to see if we're  
3 going to revoke your probation.

4 MS. BORDER: And Your Honor, for Mr. Nunn, I will  
5 provide him the writ, the response, and the order with the Court's  
6 ruling, so it's crafted a little more clear when you go through it with  
7 Mr. Goldstein.

8 THE DEFENDANT: Yeah, I still don't understand what's -  
9 why. If somebody provoked me and chased me down and put their  
10 hands on me -

11 THE COURT: You pled guilty. You pled guilty, Mr. Nunn -

12 THE DEFENDANT: -- but that was -

13 THE COURT: -- and once you plead guilty, there are  
14 certain things the law says -

15 THE DEFENDANT: -- what about factual --

16 THE COURT: -- you have to show certain things which I  
17 found you have not shown under the law.

18 THE DEFENDANT: -- I showed factual innocence.

19 THE COURT: Well, I disagree, but you could - you can  
20 appeal that.

21 THE DEFENDANT: I showed factual innocence.

22 THE COURT: Like I said, I disagree, but you can appeal  
23 that.

24 THE DEFENDANT: Can we argue the facts?

25 THE COURT: No.

1 THE DEFENDANT: I mean, ain't this what the hearing is  
2 for?

3 THE COURT: We're done.

4 MS. BORDER: And just to be clear Mr. Nunn, the facts  
5 that would be argued are in the writ –

6 THE COURT: Right.

7 MS. BORDER: -- that the Court has viewed, so –

8 THE DEFENDANT: Do you mind if I get a copy?

9 THE COURT: She's going to give you a copy of  
10 everything; that's what she just said.

11 MS. BORDER: Everything.

12 THE DEFENDANT: Okay.

13 THE COURT: I know all the facts. I know what you're  
14 alleging, I'm simply saying –

15 THE DEFENDANT: It's not what I'm alleging. It's what the  
16 witness is alleging.

17 THE COURT: I understand you have a witness, and like I  
18 said, that doesn't make a finding of factual innocence, especially  
19 when you got a self-defense so; and you pled guilty.

20 THE DEFENDANT: I pled guilty without having the  
21 opportunity to have all the witnesses available.

22 THE COURT: Well, you didn't say I'm pleading guilty  
23 because I don't have all the witnesses. You pled guilty, and so that  
24 kicks in a certain standard.

25

1 THE DEFENDANT: And I also pled guilty to a 2 to 5 and  
2 you gave me a 4 to 10; and I have no criminal history. I only got  
3 misdemeanors .

4 THE COURT: There must have been a reason, I don't  
5 know what it was.

6 THE DEFENDANT: I don't know what the reason was.

7 THE COURT: Well we –

8 THE DEFENDANT: It was you going off the old witness –  
9 the witness statements, that's why this was so big because you  
10 read the witness' statement, and you gave me a 4 to 10, and these  
11 are – this is what actually happened.

12 THE COURT: All right, well I suspect that we'll revisit that  
13 at the time of your revocation hearing, and then I'll have more  
14 information on that part of it. Right now, I've just got the writ in  
15 front of me.

16 THE DEFENDANT: So, the reason I'm going to prison or  
17 getting house arrest or whatever – if that – if the reason that that  
18 happened changed, you're still just going to go like it never like –

19 THE COURT: I don't –

20 THE DEFENDANT: -- like you never heard the true story  
21 behind what happened?

22 THE COURT: -- I'm not understanding what you're saying  
23 but –

24 THE DEFENDANT: Something separate happened than  
25 what I pled guilty to.

1 THE COURT: -- I can only change sentencing if there's a  
2 problem. Talk to Mr. Goldstein. If he thinks that there's a motion to  
3 be filed, he'll file it. Okay, revocation hearing --

4 THE COURT CLERK: I need to set a revocation hearing  
5 date, so when would you like that?

6 MR. JONES: Court's pleasure. At this point, I don't have  
7 the officer here, so I'll email him. If there's an issue, I'll bring it to  
8 the Court's and Mr. Goldstein's attention.

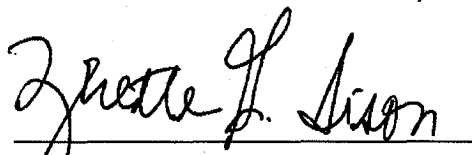
9 THE COURT CLERK: November 14<sup>th</sup>, 9 a.m., for  
10 revocation.

11 THE COURT: Okay. We'll be back here next Thursday.

12 [Hearing concluded at 11:24 a.m.]

13 \* \* \* \* \*

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

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20 Yvette G. Sison  
21 Court Recorder/Transcriber  
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1 TRAN

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3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA  
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7 THE STATE OF NEVADA,  
8 Plaintiff,  
9 vs.

CASE NO. C-18-336184-1  
DEPT. XVIII

10 SAMMIE NUNN,  
11 Defendant.

12 BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
13 NOVEMBER 14, 2019  
14

15 **RECORDER'S TRANSCRIPT OF HEARING RE**  
16 ***REVOCATION OF PROBATION***  
17

18 **APPEARANCES:**  
19

20 For the Plaintiff:

MEGAN THOMSON, ESQ.  
Deputy District Attorney

21  
22 For the Defendant:

ANTHONY GOLDSTEIN, ESQ.  
Deputy Public Defender

23 P&P Officer:  
24

A. MARQUEZ

25 RECORDED BY: YVETTE SISON, COURT RECORDER



1 THURSDAY, NOVEMBER 14, 2019 AT 10:09 A.M.

2  
3 THE COURT CLERK: State of Nevada versus Sammie Nunn, C-336184.

4 THE COURT: Good morning.

5 MR. GOLDSTEIN: Your Honor, Anthony Goldstein for Mr. Nunn. He is  
6 present in custody.

7 THE COURT: Has this resolved?

8 MR. GOLDSTEIN: There's no offer, Your Honor.

9 MS. THOMSON: That's correct.

10 MR. GOLSTEIN: We're gonna stip and argue that.

11 THE COURT: Just fyi, we've double checked the -- the violation reports  
12 indicates a 12 to 48 month suspended.

13 MR. GOLDSTEIN: Yeah.

~~14~~ THE COURT: The negotiation and my minutes reflect 24 to 60.

15 MS. THOMSON: I agree with that.

16 THE COURT: It was negotiated. The parties stipulated to a 2 to 5 underlying  
17 the probation.

~~18~~ MR. GOLDSTEIN: Your Honor, that's correct. You're right and wrong. You --  
19 we -- the stipulated agreement was a 2 to 5, you exercised your discretion and gave  
20 him a 4 to 10 underlying. So --

21 THE COURT: Okay. Well --

22 MR. GOLSTEIN: The --

23 THE COURT: -- he --

24 MR. GOLDSTEIN: -- agreement was 2 to 5 but you ended up giving him -- 2  
25 to 5 underlying. It was probation with an underlying 2 to 5.

1 THE COURT: Got it.

2 MR. GOLDSTEIN: You chose to give him a 4 to 10 with probation underlying.

3 MS. THOMSON: That is –

4 MR. GOLSTEIN: So –

5 MS. THOMSON: -- correct.

6 THE COURT: Okay. Well, the PSI indicates 12 to 48.

7 MR. GOLSTEIN: That's wrong either way.

8 THE COURT: So – so a 48 to 120?

9 MS. THOMSON: Yes.

10 MR. GOLDSTEIN: Correct. And it's gonna be a stipulated agreement, Your

11 Honor.

12 THE COURT: Would you guys approach?

13 MR. GOLDSTEIN: Yes.

14 [Bench conference]

15 THE COURT: Okay. Mr. Nunn, it's my understanding that you are – the

16 State has filed a motion to revoke your probation, it is my understanding you're

17 going to agree the State can prove all the facts set forth in the probation violation

18 report dated – anybody?

19 MS. THOMSON: July 10<sup>th</sup>.

20 THE COURT: July 10, 2019. Do you agree the State can prove those facts?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. State or P and P, or both?

23 MS. THOMSON: And, Your Honor, at this point it's the State's position that

24 the original underlying sentence of 4 to 10 should be imposed. The Court knows

25 this has a extensively tortured history. At the time of sentencing we had agreed to a

1 2 to 5. And the guilty plea agreement through interlineation – and the Court had  
2 indicated that you were inclined to send him to prison but with the agreement of  
3 probation you would be willing to give him probation with that increased underlying  
4 sentence given the violence in this case. His behaviors throughout this case then  
5 reflected in his behavior with P and P where he's going to do what he wants when  
6 he wants. In an attempt to circumvent the system it's the State's position that he's  
7 done nothing to earn any kind of benefit from this Court that he knew what the  
8 consequences were for his actions when he took those actions and that he should  
9 not receive any leniency because he didn't want to do what he needed to do. I don't  
10 know if the officer has anything to add.

11 MR. MARQUEZ: I don't.

12 MS. THOMSON: I submit it.

13 THE COURT: Mr. Nunn, is there anything you want to say or –

14 THE DEFENDANT: I just want to apologize to the Court and to the victim. I  
15 didn't mean for this to spiral out of control the way that it do and I'd like to just say  
16 I'm sorry.

17 THE COURT: Mr. Goldstein.

18 MR. GOLSTEIN: Your Honor, we had a fairly detailed discussion the bench.  
19 I won't repeat everything that was – that was said up there, but, Your Honor, this is a  
20 – Mr. Nunn – as you know I've been in contact with his mother for – throughout this  
21 whole case, he's a guy who's got a lifetime of mental health issues, serious ones,  
22 and unfortunately he just can't get a hold of his treatment, he can't get a hold of the  
23 idea he's not like everybody else. He can't go out and party on the fourth of July  
24 and do things like other people can because it messes with his head.

25 He's – was given a break on probation. I – you know, the intention was

1 for him – we all worked on this together, it was for him to go to – resume his  
2 treatment in Oakland, California, go and live with his mom, he gets out of custody,  
3 he's supposed to go right to Oakland – that never happened. He kind of lost – lost  
4 control of his medication and started spiraling as he mentioned and here we are.  
5 And I don't disagree with anything that Ms. Thomson said, though I don't think it's all  
6 under his control. I don't think he – all the time just intentionally disrespects the  
7 Court or probation or court proceeds. I don't think he can control it.

8 That being said, Your Honor, you did order an underlying sentence of 4  
9 to 10. I'm gonna ask the Court to modify that to a 2 to 5 at this point. I understand  
10 why the Court wouldn't think he's supervisable anymore so I'm not gonna argue for  
11 reinstatement. I just request a modification, Your Honor.

12 THE COURT: The motion to revoke the Defendant's probation is granted. I  
13 will modify the original sentence. I'll give you a year credit because you didn't pick  
14 up new charges at least.

15 THE DEFENDANT: I didn't.

16 THE COURT: No, you did not. So, I'll modify it to 48 to 120 to a 36 to 120  
17 because I still want him on parole for a period of time after. You're gonna have  
18 some time to try and get your medication and everything under control before you  
19 get out, okay? Credit.

20 MS. THOMSON: We show 378 days.

21 THE COURT: 378 days credit.

22 THE DEFENDANT: I have 17 months credit.

23 THE COURT: That sounds – is that --

24 THE DEFENDANT: I've been arrested since July 11, [indecipherable].

25 MS. THOMSON: He was arrested on June 2<sup>nd</sup>. It looks as though he was

1 released from custody after the arrest and then –

2 THE COURT: How many days is 17 months? You're saying 17 months?

3 THE DEFENDANT: Yes, ma'am.

4 MR. GOLDSTEIN: I think the issue, Your Honor, he was in – found  
5 incompetent on this case so I don't think the officer's calculations included time he  
6 spent the competency program.

7 THE DEFENDANT: I was only in the competency program for one month.

8 THE COURT: Okay.

9 MR. GOLSTEIN: 17 months is 510 days, just 17 times 30.

10 THE COURT: Right.

11 THE DEFENDANT: It was July 11<sup>th</sup>. I just added it up.

12 THE COURT: Just in your head sitting there you did that?

13 THE DEFENDANT: Yeah.

14 THE COURT: July 11<sup>th</sup>. He's saying July – what's July 11<sup>th</sup> – of 2018?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Doesn't somebody have one of those little apps on their  
17 phone?

18 MS. THOMSON: He was remanded for competency November of 2018; he  
19 came back in April of 2018 so that would explain the five months.

20 THE COURT: Okay. So – or – it was 510 days, 17 months and if somebody  
21 figures out it's more or less.

22 MS. THOMSON: That's fine.

23 MR. GOLDSTEIN: Agreed, Your Honor.

24 THE COURT: Okay. 17 months – 510 days credit time served.

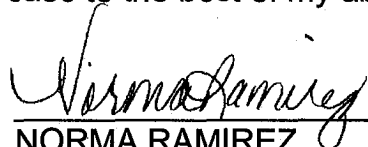
25 MR. GOLDSTEIN: Thank you, Your Honor.

1 THE COURT: Good luck.

2 [Proceedings concluded at 10:22 a.m.]

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

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11 NORMA RAMIREZ  
12 Court Recorder  
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*Steven D. Grierson*

1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-18-336184-1  
DEPT. XVIII

10 vs.

11 SAMMIE NUNN,  
12 Defendant.

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 TUESDAY, NOVEMBER 26, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **DEFENDANT'S POST-CONVICTION PETITION FOR WRIT OF**  
19 **HABEAS CORPUS**

20 APPEARANCES:

21 For the State:

MEGAN THOMSON, ESQ.  
Deputy District Attorney

23 For the Defendant:

ANTHONY GOLDSTEIN, ESQ.

24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, November 26, 2019

2  
3 [Hearing began at 9:05 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie Nunn,  
5 C336184.

6 MR. GOLDSTEIN: Your Honor, Anthony Goldstein for the  
7 Defendant. He's in custody, but he was a refusal today.

8 THE COURT: Okay.

9 MR. GOLDSTEIN: My suggestion is he has a – he filed a  
10 motion to dismiss me. He's already been sentenced; you've already  
11 revoked him.

12 THE COURT: Correct.

13 MR. GOLDSTEIN: He filed a notice of appeal on his own, I  
14 believe last week, and he also filed on his own a motion to dismiss me  
15 and appoint alternate appellate counsel. I think that's on in about two  
16 weeks. Maybe we could set the hearing on that same date – this  
17 hearing, continued to that same date or advance the other motion  
18 forward, it's up to you. I just thought to throw them on the same date.

19 THE COURT: Yes, we'll put it to that date. Is that good?

20 THE COURT CLERK: Yes.

21 THE COURT: Perfect. Thank you.

22 THE COURT CLERK: December 17<sup>th</sup> at 9 a.m.

23 THE COURT: Thanks.

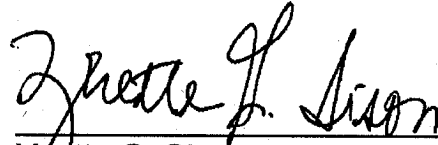
24  
25 [Hearing concluded at 9:06 a.m.]



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



Yvette G. Sison  
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-18-336184-1  
DEPT. XVIII

10 vs.

11 SAMMIE NUNN,  
12 Defendant.

13  
14 BEFORE THE HONORABLE MARY KAY HOLTHUS,  
15 DISTRICT COURT JUDGE  
16 TUESDAY, DECEMBER 17, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **DEFENDANT'S POST-CONVICTION PETITION FOR WRIT OF**  
19 **HABEAS CORPUS/MOTION TO WITHDRAW COUNSEL AND**  
20 **MOTION TO APPOINT APPELLATE COUNSEL**

21 APPEARANCES:

22 For the State: JOHN JONES, ESQ.  
Deputy District Attorney

23 For the Defendant: ANTHONY GOLDSTEIN, ESQ.

24  
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, December 17, 2019

2  
3 [Hearing began at 9:27 a.m.]

4 THE COURT CLERK: State of Nevada versus Sammie  
5 Nunn, C336184.

6 MR. GOLDSTEIN: Your Honor –

7 MR. JONES: John Jones on behalf of the State.

8 MR. GOLDSTEIN: -- the Defendant is not here. He's in the  
9 Nevada Department of Corrections. I think there was an order to  
10 transport. I saw one on Odyssey, but he was supposed to be here  
11 and that's why we passed it to today, but for whatever reason he's  
12 not here. He's got a pro se petition – post-conviction petition on;  
13 also, a motion to appoint appellate counsel for the appeal that he  
14 filed on his own.

15 THE COURT: When were we last here?

16 MR. JONES: Your Honor, we were last here on 11/26, but  
17 I'll note –

18 THE COURT: I know that he refused to be transported that  
19 day.

20 MR. GOLDSTEIN: He was also found incompetent for a  
21 while and this case has kind of a – I want to say tortured history, but  
22 it's been around a bit. You appointed --

23 THE COURT: Oh, I know.

24 MR. GOLDSTEIN: – he's had multiple attorneys on the  
25 case, Your Honor. He tried to withdraw his plea. You appointed

1 Ms. Border for that. I came back on eventually, but that's -- and he  
2 filed everything, all his post-conviction matters on his own.

3 MR. JONES: And Your Honor, I'll note that the calendar  
4 does say it's on for post-conviction writ of habeas corpus. But if  
5 you recall, this was set on 11/5. Ms. Border was here. We argued  
6 on the writ, and it was decided on that day. I show it was denied,  
7 and we went ahead and set the revo for 11/14.

8 On 11/14, you modified and revoked the Defendant,  
9 modified to a 36 to 120, and the case was closed. For some reason,  
10 it was still on 11/26. I don't know why; but that was the original writ  
11 date that we moved forward to 11/5, and for some reason my  
12 procedural history is wrong, please correct me, but I show the writ  
13 has already been denied. In fact, that's why we went ahead and  
14 proceeded with the revocation.

15 THE COURT: That -- I do recall that all now, actually. I  
16 mean I remember doing something and then proceeding and  
17 setting the revo.

18 MR. JONES: In fact, it's on 11/5 that Mr. Goldstein was re-  
19 appointed for purposes of the revo. Ms. Border withdrew because  
20 you had decided the writ.

21 [Colloquy -- The Court and the clerk]

22 THE COURT: She says it was the motion to withdraw  
23 guilty plea that was denied.

24 MR. JONES: Well, it was originally supposed to be a  
25 motion to withdraw guilty plea, but remember Ms. Border, after

1 thinking about what is the most appropriate vehicle decided to file a  
2 writ of habeas corpus instead. So, she never filed a motion to  
3 withdraw – I don't believe she filed a motion to withdraw, I believe  
4 she just filed a post-conviction writ. She filed that on October 10<sup>th</sup>.

5 THE COURT: You're right, yes. You did have that the writ  
6 was denied, correct? She shows it got continued.

7 MR. JONES: The writ?

8 THE COURT: The writ because he wasn't – are you  
9 looking at the 11/5?

10 [Colloquy – The Court and the clerk]

11 THE COURT: Okay, it's effectively – it's really not – we  
12 didn't hear a motion to withdraw guilty plea.

13 MR. JONES: Because I don't believe a motion to  
14 withdraw guilty plea was ever filed in this case. It was actually a  
15 writ that was filed.

16 THE COURT: It was a writ to withdraw guilty plea. I  
17 mean, I think that's what you probably heard. Do you see a motion  
18 to withdraw guilty plea filed?

19 [Colloquy - The Court and the clerk]

20 THE COURT: Okay, we're going to just – we'll have to go  
21 ahead and correct whatever it is we corrected. It doesn't appear  
22 that there's ever been a motion to withdraw a guilty plea filed. The  
23 only thing that we have filed and the thing that was argued was the  
24 Defendant's post-conviction petition, which was heard and denied  
25 on the 5<sup>th</sup>. Has an order already been done as well?

1 MR. JONES: I referred it to Appeals, Your Honor, for an  
2 order to be done. I don't know if they had done it yet, but I will  
3 make a note that they need to get the order to you ASAP.

4 THE COURT: Okay, that was on today, but we're just  
5 going to correct the record. It had been previously ruled on. So,  
6 that's that.

7 With respect to the motion to withdraw counsel, I don't  
8 see any reason we can't let you off right? Is there a reason Mr.  
9 Jones?

10 MR. JONES: We're taking no position on his motion to  
11 withdraw counsel.

12 MR. GOLDSTEIN: Can we approach on this one?

13 THE COURT: Yes, please.

14 [Bench Conference]

15 THE COURT CLERK: It just says; Court ordered motion  
16 denied based on his opposition, and the minute order that he  
17 [unintelligible] –

18 THE COURT: Okay, so we're clarifying – I don't know that  
19 matters.

20 MR. JONES: Because I think it was on calendar call for a  
21 motion to withdraw, but instead – because that's what Marisa said  
22 she was going to file –

23 THE COURT: Right.

24 MR. JONES: -- but she ended up filing a writ, and I think  
25 that's where the confusion is.

1 THE COURT CLERK: Yeah, I think that hearing was for a  
2 motion –

3 MR. JONES: Yeah but we actually argued the writ  
4 instead, and I think that's why.

5 THE COURT: Do you need anything else to fix that?

6 THE COURT CLERK: No, I'll just do [unintelligible] –

7 THE COURT: See Dara wasn't here, otherwise that  
8 wouldn't have happened.

9 THE COURT CLERK: -- [unintelligible] exactly what motion  
10 it was – [unintelligible] --

11 MR. JONES: Should we pull the minutes just to see – I  
12 mean pull the transcript just to be safe.

13 THE COURT: I feel – I feel confident. You feel confident?

14 MR. GOLDSTEIN: I wasn't here for that, so I don't really  
15 know. It was Marisa's thing.

16 THE COURT: Oh.

17 MR. JONES: I have – there was like 10-foot halo around  
18 me.

19 MR. GOLDSTEIN: Here's why the motion to dismiss is  
20 tricky; because he – as trial counsel, I have an obligation to pursue  
21 even pointless, meritless appeals –

22 THE COURT: Correct.

23 MR. GOLDSTEIN: -- the problem is he filed a federal civil  
24 lawsuit naming me and other people as the Defendant. So he's –  
25 which I haven't been served with and people do that sometimes.

1 So, there's a conflict -- there might be a conflict. I am his trial  
2 counsel, and you do not have a duty to appoint a separate appellate  
3 counsel. He doesn't have the right to choose his own appellate  
4 counsel, but at the same time there is a Federal lawsuit pending, so  
5 it's possible that he is going to claim that I have a conflict because  
6 he has sued me civilly.

7 THE COURT: Let me ask you this, if I don't grant your  
8 motion to withdraw --

9 MR. GOLDSTEIN: Well it's his -- it's his motion to dismiss,  
10 not my motion -- just to --

11 THE COURT: -- that's what I meant, if I don't grant his  
12 motion to --

13 MR. GOLDSTEIN: -- I could file a motion --

14 THE COURT: -- then what do you do?

15 MR. GOLDSTEIN: -- I could file a motion to withdraw  
16 based on the civil lawsuit. I was hoping he would be here in court  
17 today so I could speak with him.

18 THE COURT: Want me to put -- let's just not do anything  
19 and we'll bring him back.

20 MR. JONES: Can we do it after New Year?

21 MR. GOLDSTEIN: Yeah.

22 MR. JONES: When is your appellate deadline?

23 MR. GOLDSTEIN: I need to look that up. I was going to --

24 THE COURT: Are you going to go ahead and file it  
25 anyway?



1 MR. GOLDSTEIN: I'm going to have to – until I'm  
2 withdrawn from the case; I mean I have to get permission from the  
3 Supreme Court to withdraw from that now. So, it's all – it gets all  
4 crazy –

5 THE COURT: Have you filed it?

6 MR. GOLDSTEIN: -- I haven't filed anything yet.

7 THE COURT: Okay.

8 MR. GOLDSTEIN: Because I'm still looking at deadlines,  
9 and also that he'd be here so that we can kind of work things out to  
10 see what his plan was. I don't even know what the basis of it is.

11 THE COURT: Do you want to go ahead and file it? Do you  
12 want – do want to check and see the deadlines so that we know  
13 when we have to bring him down by. Are you just going to go  
14 ahead and file it anyway –

15 MR. GOLDSTEIN: I would –

16 THE COURT: -- and we just set it in 30, what do you want  
17 to do?

18 MR. GOLDSTEIN: My suggestion would be setting it in 30  
19 days or three weeks or whatever, some time after the New Years,  
20 and I'll check deadlines between now and then. I can get extensions  
21 if necessary, under these circumstances from the Supreme Court.

22 THE COURT: Okay.

23 MR. GOLDSTEIN: It's just kind of a mess because  
24 [unintelligible] –

25 THE COURT: All right. Let's get him here.

1 MR. GOLDSTEIN: Yeah that's –

2 THE COURT: He likes to be here.

3 [Bench Conference Concluded]

4 THE COURT: All right. We're going to continue this. We  
5 did a – the State did an order to transport. Mr. Nunn, I think needs  
6 to shed some light on some of this stuff. I'm not sure why he wasn't  
7 brought, so we'll pass it 30 and ask the State to do another order  
8 and maybe see what – if they could figure out what happened  
9 today. I suppose he could've refused right? He did last time.

10 MR. JONES: Do you want to put by any means necessary,  
11 because it sounds like we need to address this.

12 THE COURT: We do need to. Let's give him one more  
13 time.

14 MR. JONES: Okay.

15 THE COURT: I don't – I mean – we don't know that to be  
16 true, so if you – next time if he doesn't come, and he's refused, and  
17 you find out that he's refused this time, then we'll do that; 30 days.

18 THE COURT CLERK: January 14<sup>th</sup> at 9 a.m.

19 MR. GOLDSTEIN: Thank you, Your Honor.

20 THE COURT CLERK: And that's the motion to withdraw  
21 counsel?

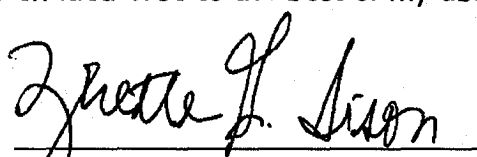
22 THE COURT: That is the motion to withdraw counsel; and  
23 actually, it's to a point – he wants to appoint appellate counsel.

24 [Hearing concluded at 9:36 a.m.]

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

  
Yvette G. Sison  
Court Recorder/Transcriber