

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

Evaristo Jonathan Garcia,

Petitioner-Appellant,

v.

James Dzurenda, et al.

Respondents-Appellees.

On Appeal from the Order Denying Petition
for Writ of Habeas Corpus (Post-Conviction)
Eighth Judicial District, Clark County (A-19-791171-W)
Honorable David M. Jones, District Court Judge

**Petitioner-Appellant's Appendix in Support of Brief
Volume 5 of 10**

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Dated May 3, 2021.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Emma L. Smith
Emma L. Smith
Amelia L. Bizzaro
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

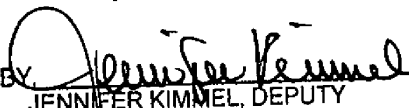
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Alexander Chen.

/s/ Jessica Pillsbury
An Employee of the
Federal Public Defender

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STEVEN D. GRIERSON
CLERK OF THE COURT

JUL 12 2013

BY 
JENNIFER KIMMEL, DEPUTY

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DISTRICT COURT

CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)

11 Plaintiff,)

12 -vs-)

Case No. 10-C-262966-1
Dept. No. XV

14 EVARISTO JONATHAN GARCIA,
15 #2685822,)

16 Defendant.)

FOURTH AMENDED
INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant above named, EVARISTO JONATHAN GARCIA, accused by the
21 Clark County Grand Jury of the crimes of **CONSPIRACY TO COMMIT MURDER**
22 **(Category B Felony - NRS 200.010, 200.030, 199.480)** and **MURDER WITH USE OF A**
23 **DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165)**, committed
24 at and within the County of Clark, State of Nevada, on or about the 6th day of February,
25 2006, as follows:

26 //

27 //

28 //

1
2 COUNT 1 - CONSPIRACY TO COMMIT MURDER

3 did then and there wilfully, unlawfully, felonously, and knowingly meet with
4 GIOVANNY GARCIA, aka Yobani Borradas and/or MANUEL ANTHONY LOPEZ and
5 between themselves, and each of them with the other, did conspire and agree to commit a
6 crime, to-wit: murder, and in furtherance of said conspiracy, did commit the acts as set forth
7 in Count 2, said acts being incorporated by this reference as though fully set forth herein.

8 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON WITH THE INTENT TO
9 ~~PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG~~ *JK* *MR*

10 did then and there wilfully, unlawfully, felonously, and knowingly, did without
11 authority of law, and with premeditation and deliberation and with malice aforethought, kill
12 VICTOR GAMBOA, a human being, by shooting at and into the body of the said VICTOR
13 GAMBOA, with use of a deadly weapon, to-wit: a firearm; said Defendant being responsible
14 under one or more of the following principles of criminal liability, to-wit: (1) by directly
15 committing the act and/or (2) by conspiring with GIOVANNY GARCIA, aka Yobani
16 Borradas and/or MANUEL ANTHONY LOPEZ to commit murder whereby each is
17 vicariously liable for the acts of the other which are the object of the conspiracy and/or (3)
18 by Defendant aiding or abetting in the commission of the crime by entering into a course of
19 conduct whereby GIOVANNY GARCIA, aka Yobani Borradas, while at Morris Sunset East
20 High School contacted one or both Defendant and MANUEL ANTHONY LOPEZ via
21 cellular telephone to inform them of the fight to take place after school, where Defendant
22 and/or GIOVANNY GARCIA, aka Yobani Borradas and/or MANUEL ANTHONY LOPEZ
23 accompanied each other to the school in the vehicle of MANUEL ANTHONY LOPEZ,
24 Defendant and/or GIOVANNY GARCIA, aka Yobani Borradas and/or MANUEL
25 ANTHONY LOPEZ bringing with them a firearm, whereafter Defendant and/or
26 GIOVANNY GARCIA, aka Yobani Borradas and/or MANUEL ANTHONY LOPEZ
27 engaged in a fist fight with others, including VICTOR GAMBOA, at the school, Defendant
28 and/or GIOVANNY GARCIA, aka Yobani Borradas and/or MANUEL ANTHONY LOPEZ

1 thereafter chasing VICTOR GAMBOA, at which time Defendant fired a firearm numerous
2 times at VICTOR GAMBOA, striking him one time, thereafter Defendant fleeing from the
3 scene on foot with the firearm, Defendant and/or GIOVANNY GARCIA, aka Yobani
4 Borradas and/or MANUEL ANTHONY LOPEZ disposing of the firearm in a nearby
5 abandoned toilet, thereafter fleeing the scene together in MANUEL ANTHONY LOPEZ's
6 vehicle, Defendant and/or GIOVANNY GARCIA, aka Yobani Borradas and/or MANUEL
7 ANTHONY LOPEZ acting in concert throughout, each supporting, counseling and
8 encouraging the others in the commission of the crime by their presence, words and actions.

9 DATED this 12th day of July, 2013.

10 STEVEN B. WOLFSON
11 DISTRICT ATTORNEY
12 Nevada Bar #001566

13 BY  /s/ TALEEN R. PANDUKHT

14 TALEEN R. PANDUKHT
15 Chief Deputy District Attorney
16 Nevada Bar #005743

17
18
19
20 09BGJ047A/06F11378A/10F03640X/mmww/GANG
21 LVMPD EV#0602062820; 0602090797
22 (TK5)
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