

**NOASC**  
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Electronically Filed  
Jan 24 2020 11:46 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

DEVOHN MARKS, #2798254,

Defendant.

Case No.  
Dep't No.

C-18-337017-2  
V

**NOTICE OF APPEAL**

Notice is hereby given that Devhon Marks, defendant in the above-entitled action, appeals to the Supreme Court of Nevada from the Judgment of Conviction filed December 23, 2019.

DATED this 17<sup>th</sup> day of January, 2020.

/s/ Jess Matsuda

JESS Y. MATSUDA, ESQ.  
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Attorney for Devohn Marks

1  
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that I am a person competent to serve papers, that I am not a party  
4 to the above-entitled action, and that on January 17, 2020, I served the foregoing document  
5 on:

6 Steven B. Wolfson, Esq.  
7 Steven S. Owens, Esq.  
8 Clark County District Attorney's Office

200 Lewis Avenue  
Las Vegas, NV 89155  
Via e-mail: motions@clarkcountyda.com

9  
10  
11 DATED this 17 of January, 2020.

12   
13 Alexis Bridges  
14 An Employee of Matsuda & Associates, Ltd.  
15  
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26 **AFFIRMATION**

27 Pursuant to NRS 239B.030, this document contains no social security numbers.

28 /s/ Jess Matsuda  
Jess Y. Matsuda, Esq.

01-17-20  
Date

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**  
**CASE NO. C-18-337017-2**

State of Nevada  
vs  
Devohn Marks

§  
§  
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§  
§  
§  
§

Location: **Department 5**  
Judicial Officer: **Ellsworth, Carolyn**  
Filed on: **01/11/2019**  
Cross-Reference Case Number: **C337017**  
Defendant's Scope ID #: **2798254**  
Grand Jury Case Number: **17CGJ189B**  
ITAG Case ID: **2120940**

**CASE INFORMATION**

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. CONSPIRACY TO COMMIT BURGLARY Arrest: 01/11/2019	205.060.2	G	10/29/2018	Case Status: <b>12/23/2019 Closed</b>	
2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON	205.060.4	F	10/29/2018		
3. CONSPIRACY TO COMMIT ROBBERY	200.380	F	10/29/2018		
4. ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER	200.380	F	10/29/2018		
5. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	10/29/2018		
6. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	10/29/2018		
7. BATTERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER	200.481.2e1	F	10/29/2018		
8. BATTERY WITH USE OF A DEADLY WEAPON	200.481.2e1	F	10/29/2018		

**Related Cases**

C-18-337017-1 (Multi-Defendant Case)

**Statistical Closures**

12/23/2019 Jury Trial - Conviction - Criminal

**Warrants**

Indictment Warrant - Marks, Devohn (Judicial Officer: Bell, Linda Marie )

01/28/2019 11:51 AM Returned - Served

01/11/2019 11:00 AM Active

Hold Without Bond

**DATE**

**CASE ASSIGNMENT**

**Current Case Assignment**

Case Number C-18-337017-2  
Court Department 5  
Date Assigned 01/11/2019  
Judicial Officer Ellsworth, Carolyn

**PARTY INFORMATION**

<b>Defendant</b>	<b>Marks, Devohn</b>	<i>Lead Attorneys</i>
		<b>Pro Se</b>
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b> 702-671-2700(W)

**DATE**

**EVENTS & ORDERS OF THE COURT**


















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**CASE SUMMARY**  
**CASE NO. C-18-337017-2**

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02/01/2019	 Notice of Witnesses and/or Expert Witnesses <i>State's Notice of Expert Witnesses</i>
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02/06/2019	 Order for Production of Inmate Party: Plaintiff State of Nevada <i>Order for Production of Inmates</i>
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**CASE SUMMARY**  
**CASE NO. C-18-337017-2**

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10/11/2019	 Motion for New Trial Filed By: Defendant Marks, Devohn
10/15/2019	 Motion Filed By: Defendant Marks, Devohn <i>Extension of Time to File Motion for New Trial and Motion for Judgment of Acquittal</i>
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11/14/2019	 Order <i>Order Granting Defendant's Pro Per Motion to Dismiss Counsel and Move in Pro Se</i>
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12/02/2019	 Reply Filed by: Defendant Marks, Devohn



# CASE SUMMARY

CASE NO. C-18-337017-2

*Reply to State's Response to Defendant's Motion for a New Trial and Motion for Judgment of Acquittal*

12/23/2019



**Judgment of Conviction**

*Judgment of Conviction (Jury Trial)*

01/17/2020



**Notice of Appeal (criminal)**

Party: Defendant Marks, Devohn

*Notice of Appeal*

## HEARINGS

01/11/2019



**Grand Jury Indictment (11:00 AM)** (Judicial Officer: Bell, Linda Marie)

*SUPERSEDING INDICTMENT*

### MINUTES

#### Warrant

01/11/2019 Inactive Indictment Warrant

Matter Heard;

Journal Entry Details:

*Keith Nelson, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 17CGJ189B to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-19-337017-2, Department V. State requested a warrant, argued bail, and advised Deft is not in custody. COURT ORDERED, NO BAIL; INDICTMENT WARRANT ISSUED. Upon Court's inquiry, the State advised there are no material witness warrants to quash. COURT FURTHER ORDERED, Exhibits 1a and 20 to be lodged with the Clerk of the Court. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done. I.W. (NIC) ;*

01/28/2019



**Indictment Warrant Return (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

*Superseding Indictment Warrant Return*

Trial Date Set;

Journal Entry Details:

*Deft. present in custody. Mr. Bonaventure stated the public defender could not be appointed to represent the Deft. COURT ORDERED, Jess Matsuda, Esq. APPOINTED. Matter TRAILED for Mr. Matsuda's presence. Matter RECALLED. Mr. Matsuda now present. Mr. Matsuda stated the Deft. will be entering a not guilty plea and INVOKE his right to a speedy trial. Upon Court s inquiry, DEFT. MARKS concurred with the representations made by Mr. Matsuda and PLED NOT GUILTY. Upon Court's inquiry, Defense counsel and the State made oral requests for reciprocal discovery pursuant to NRS Chapter 174. COURT NOTED counsel's requests for discovery have been made. COURT ORDERED, matter SET for trial. CUSTODY 2/20/19 - 9:00 AM - CALENDAR CALL 2/25/19 - 1:30 PM - JURY TRIAL;*

02/20/2019

**Calendar Call (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

Vacated and Reset;

02/20/2019

**Motion for Order (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

*State's Ex Parte Motion for an Order Shortening Time on State's Motion to Admit Evidence of Other Bad Acts*

Hearing Set;

02/20/2019



**All Pending Motions (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

Matter Continued;

Journal Entry Details:


*STATE'S EX PARTE MOTION FOR AN ORDER SHORTENING TIME ON STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS...CALENDAR CALL Court advised an offer of proof was needed for the prior robbery for a proper analysis; advised a Petrocelli hearing would be necessary. Mr. Giordani stated he intended to submit evidence and witnesses from one particular robbery to prove the act happened by preponderance of the evidence. Mr. Giordani provided an explanation of a takeover style robbery. Court expressed identification would be essential and a Petrocelli hearing would be necessary. Mr. Matsuda stated if a*

# CASE SUMMARY

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*Petrocelli hearing was warranted, he would request to challenge the admission of those facts and argued there was a presumption of inadmissibility on prior bad acts. Further, Mr. Matsuda requested the trial be continued as he was recently appointed and the amount of discovery. Mr. Giordani provided an offer of proof and advised he had no opposition to a trial continuance and anticipated 6-7 days. COURT ORDERED, Petrocelli hearing SET. Based on Court's own Motion to Continue Trial due to the Petrocelli hearing, COURT ORDERED, trial date VACATED and RESET; Court advised counsel this case would likely go to overflow. 5/17/19 9:00 AM PETROCELLI HEARING 7/3/19 9:00 AM CALENDAR CALL 7/8/19 1:30 PM JURY TRIAL CLERK'S NOTE: Minutes corrected to reflect accuracy of counsels' arguments. //ev 2/26/19;*

02/25/2019 **CANCELED Jury Trial (1:30 PM)** (Judicial Officer: Ellsworth, Carolyn)  
*Vacated - per Judge*

05/17/2019  **Petrocelli Hearing (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)  
*PETROCELLI HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS*

## MINUTES

Hearing Set;

Journal Entry Details:

*Testimony presented (see worksheets). Argument by the State regarding Deft. being paroled in March 2018 and committing these crimes in October 2018. Argument by counsel, stating it would be prejudicial to grant the motion. Further argument by the State. Colloquy regarding supplemental briefing. COURT ORDERED, briefing schedule SET: State's supplement due by end of business day on 5/31/19; counsel's reply due by end of business day 6/14/19. FURTHER, matter SET for argument. Colloquy with Deft. regarding accomplice testimony. Deft. stated he had not received any documentation he had asked for and has not been visited by counsel. Upon Court's inquiry, counsel advised he had given Deft. everything he has, noting there is much discovery on disc and Deft. is in custody in the Nevada Department of Corrections, so visitation is difficult, although counsel has sent his investigator to see Deft. Statement by Deft. regarding low flight risk. CUSTODY 6/24/19 9:00 AM ARGUMENT: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS;*

## SCHEDULED HEARINGS



**Argument (06/24/2019 at 9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

*Argument: State's Motion to Admit Evidence of Other Bad Acts*


06/24/2019  **Argument (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

*Argument: State's Motion to Admit Evidence of Other Bad Acts*

Granted;

Journal Entry Details:

*COURT NOTED it received the State's supplemental briefing, however, did not receive anything from the defense. Mr. Matsuda stated he did not receive the State's brief until Friday, however, he was comfortable moving forward. COURT ADVISED, Mr. Matsuda may orally respond to the State's supplemental briefing. Mr. Matsuda addressed his oral response indicating the circumstances relating to the crime were not so unique that it could link this case to the Deft.'s prior bad acts. Upon Court's inquiry, Ms. Moors confirmed the similarities between the both cases. Court stated its findings and ORDERED, Deft.'s prior acts will be ALLOWED to be admitted. Argument by Mr. Matsuda. Statement by Deft regarding not being served the Marcum notice and advised he wanted to testify in front of the Grand Jury. COURT NOTED, there was no pending motion to rule concerning Marcum and DIRECTED Deft. to consult his attorney. NDC;*

07/03/2019  **Calendar Call (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)

Trial Date Set;

Journal Entry Details:

*Deft. present in custody. CONFERENCE AT THE BENCH. Upon Court's inquiry, Deft. reported he was unhappy with his counsel and stated his reasons, which included not being served a Marcum notice nor being served with the grand jury transcripts timely. Ms. Moors stated she inherited this case from Mr. Giordani. Colloquy regarding State's application to have the Marcum notice sealed and filing of the superseding indictment. Mr. Matsuda stated he discussed the Marcum notice issue with the Deft., the Deft. did not agree that he was ready*

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for trial as the Deft. only wanted to discuss the Marcum notice and frivolous motions Deft. wanted filed. COURT ADVISED Deft. that his attorney had an obligation to file proper motions with the court. Statement by Deft. regarding challenging the evidence and a writ of habeas corpus not being filed. Mr. Matsuda confirmed he reviewed the transcripts and found insufficient grounds to file a writ of habeas corpus. COURT ADVISED Deft. regarding challenging something under the law, and the burden of proof required for a preliminary hearing or grand jury proceeding. Further statement by Deft. requesting a copy of the order that was filed under seal regarding the Marcum notice; further, advised he was not comfortable going forward with Mr. Matsuda as his attorney and requested to be appointed new counsel. Mr. Matsuda stated the Deft. was mailed discovery on 4/2/19. COURT ADVISED, Mr. Matsuda was competent and would not be removed as counsel. Colloquy regarding the anticipated trial schedule. Matter TRAILED to allow Deft. an opportunity to discuss his issues with his attorney. Matter RECALLED with the same parties present as before, including the appearance of Ms. Cannizzaro, Chief Deputy District Attorney. Upon Court's inquiry regarding Mr. Matsuda's meeting with Deft., Mr. Matsuda stated it was difficult to communicate with Deft. about any type of defense relative to the case, as the Deft. started talking about pretrial motions again. Deft. stated he wanted to discuss the strategy for trial with Mr. Matsuda; however, COURT CAUTIONED Deft. regarding waiving attorney/client privilege. Mr. Matsuda confirmed Deft. was provided with all the paperwork, including the updated grand jury transcripts with Deft.'s name indicated; the only items that may be outstanding are videos. Deft. stated he had not received the search warrants with his name. Ms. Moors stated she believed all evidence had been provided to Mr. Matsuda. Colloquy regarding the search warrants, conducting a file review, and the information the cell phone records contained. COURT ORDERED, jury trial set for 7/8/19 STANDS. CUSTODY 07/08/19 1:30 P.M. JURY TRIAL;

07/08/2019

**Jury Trial (1:30 PM)** (Judicial Officer: Ellsworth, Carolyn)**07/08/2019-07/10/2019, 07/22/2019-07/26/2019**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

*OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding proceedings. INSIDE THE PRESENCE OF THE JURY: David Miller SWORN AND TESTIFIED. State rested rebuttal case. OUTSIDE THE PRESENCE OF THE JURY: Instructions settled. INSIDE THE PRESENCE OF THE JURY: Closing arguments. Court instructed the Jury. At the hour of 12:07 p.m. the jury retired to deliberate. INSIDE THE PRESENCE OF THE JURY: At the hour of 2:31 p.m. the jury returned with a verdict of guilty as to COUNT 1 - Conspiracy to Commit Burglary; guilty as to COUNT 2 - Burglary While in Possession of a Deadly Weapon; guilty as to COUNT 3 - Conspiracy to Commit Robbery; guilty as to COUNT 4 - Robbery with Use of a Deadly Weapon, victim 60 years of age or older; guilty as to COUNT 5 - Robbery with Use of a Deadly Weapon; guilty as to COUNT 6 - Robbery with Use of a Deadly Weapon; guilty as to COUNT 7 - Battery with Use of a Deadly Weapon, Victim 60 years of age or older; guilty as to COUNT 8 - Battery with Use of a Deadly Weapon. Verdict FILED IN OPEN COURT. Jury Instructions FILED IN OPEN COURT. COURT ORDERED, Deft. REMANDED without bail. COURT FURTHER ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. CUSTODY 09/16/2019 9:00 AM SENTENCING (DEPT. 5);*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

*OUTSIDE THE PRESENCE OF THE JURY. The State informed the Court it has obtained certified JOC's and noticed Deft is violent habitual eligible. The Court inquired if there has been any offers by the State. The State advised the Court there has been no offers made by the*



# CASE SUMMARY

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State to Deft. JURY PRESENT. Testimony and exhibits presented (see worksheet). The State admitted exhibit #66 (CD). STATE RESTED. OUTSIDE THE PRESENCE OF THE JURY. The Court canvassed Deft regarding his rights to testify. Deft stated he wanted to testify. The State advised it had two certified JOC's with convictions and felonies that could come into play if Deft chose to testify. JURY PRESENT. Testimony and exhibits presented (see worksheet). CONFERENCE AT THE BENCH. DEFENSE RESTED. The Court noted the State is going to put on its rebuttal case tomorrow. COURT ORDERED, TRIAL CONTINUED. The Court recessed the Jury for the evening. CUSTODY 7-26-19 9:00 AM JURY TRIAL (DEPT. V);

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Ms. Moors advised State's exhibit 64A, will take the place of State's exhibit 64, as it has a video player loaded on the disk to play the video, that Mr. Matsuda would agree to its admission by stipulation. COURT ADVISED, 64A would take place of 64, and both exhibits would go back to the jury but the Jury will be provided with an explanation that 64A had the video player. Colloquy regarding the stipulation of State's exhibits 65-69. Mr. Matsuda stated he would stipulate to their admission as to their authenticity; however, requested they lay the foundation but he would not make them jump through hoops for their admission. COURT ORDERED, State's exhibit 64A ADMITTED. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented (see worksheets). CONFERENCES AT THE BENCH. Testimony and exhibit presentation continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY. Bench conferences placed on the record. Evening Recess. 7/25/19 - 1:30 PM - JURY TRIAL ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding providing the jury instructions to the Court. IN THE PRESENCE OF THE JURY. Testimony and exhibits presented (see worksheets). CONFERENCES AT THE BENCH. Testimony and exhibit presentation continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY. Bench conferences placed on the record. Evening Recess. 7/24/19 - 1:00 PM - JURY TRIAL ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Amended jury list FILED IN OPEN COURT. JURY PRESENT. Clerk read the Indictment to the jury and stated the Deft.'s plea thereto. Opening statements by counsel. Testimony and exhibits presented. (See worksheets). CONFERENCES AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Bench conferences placed on the record. JURY PRESENT. COURT ORDERED, Juror #016 EXCUSED and REPLACED with Juror #963. Further testimony and exhibits. CONFERENCE AT THE BENCH. COURT ADMONISHED the jury and excused them for the evening recess.;

Trial Continues;

Trial Continues;

**CASE SUMMARY**  
**CASE NO. C-18-337017-2**

Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Verdict;

Journal Entry Details:

*IN THE PRESENCE OF THE JURY VENIRE. Jury selection continued. CONFERENCES AT THE BENCH. Jury selection continued. Peremptory Challenges exercised off the record. 12 Jurors and 4 Alternates Selected and Sworn. Jury list FILED IN OPEN COURT. Court instructed the Jury. COURT ADMONISHED the Jury and DIRECTED the jury to return Monday July 22, 2019 at the given time. COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY VENIRE. Bench conferences placed on the record. Evening Recess. 7/22/19 11:00 AM - JURY TRIAL ;*

Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Verdict;

Journal Entry Details:


*IN THE PRESENCE OF THE JURY VENIRE. Jury selection continued. CONFERENCES AT THE BENCH. Jury selection continued. OUTSIDE THE PRESENCE OF THE JURY VENIRE. Bench conferences placed on the record. Colloquy and stipulation regarding the excusal of one of the jurors. IN THE PRESENCE OF THE JURY VENIRE. Jury selection continued. CONFERENCES AT THE BENCH. Jury selection continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY VENIRE. Bench conferences placed on the record. Evening Recess. 7/10/19 - 1:30 PM - JURY TRIAL;*

Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Trial Continues;  
Verdict;

Journal Entry Details:

*OUTSIDE THE PRESENCE OF THE JURY VENIRE. COURT NOTED, on 7/5/19 the Deft. filed a pro-per motion to withdraw counsel; however, it was signed in June and was set one week after jury selection had started. Upon Court's inquiry, Deft. stated that matter had already addressed. COURT ORDERED, the motion currently set on July 29, 2019 is ADVANCED and DENIED. IN THE PRESENCE OF THE JURY VENIRE. Introductions by Court and counsel. Voir dire oath given and jury selection commenced. OUTSIDE THE PRESENCE OF THE JURY VENIRE / IN THE PRESENCE OF JUROR BADGE 152. Jury selection and questioning continued. IN THE PRESENCE OF THE JURY VENIRE. Jury selection continued. CONFERENCE AT THE BENCH. Jury selection continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY VENIRE. Bench conferences placed on the record. Mr. Matsuda stated one of the jurors had approached him about her paperwork upon leaving the courtroom and he pointed to the marshal. COURT and the State SO NOTED. Evening Recess. 7/9/19 - 1:30 PM - JURY TRIAL;*

07/29/2019 **CANCELED Motion to Withdraw as Counsel (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)  
Vacated - per Judge  
Defendant's Motion to Withdraw as Counsel

09/16/2019  **Sentencing (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)  
09/16/2019, 09/18/2019, 10/07/2019, 11/04/2019, 12/09/2019, 12/18/2019  
Matter Continued;  
Continued;

# CASE SUMMARY

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Continued;  
Continued;  
Continued;  
Defendant Sentenced;  
Matter Continued;  
Continued;  
Continued;  
Continued;  
Continued;  
Defendant Sentenced;  
Matter Continued;  
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Defendant Sentenced;  
Matter Continued;  
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Defendant Sentenced;  
Matter Continued;  
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Continued;  
Defendant Sentenced;  
Matter Continued;  
Continued;  
Continued;  
Continued;  
Continued;  
Defendant Sentenced;  
Matter Continued;  
Continued;  
Continued;  
Continued;  
Defendant Sentenced;  
Journal Entry Details:

*Mr. Matsuda advised Deft. has filed motion to dismiss counsel. Deft. advised he wants to represent himself. Court stated Deft. cannot represent himself on appeal. Deft. requested to continue matter to Wednesday based on ineffective assistance of counsel, no attorney client visit at all and advised he has new motions to file. Court stated motions not timely and judgment of acquittal has to be filed within seven days. Further statement by Deft. Court heard trial and in order for the Court to grant a motion for judgment of acquittal after trial, the Court has to find there was absolutely no evidence upon which a reasonable jury could find Deft. guilty. Further, there was plenty of evidence as well as an accomplice testimony that tended to connect Deft. to the crime separate and apart from the accomplice testimony. There is no way the Court would granted such a motion. Upon Court's inquiry, Mr. Matsuda stated counsel did not file motion as it would be frivolous. Statement by Deft. Court can Faretta Canvass Deft. on Wednesday. Mr. Matsuda stated he spoke to Deft. numerous times while in Court, Deft. has been housed in High Desert and investigator spoke to Deft. Further statement by Deft. COURT ORDERED, matter CONTINUED and set for Faretta Canvass. CUSTODY (COC-NDC) CONTINUED TO: 9/18/19 9:00 AM 9/18/19 9:00 AM FARETTA CANVASS;*

09/18/2019

**Motion to Dismiss** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

**09/18/2019, 10/07/2019**

*Defendant's Pro Per Motion to Dismiss Counsel and Move In Pro Se*  
Continued;  
Motion Granted;  
Continued;  
Motion Granted;

09/18/2019





**All Pending Motions** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Matter Heard;  
Journal Entry Details:  
*SENTENCING ... DEFT.'S PRO PER MOTION TO DISMISS COUNSEL AND MOVE IN PRO*

# CASE SUMMARY

CASE NO. C-18-337017-2

	<p><i>SE Matter called at 12:44 PM. Deft. present in custody. As a Faretta Canvass will take 15 minutes, COURT ORDERED, matters CONTINUED and SET for Faretta Canvass. Ms. Moose stated she also had to attend training at 1:00 PM today. COURT NOTED, the Deft. is entitled to represent himself on sentencing, but not on an appeal, therefore, counsel would have to represent the Deft. on the appeal. CUSTODY (COC-NDC) 10/7/19 - 9:00 AM - SENTENCING ... DEFT.'S PRO PER MOTION TO DISMISS COUNSEL AND MOVE IN PRO SE ... FARETTA CANVASS ;</i></p>
10/07/2019	<p><b>Faretta Canvass</b> (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Matter Heard;</p>
10/07/2019	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Matter Heard; Journal Entry Details: <i>APPEARANCE CONTINUED: Benjamin Nadig, Esq. present for Mr. Nadig on behalf of Deft. who is present in custody. SENTENCING ... DEFT.'S PRO PER MOTION TO DISMISS COUNSEL AND MOVE IN PRO SE ... FARETTA CANVASS Upon Court's inquiry Deft. advised he still wanted to represent himself. Court proceeded with the Faretta Canvass of the Deft and questioned the Deft. regarding his understanding of the laws. COURT FINDS, no reason for the Deft. not to be able to represent himself on Sentencing. Mr. Nadig objected to the late filing of the notice of intent to seek criminal habitual treatment and argued that should not be considered at sentencing. Argument by Ms. Moors in support of criminal habitual treatment being considered. Deft. requested the sentencing be continued 30 days to allow him to prepare. Upon Court's further inquiry, Deft. reiterated he still wanted to represent himself and declined to have another court appointed attorney represent him. Mr. Nadig stated he would appear for the sentencing date. COURT ORDERED, motion GRANTED in that Jess Matsuda is REMOVED AS COUNSEL and Deft. is to proceed in Pro Se; FURTHER, Benjamin Nadig APPOINTED as standby counsel for Sentencing. CUSTODY (COC-NDC) 11/4/19 - 9:00 AM - SENTENCING;</i></p>
11/04/2019	<p><b>Motion for Judgment</b> (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <b>11/04/2019, 12/09/2019, 12/18/2019</b> <i>Defendant's Pro Per Motion for Judgment of Acquittal</i> Continued; Continued; Motion Denied; Continued; Continued; Motion Denied; Continued; Continued; Motion Denied;</p>
11/04/2019	<p><b>Motion for New Trial</b> (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <b>11/04/2019, 12/09/2019, 12/18/2019</b> <i>Defendant's Pro Per Motion for New Trial</i> Continued; Continued; Motion Denied; Continued; Continued; Motion Denied; Continued; Continued; Motion Denied;</p>
11/04/2019	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Matter Heard; Journal Entry Details:  <i>DEFT.'S PRO PER MOTION FOR JUDGMENT OF ACQUITTAL ... DEFT.'S PRO PER MOTION FOR NEW TRIAL ... SENTENCING APPEARANCES CONTINUED: Benjamin Nadig, Esq. present on behalf of Deft. who was present in custody. Deft. stated he just received</i></p>

# CASE SUMMARY

CASE NO. C-18-337017-2

the State's opposition today. Ms. Moors stated she wasn't served with the Deft.'s motion until 10/24/19 and acknowledged she just provided the opposition to the Deft.. Matter TRAILED for Deft. to read the State's opposition. Matter RECALLED. Same parties present as before. As to the Extension of time to file motion for new trial and motion for judgment of acquittal, currently set November 6, 2019, COURT ADVISED, Deft. had a deadline, and any requests to extend had to be within the timeframe set out by the statutes. Deft. argued there was excusable neglect; therefore, requested the motion be heard, as Mr. Matsuda wouldn't get hold of him and he never met with Mr. Matsuda to discuss the case, he had made this claim before a number of times, and he had reached out to Mr. Matsuda within the fourteen day timeframe to request he file something on his behalf. Ms. Moors argued in opposition to there being excusable neglect; noting that was why her opposition only addressed the time bar matter. Further argument by Deft. regarding excusable neglect. COURT NOTED, the State had not addressed the merits of the motion. Statement by Mr. Nadig regarding there being no contact with Mr. Matsuda. COURT ORDERED, all matters CONTINUED for the State to file a written response and the Deft. to address the State's response. Ms. Moose further argued that because the Deft. wanted to represent himself, it did not mean Mr. Matsuda was ineffective. COURT SO AGREED. COURT FURTHER ORDERED, State's supplemental opposition DUE BY 11/18/19 and the Deft.'s response is DUE BY 12/2/19. FURTHER ORDERED, request for extension of time to file motion for new trial and motion for judgment of acquittal is MOOT. COURT ADVISED, it did not make a finding that Mr. Matsuda was ineffective. Further statements by Deft. regarding the lack of contact with Mr. Matsuda; further, Deft. requested Mr. Matsuda provide him with his file. COURT ADVISED, Deft. had to make a request for the file. Statement by Ms. Moors regarding the Marcum notice, that was filed under sealed, and that should not be provided to the Deft. COURT SO NOTED. CUSTODY (COC-NDC) CONTINUED TO: 12/9/19 - 9:00 AM;

11/06/2019 CANCELED Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Vacated - per Judge


Extension of Time to File Motion for New Trial and Motion for Judgment of Acquittal

12/09/2019 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Matter Heard;

Journal Entry Details:

APPEARANCES CONTINUED: Steven Altig, Esq. present for standby Counsel Mr. Nadig. Deft. present in custody SENTENCING ... DEFT.'S PRO PER MOTION FOR JUDGMENT OF ACQUITTAL ... DEFT.'S PRO PER MOTION FOR NEW TRIAL Mr. Altig stated Mr. Nadig could not appear today; therefore, he was requesting this matter be continued to Wednesday. COURT ADVISED, Mr. Nadig was standby counsel. Upon Court's inquiry regarding whether the Deft. wanted Mr. Nadig here and whether the Deft. was ready to argue his motions, Deft. stated he wanted Mr. Nadig to be here; however, advised, he was ready to proceed. Further, Deft. stated he had new evidence that had been presented to him, that he would like to provide for the Court. Ms. Rinetti stated this matter was being handled by Ms. Moors. Matter TRAILED for Ms. Moors presence. Matter RECALLED. Ms. Moors now present on behalf of the State. Mr. Altig is no longer present. Ms. Moors stated she was not served with a copy of the motion; however, she did obtain a copy online and requested to opportunity to file a response. Upon Court's inquiry as to what the Deft. wanted to produce, Deft. stated there was a message on a woman's phone, that vital for his defense for trial, showing that he sent a message indicating his phone had been stolen. Ms. Moors stated the Deft. could not admit evidence after the fact. COURT SO AGREED; however, NOTED that was not to say there wasn't a post-conviction matter that it could be presented for. COURT FURTHER NOTED, the State did not get served with the motion. Deft. acknowledged that he completed a certificate of mailing; however, advised he did not ask the jail to mail the documents. COURT ORDERED, matter CONTINUED to allow the State to review the Deft.'s response. CUSTODY CONTINUED TO: 12/18/19 - 9:00 AM CLERK'S NOTE: The foregoing minutes were updated to indicate the correct reason for the continuance "to allow the State to review the Deft.'s response", instead of being continued for the State to file a response (1/21/20 amn).;

12/18/2019  All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Matter Heard;

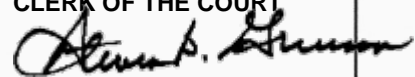
Journal Entry Details:

APPEARANCES CONTINUED: Benjamin Nadig, Esq. present as standby counsel. DEFENDANT'S PRO PER MOTION FOR JUDGMENT OF ACQUITTAL ... DEFENDANT'S PRO PER MOTION FOR NEW TRIAL ... SENTENCING Deft. stated he had nothing to add to his two motions; however, noted he just received discovery, there were multiple issue raised about the Marcum notice. Colloquy regarding the grand jury case A760797. Ms. Moors stated



**CASE SUMMARY****CASE NO. C-18-337017-2**

this matter was already addressed. COURT NOTED, many of the arguments the Deft. was making are addressed on appeal. Mr. Nadig stated he thought he was appointed as appellant counsel. COURT ADVISED, Mr. Matsuda was still appellant counsel. Mr. Nadig stated he would discuss that with Mr. Matsuda, as with the Court's permission he would request to substitute in. COURT ADVISED, if Mr. Matsuda felt the relationship had broken down the Deft. could consider that. Deft. requested Mr. Nadig be substituted in as counsel. COURT stated its FINDINGS and ORDERED motions DENIED. DEFT MARKS ADJUDGED GUILTY of COUNT 1 CONSPIRACY TO COMMIT BURGLARY (GM), COUNT 2 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F), COUNT 3 CONSPIRACY TO COMMIT ROBBERY (F), COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (F), COUNTS 5 and 6- ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (F), and COUNT 8 BATTERY WITH USE OF A DEADLY WEAPON (F). Arguments by Ms. Moors; noted she was striking the notice of intent to seek habitual treatment for appellant purposes. Argument by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee WAIVED as previously taken, a \$3.00 DNA Collection fee, and an order and judgment of RESTITUTION in the amount of \$250.00 payable to and in favor of the Dugout Lounge Inc. dba Torrey Pines Pub imposed jointly and severally with the Co-Deft, Deft. SENTENCED as follows: COUNT 1 THREE HUNDRED SIXTY FOUR (364) DAYS the Clark County Detention Center (CCDC); COUNT 2 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, CONCURRENT with COUNT 1; COUNT 3 a MAXIMUM of SEVENTY-TWO (72) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS to the Nevada Department of Corrections, CONCURRENT with COUNT 2; COUNT 4 a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for both enhancements, CONSECUTIVE to COUNT 3; COUNT 5 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for the deadly weapon enhancement, CONSECUTIVE to COUNT 4; COUNT 6 a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for the deadly weapon enhancement, CONSECUTIVE to COUNT 5; COUNT 7 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of THIRTY-SIX (36) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for the victim 60 years of age or older enhancement, CONCURRENT with COUNT 6; and COUNT 8 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of THIRTY-SIX (36) MONTHS to the Nevada Department of Corrections, CONCURRENT with COUNT 7; with ONE HUNDRED SEVENTY-NINE (179) DAYS credit for time served. The AGGREGATE TOTAL sentence is a MAXIMUM of FOUR HUNDRED EIGHTY (480) MONTHS and a MINIMUM of ONE HUNDRED NINETY-TWO (192) MONTHS. COURT ADVISED, only one enhancement can be imposed pursuant to statute with respect to the aggregate sentence. BOND, if any, EXONERATED. NDC;



JOCP

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

*Plaintiff,*

-VS-

DEVOHN MARKS  
#2798254

*Defendant.*

CASE NO: C-18-337017-2

DEPT NO: V

**JUDGMENT OF CONVICTION AND RESTITUTION  
(JURY TRIAL)**

The defendant previously entered a plea of not guilty to the crimes of COUNT 1- CONSPIRACY TO COMMIT BURGLARY (a Gross Misdemeanor) in violation of NRS 205.060, 199.480; COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (a Category B Felony) in violation of NRS 205.060; COUNT 3 - CONSPIRACY TO COMMIT ROBBERY (a Category B Felony) in violation of NRS 200.380, 199.480; COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (a Category B Felony) in violation of NRS 200.380, 193.165, 193.167; COUNTS 5 and 6- ROBBERY WITH USE OF A DEADLY WEAPON (a Category B Felony) in violation of NRS 200.380, 193.165; COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (a Category B Felony) in violation of NRS 200.481, 193.167; COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON (a Category B Felony) in violation of NRS 200.481; and the matter having been tried before a jury and the defendant having been found guilty of the crimes of COUNT 1- CONSPIRACY TO COMMIT BURGLARY (a Gross Misdemeanor) in violation of NRS 205.060, 199.480; COUNT 2 - BURGLARY

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Jury Trial  
☐ Dismissed (during trial)  
☐ Acquittal  
☐ Guilty Plea with Sent. (during trial)  
☒ Conviction

T:\PRISON JOCS\C-18-337017-2 (DEVOHN MARKS) JOCP.DOC

1 WHILE IN POSSESSION OF A DEADLY WEAPON (a Category B Felony) in violation of  
2 NRS 205.060; COUNT 3 – CONSPIRACY TO COMMIT ROBBERY (a Category B  
3 Felony) in violation of NRS 200.380, 199.480; COUNT 4 - ROBBERY WITH USE OF A  
4 DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (a Category B Felony) in  
5 violation of NRS 200.380, 193.165, 193.167; COUNTS 5 and 6 - ROBBERY WITH USE  
6 OF A DEADLY WEAPON (a Category B Felony) in violation of NRS 200.380, 193.165;  
7 COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF  
8 AGE OR OLDER (a Category B Felony) in violation of NRS 200.481, 193.167; COUNT 8 –  
9 BATTERY WITH USE OF A DEADLY WEAPON (a Category B Felony) in violation of  
10 NRS 200.481. Thereafter, on the 18<sup>th</sup> day of December, 2019, the defendant was present in  
11 court for sentencing without counsel, IN PROPER PERSON, and good cause appearing,

12 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in  
13 addition to the \$25.00 Administrative Assessment Fee, the \$3.00 DNA Collection Fee,<sup>1</sup> and  
14 an Order and Judgment of Restitution in the amount of \$250.00 payable to and in favor of  
15 the Dugout Lounge Inc. dba Torrey Pines Pub payable jointly and severally with the co-  
16 defendant, the defendant is sentenced to the Nevada Department of Corrections as follows:

17 **COUNT 1** – THREE HUNDRED SIXTY FOUR (364) DAYS in the Clark County  
18 Detention Center (CCDC); **COUNT 2** - a MAXIMUM of ONE HUNDRED TWENTY  
19 (120) MONTHS and a MINIMUM of FORTY EIGHT (48) MONTHS, CONCURRENT  
20 with COUNT 1; **COUNT 3** – a MAXIMUM of SEVENTY TWO (72) MONTHS and a  
21 MINIMUM of TWENTY FOUR (24) MONTHS, CONCURRENT with COUNT 2;  
22 **COUNT 4** – a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a  
23 MINIMUM of FORTY EIGHT (48) MONTHS plus a CONSECUTIVE term of a  
24 MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY FOUR (24)  
25 MONTHS for both enhancements, CONSECUTIVE to COUNT 3; **COUNT 5** - a

26 //

27 \_\_\_\_\_  
28 <sup>1</sup> The \$150.00 DNA Analysis Fee is WAIVED.

1 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY  
2 EIGHT (48) MONTHS plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60)  
3 MONTHS and a MINIMUM of TWENTY FOUR (24) MONTHS for the deadly weapon  
4 enhancement, CONSECUTIVE to COUNT 4; **COUNT 6** – a MAXIMUM of ONE  
5 HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY EIGHT (48)  
6 MONTHS plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a  
7 MINIMUM of TWENTY FOUR (24) MONTHS for the deadly weapon enhancement,  
8 CONSECUTIVE to COUNT 5; **COUNT 7** - a MAXIMUM of ONE HUNDRED TWENTY  
9 (120) MONTHS and a MINIMUM of THIRTY SIX (36) MONTHS plus a CONSECUTIVE  
10 term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY FOUR  
11 (24) MONTHS for the victim 60 years of age or older enhancement, CONCURRENT with  
12 COUNT 6; and **COUNT 8** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS  
13 and a MINIMUM of THIRTY SIX (36) MONTHS, CONCURRENT with COUNT 7; with  
14 ONE HUNDRED SEVENTY NINE (179) DAYS credit for time served. The  
15 AGGREGATE TOTAL sentence is a MAXIMUM of FOUR HUNDRED EIGHTY (480)  
16 MONTHS and a MINIMUM of ONE HUNDRED NINETY TWO (192) MONTHS.

17 DATED this 20 day of December, 2019.

18  
19 FOR   
CAROLYN ELLSWORTH  
DISTRICT JUDGE 

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 11, 2019**

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C-18-337017-2      State of Nevada  
vs  
Devohn Marks

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**January 11, 2019      11:00 AM      Grand Jury Indictment**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 17A

**COURT CLERK:** Kimberly Estala

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**      Giordani, John      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Keith Nelson, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 17CGJ189B to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-19-337017-2, Department V.

State requested a warrant, argued bail, and advised Deft is not in custody. COURT ORDERED, NO BAIL; INDICTMENT WARRANT ISSUED.

Upon Court's inquiry, the State advised there are no material witness warrants to quash. COURT FURTHER ORDERED, Exhibits 1a and 20 to be lodged with the Clerk of the Court. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done.

I.W. (NIC)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 28, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**January 28, 2019      9:00 AM      Indictment Warrant Return**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Giordani, John	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft. present in custody. Mr. Bonaventure stated the public defender could not be appointed to represent the Deft. COURT ORDERED, Jess Matsuda, Esq. APPOINTED. Matter TRAILED for Mr. Matsuda's presence.

Matter RECALLED. Mr. Matsuda now present. Mr. Matsuda stated the Deft. will be entering a not guilty plea and INVOKE his right to a speedy trial. Upon Court s inquiry, DEFT. MARKS concurred with the representations made by Mr. Matsuda and PLED NOT GUILTY. Upon Court's inquiry, Defense counsel and the State made oral requests for reciprocal discovery pursuant to NRS Chapter 174. COURT NOTED counsel's requests for discovery have been made. COURT ORDERED, matter SET for trial.

**CUSTODY**

2/20/19 - 9:00 AM - CALENDAR CALL

2/25/19 - 1:30 PM - JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 20, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**February 20, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Elizabeth Vargas

**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Giordani, John	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- STATE'S EX PARTE MOTION FOR AN ORDER SHORTENING TIME ON STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS...CALENDAR CALL

Court advised an offer of proof was needed for the prior robbery for a proper analysis; advised a Petrocelli hearing would be necessary. Mr. Giordani stated he intended to submit evidence and witnesses from one particular robbery to prove the act happened by preponderance of the evidence. Mr. Giordani provided an explanation of a takeover style robbery. Court expressed identification would be essential and a Petrocelli hearing would be necessary. Mr. Matsuda stated if a Petrocelli hearing was warranted, he would request to challenge the admission of those facts and argued there was a presumption of inadmissibility on prior bad acts. Further, Mr. Matsuda requested the trial be continued as he was recently appointed and the amount of discovery. Mr. Giordani provided an offer of proof and advised he had no opposition to a trial continuance and anticipated 6-7 days. COURT ORDERED, Petrocelli hearing SET. Based on Court's own Motion to Continue Trial due to the Petrocelli hearing, COURT ORDERED, trial date VACATED and RESET; Court advised counsel this

case would likely go to overflow.

5/17/19 9:00 AM PETROCELLI HEARING

7/3/19 9:00 AM CALENDAR CALL

7/8/19 1:30 PM JURY TRIAL

CLERK'S NOTE: Minutes corrected to reflect accuracy of counsels' arguments. //ev 2/26/19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 17, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**May 17, 2019      9:00 AM      Petrocelli Hearing**

**HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Michaela Tapia**RECORDER:** Trisha Garcia**REPORTER:****PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Testimony presented (see worksheets). Argument by the State regarding Deft. being paroled in March 2018 and committing these crimes in October 2018. Argument by counsel, stating it would be prejudicial to grant the motion. Further argument by the State. Colloquy regarding supplemental briefing. COURT ORDERED, briefing schedule SET: State's supplement due by end of business day on 5/31/19; counsel's reply due by end of business day 6/14/19. FURTHER, matter SET for argument. Colloquy with Deft. regarding accomplice testimony. Deft. stated he had not received any documentation he had asked for and has not been visited by counsel. Upon Court's inquiry, counsel advised he had given Deft. everything he has, noting there is much discovery on disc and Deft. is in custody in the Nevada Department of Corrections, so visitation is difficult, although counsel has sent his investigator to see Deft. Statement by Deft. regarding low flight risk.

**CUSTODY**

6/24/19 9:00 AM ARGUMENT: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 24, 2019

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

June 24, 2019

9:00 AM

Argument

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 16D

COURT CLERK: Andrea Natali  
Jeanette Velazquez

RECORDER: Lara Corcoran

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- COURT NOTED it received the State's supplemental briefing, however, did not receive anything from the defense. Mr. Matsuda stated he did not receive the State's brief until Friday, however, he was comfortable moving forward. COURT ADVISED, Mr. Matsuda may orally respond to the State's supplemental briefing. Mr. Matsuda addressed his oral response indicating the circumstances relating to the crime were not so unique that it could link this case to the Deft.'s prior bad acts. Upon Court's inquiry, Ms. Moors confirmed the similarities between the both cases. Court stated its findings and ORDERED, Deft.'s prior acts will be ALLOWED to be admitted. Argument by Mr. Matsuda. Statement by Deft regarding not being served the Marcum notice and advised he wanted to testify in front of the Grand Jury. COURT NOTED, there was no pending motion to rule concerning Marcum and DIRECTED Deft. to consult his attorney.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 03, 2019      9:00 AM      Calendar Call**

**HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Jeanette Velazquez

**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft. present in custody. CONFERENCE AT THE BENCH. Upon Court's inquiry, Deft. reported he was unhappy with his counsel and stated his reasons, which included not being served a Marcum notice nor being served with the grand jury transcripts timely. Ms. Moors stated she inherited this case from Mr. Giordani. Colloquy regarding State's application to have the Marcum notice sealed and filing of the superseding indictment. Mr. Matsuda stated he discussed the Marcum notice issue with the Deft., the Deft. did not agree that he was ready for trial as the Deft. only wanted to discuss the Marcum notice and frivolous motions Deft. wanted filed. COURT ADVISED Deft. that his attorney had an obligation to file proper motions with the court. Statement by Deft. regarding challenging the evidence and a writ of habeas corpus not being filed. Mr. Matsuda confirmed he reviewed the transcripts and found insufficient grounds to file a writ of habeas corpus. COURT ADVISED Deft. regarding challenging something under the law, and the burden of proof required for a preliminary hearing or grand jury proceeding. Further statement by Deft. requesting a copy of the order that was filed under seal regarding the Marcum notice; further, advised he was not comfortable going forward with Mr. Matsuda as his attorney and requested to be appointed new counsel. Mr.

Matsuda stated the Deft. was mailed discovery on 4/2/19. COURT ADVISED, Mr. Matsuda was competent and would not be removed as counsel. Colloquy regarding the anticipated trial schedule. Matter TRAILED to allow Deft. an opportunity to discuss his issues with his attorney.

Matter RECALLED with the same parties present as before, including the appearance of Ms. Cannizzaro, Chief Deputy District Attorney. Upon Court's inquiry regarding Mr. Matsuda's meeting with Deft., Mr. Matsuda stated it was difficult to communicate with Deft. about any type of defense relative to the case, as the Deft. started talking about pretrial motions again. Deft. stated he wanted to discuss the strategy for trial with Mr. Matsuda; however, COURT CAUTIONED Deft. regarding waiving attorney/client privilege. Mr. Matsuda confirmed Deft. was provided with all the paperwork, including the updated grand jury transcripts with Deft.'s name indicated; the only items that may be outstanding are videos. Deft. stated he had not received the search warrants with his name. Ms. Moors stated she believed all evidence had been provided to Mr. Matsuda. Colloquy regarding the search warrants, conducting a file review, and the information the cell phone records contained. COURT ORDERED, jury trial set for 7/8/19 STANDS.

CUSTODY

07/08/19 1:30 P.M. JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 08, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 08, 2019**

**1:30 PM**

**Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Jeanette Velazquez

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY VENIRE.

COURT NOTED, on 7/5/19 the Deft. filed a pro-per motion to withdraw counsel; however, it was signed in June and was set one week after jury selection had started. Upon Court's inquiry, Deft. stated that matter had already addressed. COURT ORDERED, the motion currently set on July 29, 2019 is ADVANCED and DENIED.

IN THE PRESENCE OF THE JURY VENIRE.

Introductions by Court and counsel. Voir dire oath given and jury selection commenced.

OUTSIDE THE PRESENCE OF THE JURY VENIRE / IN THE PRESENCE OF JUROR BADGE 152.  
Jury selection and questioning continued.

IN THE PRESENCE OF THE JURY VENIRE.

Jury selection continued. CONFERENCE AT THE BENCH. Jury selection continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY VENIRE.

Bench conferences placed on the record. Mr. Matsuda stated one of the jurors had approached him about her paperwork upon leaving the courtroom and he pointed to the marshal. COURT and the State SO NOTED.

Evening Recess.

7/9/19 - 1:30 PM - JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 09, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 09, 2019**

**1:30 PM**

**Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Jeanette Velazquez  
Jeanette Velazquez

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- IN THE PRESENCE OF THE JURY VENIRE.

Jury selection continued. CONFERENCES AT THE BENCH. Jury selection continued.

OUTSIDE THE PRESENCE OF THE JURY VENIRE.

Bench conferences placed on the record. Colloquy and stipulation regarding the excusal of one of the jurors.

IN THE PRESENCE OF THE JURY VENIRE.

Jury selection continued. CONFERENCES AT THE BENCH. Jury selection continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY VENIRE.  
Bench conferences placed on the record.

Evening Recess.

7/10/19 - 1:30 PM - JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 10, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 10, 2019**

**1:30 PM**

**Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Jeanette Velazquez

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- IN THE PRESENCE OF THE JURY VENIRE.

Jury selection continued. CONFERENCES AT THE BENCH. Jury selection continued. Peremptory Challenges exercised off the record. 12 Jurors and 4 Alternates Selected and Sworn. Jury list FILED IN OPEN COURT. Court instructed the Jury. COURT ADMONISHED the Jury and DIRECTED the jury to return Monday July 22, 2019 at the given time. COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY VENIRE.

Bench conferences placed on the record.

Evening Recess.

7/22/19 11:00 AM - JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 22, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 22, 2019      11:00 AM      Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Jeanette Velazquez  
Jeanette Velazquez  
Jill Chambers

**RECORDER:** Trisha Garcia

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Amended jury list FILED IN OPEN COURT.

JURY PRESENT.

Clerk read the Indictment to the jury and stated the Deft.'s plea thereto. Opening statements by counsel. Testimony and exhibits presented. (See worksheets). CONFERENCES AT THE BENCH.

OUTSIDE THE PRESENCE OF THE JURY.

Bench conferences placed on the record.

JURY PRESENT.

COURT ORDERED, Juror #016 EXCUSED and REPLACED with Juror #963. Further testimony and exhibits. CONFERENCE AT THE BENCH. COURT ADMONISHED the jury and excused them for the evening recess.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 23, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 23, 2019**

**1:30 PM**

**Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Jeanette Velazquez

**RECORDER:** Trisha Garcia

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY.

Colloquy regarding providing the jury instructions to the Court.

IN THE PRESENCE OF THE JURY.

Testimony and exhibits presented (see worksheets). CONFERENCES AT THE BENCH. Testimony and exhibit presentation continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY.

Bench conferences placed on the record.

Evening Recess.

7/24/19 - 1:00 PM - JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 24, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 24, 2019****1:00 PM****Jury Trial****HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali  
Jeanette Velazquez

**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY.

Ms. Moors advised State's exhibit 64A, will take the place of State's exhibit 64, as it has a video player loaded on the disk to play the video, that Mr. Matsuda would agree to its admission by stipulation. COURT ADVISED, 64A would take place of 64, and both exhibits would go back to the jury but the Jury will be provided with an explanation that 64A had the video player. Colloquy regarding the stipulation of State's exhibits 65-69. Mr. Matsuda stated he would stipulate to their admission as to their authenticity; however, requested they lay the foundation but he would not make them jump through hoops for their admission. COURT ORDERED, State's exhibit 64A ADMITTED.

IN THE PRESENCE OF THE JURY.

Testimony and exhibits presented (see worksheets). CONFERENCES AT THE BENCH. Testimony and exhibit presentation continued. COURT ADMONISHED the Jury and DIRECTED the jury to return tomorrow at the given time. COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY.  
Bench conferences placed on the record.

Evening Recess.

7/25/19 - 1:30 PM - JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 25, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 25, 2019**

**1:30 PM**

**Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Phyllis Irby

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY. The State informed the Court it has obtained certified JOC's and noticed Deft is violent habitual eligible. The Court inquired if there has been any offers by the State. The State advised the Court there has been no offers made by the State to Deft.

JURY PRESENT. Testimony and exhibits presented (see worksheet). The State admitted exhibit #66 (CD). STATE RESTED.

OUTSIDE THE PRESENCE OF THE JURY. The Court canvassed Deft regarding his rights to testify. Deft stated he wanted to testify. The State advised it had two certified JOC's with convictions and felonies that could come into play if Deft chose to testify.

JURY PRESENT. Testimony and exhibits presented (see worksheet). CONFERENCE AT THE BENCH. DEFENSE RESTED. The Court noted the State is going to put on its rebuttal case tomorrow.

COURT ORDERED, TRIAL CONTINUED. The Court recessed the Jury for the evening.

CUSTODY

7-26-19 9:00 AM JURY TRIAL (DEPT. V)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 26, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**July 26, 2019**

**9:00 AM**

**Jury Trial**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Shannon Emmons

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding proceedings.

INSIDE THE PRESENCE OF THE JURY: David Miller SWORN AND TESTIFIED. State rested rebuttal case.

OUTSIDE THE PRESENCE OF THE JURY: Instructions settled.

INSIDE THE PRESENCE OF THE JURY: Closing arguments. Court instructed the Jury. At the hour of 12:07 p.m. the jury retired to deliberate.

INSIDE THE PRESENCE OF THE JURY: At the hour of 2:31 p.m. the jury returned with a verdict of guilty as to COUNT 1 - Conspiracy to Commit Burglary; guilty as to COUNT 2 - Burglary While in Possession of a Deadly Weapon; guilty as to COUNT 3 - Conspiracy to Commit Robbery; guilty as to COUNT 4 - Robbery with Use of a Deadly Weapon, victim 60 years of age or older; guilty as to

COUNT 5 - Robbery with Use of a Deadly Weapon; guilty as to COUNT 6 - Robbery with Use of a Deadly Weapon; guilty as to COUNT 7 - Battery with Use of a Deadly Weapon, Victim 60 years of age or older; guilty as to COUNT 8 - Battery with Use of a Deadly Weapon. Verdict FILED IN OPEN COURT. Jury Instructions FILED IN OPEN COURT.

COURT ORDERED, Deft. REMANDED without bail. COURT FURTHER ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing.

CUSTODY

09/16/2019 9:00 AM SENTENCING (DEPT. 5)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 16, 2019**

C-18-337017-2      State of Nevada  
vs  
Devoehn Marks

**September 16, 2019      9:00 AM      Sentencing**

**HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** April Watkins**RECORDER:** Gail Reiger**REPORTER:****PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Mr. Matsuda advised Deft. has filed motion to dismiss counsel. Deft. advised he wants to represent himself. Court stated Deft. cannot represent himself on appeal. Deft. requested to continue matter to Wednesday based on ineffective assistance of counsel, no attorney client visit at all and advised he has new motions to file. Court stated motions not timely and judgment of acquittal has to be filed within seven days. Further statement by Deft. Court heard trial and in order for the Court to grant a motion for judgment of acquittal after trial, the Court has to find there was absolutely no evidence upon which a reasonable jury could find Deft. guilty. Further, there was plenty of evidence as well as an accomplice testimony that tended to connect Deft. to the crime separate and apart from the accomplice testimony. There is no way the Court would granted such a motion. Upon Court's inquiry, Mr. Matsuda stated counsel did not file motion as it would be frivolous. Statement by Deft. Court can Faretta Canvass Deft. on Wednesday. Mr. Matsuda stated he spoke to Deft. numerous times while in Court, Deft. has been housed in High Desert and investigator spoke to Deft. Further statement by Deft. COURT ORDERED, matter CONTINUED and set for Faretta Canvass.

CUSTODY (COC-NDC)

PRINT DATE: 01/21/2020

Page 25 of 36

Minutes Date: January 11, 2019

CONTINUED TO: 9/18/19 9:00 AM

9/18/19 9:00 AM FARETTA CANVASS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 18, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**September 18, 2019    9:00 AM      All Pending Motions**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	MATSUDA, JESS Y.	Attorney
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- SENTENCING ... DEFT.'S PRO PER MOTION TO DISMISS COUNSEL AND MOVE IN PRO SE

Matter called at 12:44 PM. Deft. present in custody. As a Faretta Canvass will take 15 minutes, COURT ORDERED, matters CONTINUED and SET for Faretta Canvass. Ms. Moore stated she also had to attend training at 1:00 PM today. COURT NOTED, the Deft. is entitled to represent himself on sentencing, but not on an appeal, therefore, counsel would have to represent the Deft. on the appeal.

CUSTODY (COC-NDC)

10/7/19 - 9:00 AM - SENTENCING ... DEFT.'S PRO PER MOTION TO DISMISS COUNSEL AND MOVE IN PRO SE ... FARETTA CANVASS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 07, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**October 07, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCE CONTINUED: Benjamin Nadig, Esq. present for Mr. Nadig on behalf of Deft. who is present in custody.

SENTENCING ... DEFT.'S PRO PER MOTION TO DISMISS COUNSEL AND MOVE IN PRO SE ...  
FARETTA CANVASS

Upon Court's inquiry Deft. advised he still wanted to represent himself. Court proceeded with the Faretta Canvass of the Deft and questioned the Deft. regarding his understanding of the laws. COURT FINDS, no reason for the Deft. not to be able to represent himself on Sentencing. Mr. Nadig objected to the late filing of the notice of intent to seek criminal habitual treatment and argued that should not be considered at sentencing. Argument by Ms. Moors in support of criminal habitual treatment being considered. Deft. requested the sentencing be continued 30 days to allow him to prepare. Upon Court's further inquiry, Deft. reiterated he still wanted to represent himself and declined to have another court appointed attorney represent him. Mr. Nadig stated he would appear for the sentencing date. COURT ORDERED, motion GRANTED in that Jess Matsuda is REMOVED AS COUNSEL and Deft. is to proceed in Pro Se; FURTHER, Benjamin Nadig APPOINTED as standby

counsel for Sentencing.

CUSTODY (COC-NDC)

11/4/19 - 9:00 AM - SENTENCING



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 04, 2019**

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C-18-337017-2      State of Nevada  
vs  
Devohn Marks

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**November 04, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFT.'S PRO PER MOTION FOR JUDGMENT OF ACQUITTAL ... DEFT.'S PRO PER MOTION FOR NEW TRIAL ... SENTENCING

APPEARANCES CONTINUED: Benjamin Nadig, Esq. present on behalf of Deft. who was present in custody.

Deft. stated he just received the State's opposition today. Ms. Moors stated she wasn't served with the Deft.'s motion until 10/24/19 and acknowledged she just provided the opposition to the Deft.. Matter TRAILED for Deft. to read the State's opposition.

Matter RECALLED. Same parties present as before. As to the Extension of time to file motion for new trial and motion for judgment of acquittal, currently set November 6, 2019, COURT ADVISED, Deft. had a deadline, and any requests to extend had to be within the timeframe set out by the statutes. Deft. argued there was excusable neglect; therefore, requested the motion be heard, as Mr. Matsuda wouldn't get hold of him and he never met with Mr. Matsuda to discuss the case, he had made this claim before a number of times, and he had reached out to Mr. Matsuda within the

fourteen day timeframe to request he file something on his behalf. Ms. Moors argued in opposition to there being excusable neglect; noting that was why her opposition only addressed the time bar matter. Further argument by Deft. regarding excusable neglect. COURT NOTED, the State had not addressed the merits of the motion. Statement by Mr. Nadig regarding there being no contact with Mr. Matsuda. COURT ORDERED, all matters CONTINUED for the State to file a written response and the Deft. to address the State's response. Ms. Moose further argued that because the Deft. wanted to represent himself, it did not mean Mr. Matsuda was ineffective. COURT SO AGREED. COURT FURTHER ORDERED, State's supplemental opposition DUE BY 11/18/19 and the Deft.'s response is DUE BY 12/2/19. FURTHER ORDERED, request for extension of time to file motion for new trial and motion for judgment of acquittal is MOOT. COURT ADVISED, it did not make a finding that Mr. Matsuda was ineffective. Further statements by Deft. regarding the lack of contact with Mr. Matsuda; further, Deft. requested Mr. Matsuda provide him with his file. COURT ADVISED, Deft. had to make a request for the file. Statement by Ms. Moors regarding the Marcum notice, that was filed under sealed, and that should not be provided to the Deft. COURT SO NOTED.

CUSTODY (COC-NDC)

CONTINUED TO: 12/9/19 - 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 09, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**December 09, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Steven Altig, Esq. present for standby Counsel Mr. Nadig. Deft. present in custody

SENTENCING ... DEFT.'S PRO PER MOTION FOR JUDGMENT OF ACQUITTAL ... DEFT.'S PRO PER MOTION FOR NEW TRIAL

Mr. Altig stated Mr. Nadig could not appear today; therefore, he was requesting this matter be continued to Wednesday. COURT ADVISED, Mr. Nadig was standby counsel. Upon Court's inquiry regarding whether the Deft. wanted Mr. Nadig here and whether the Deft. was ready to argue his motions, Deft. stated he wanted Mr. Nadig to be here; however, advised, he was ready to proceed. Further, Deft. stated he had new evidence that had been presented to him, that he would like to provide for the Court. Ms. Rinetti stated this matter was being handled by Ms. Moors. Matter TRAILED for Ms. Moors presence.

Matter RECALLED. Ms. Moors now present on behalf of the State. Mr. Altig is no longer present. Ms. Moors stated she was not served with a copy of the motion; however, she did obtain a copy

online and requested to opportunity to file a response. Upon Court's inquiry as to what the Deft. wanted to produce, Deft. stated there was a message on a woman's phone, that vital for his defense for trial, showing that he sent a message indicating his phone had been stolen. Ms. Moors stated the Deft. could not admit evidence after the fact. COURT SO AGREED; however, NOTED that was not to say there wasn't a post-conviction matter that it could be presented for. COURT FURTHER NOTED, the State did not get served with the motion. Deft. acknowledged that he completed a certificate of mailing; however, advised he did not ask the jail to mail the documents. COURT ORDERED, matter CONTINUED to allow the State to review the Deft.'s response.

CUSTODY

CONTINUED TO: 12/18/19 - 9:00 AM

CLERK'S NOTE: The foregoing minutes were updated to indicate the correct reason for the continuance "to allow the State to review the Deft.'s response", instead of being continued for the State to file a response (1/21/20 amn).

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 18, 2019**

C-18-337017-2      State of Nevada  
vs  
Devohn Marks

**December 18, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Ellsworth, Carolyn

**COURTROOM:** RJC Courtroom 16D

**COURT CLERK:** Andrea Natali

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Marks, Devohn	Defendant
	Moors, Lindsey	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Benjamin Nadig, Esq. present as standby counsel.

DEFENDANT'S PRO PER MOTION FOR JUDGMENT OF ACQUITTAL ... DEFENDANT'S PRO PER MOTION FOR NEW TRIAL ... SENTENCING

Deft. stated he had nothing to add to his two motions; however, noted he just received discovery, there were multiple issue raised about the Marcum notice. Colloquy regarding the grand jury case A760797. Ms. Moors stated this matter was already addressed. COURT NOTED, many of the arguments the Deft. was making are addressed on appeal. Mr. Nadig stated he thought he was appointed as appellant counsel. COURT ADVISED, Mr. Matsuda was still appellant counsel. Mr. Nadig stated he would discuss that with Mr. Matsuda, as with the Court's permission he would request to substitute in. COURT ADVISED, if Mr. Matsuda felt the relationship had broken down the Deft. could consider that. Deft. requested Mr. Nadig be substituted in as counsel. COURT stated its FINDINGS and ORDERED motions DENIED.

DEFT MARKS ADJUDGED GUILTY of COUNT 1 CONSPIRACY TO COMMIT BURGLARY (GM),

COUNT 2 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F), COUNT 3 CONSPIRACY TO COMMIT ROBBERY (F), COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (F), COUNTS 5 and 6- ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (F), and COUNT 8 BATTERY WITH USE OF A DEADLY WEAPON (F). Arguments by Ms. Moors; noted she was striking the notice of intent to seek habitual treatment for appellant purposes. Argument by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee WAIVED as previously taken, a \$3.00 DNA Collection fee, and an order and judgment of RESTITUTION in the amount of \$250.00 payable to and in favor of the Dugout Lounge Inc. dba Torrey Pines Pub imposed jointly and severally with the Co-Deft, Deft. SENTENCED as follows:

COUNT 1 THREE HUNDRED SIXTY FOUR (364) DAYS the Clark County Detention Center (CCDC); COUNT 2 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, CONCURRENT with COUNT 1;

COUNT 3 a MAXIMUM of SEVENTY-TWO (72) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS to the Nevada Department of Corrections, CONCURRENT with COUNT 2;

COUNT 4 a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for both enhancements, CONSECUTIVE to COUNT 3;

COUNT 5 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for the deadly weapon enhancement, CONSECUTIVE to COUNT 4;

COUNT 6 a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of FORTY-EIGHT (48) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for the deadly weapon enhancement, CONSECUTIVE to COUNT 5;

COUNT 7 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of THIRTY-SIX (36) MONTHS to the Nevada Department of Corrections, plus a CONSECUTIVE term of a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS for the victim 60 years of age or older enhancement, CONCURRENT with COUNT 6;

and COUNT 8 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and a MINIMUM of THIRTY-SIX (36) MONTHS to the Nevada Department of Corrections, CONCURRENT with COUNT 7;

with ONE HUNDRED SEVENTY-NINE (179) DAYS credit for time served. The AGGREGATE TOTAL sentence is a MAXIMUM of FOUR HUNDRED EIGHTY (480) MONTHS and a MINIMUM of ONE HUNDRED NINETY-TWO (192) MONTHS.

COURT ADVISED, only one enhancement can be imposed pursuant to statute with respect to the aggregate sentence.

BOND, if any, EXONERATED.

NDC



**Exhibits:**

- 1. Proposed Indictment**
- ✎ 1a. Proposed Superseding Indictment**
- 2. Jury Instructions**
- 3. withdrawn**
- 4. DVD/CD**
- 5. Photo**
- 6. Photo**
- 7. Photo**
- 8. Photo**
- 9. Photo**
- 10. Photo**
- 11. Photo**
- 12. Photo**
- 13. Photo**
- 14. Photo**
- 15. Photo**
- 16. Photo**
- 17. Photo**
- 18. Photo**
- 19. Photo**
- ✎ 20. Photo**

**Exhibit 1a & 20 to be lodged with the Clerk of the Court.**

**Exhibits 1 - 19 were previously lodged with the Clerk of the Court.**

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# EXHIBIT(S) LIST

Case No.: **C337017**

Trial Date: **JULY 8, 2019**

Dept. No.: **V**

Judge: **CAROLYN ELLSWORTH**

Court Clerk: **ANDREA NATALI / JEANETTE VELAZQUEZ**

Plaintiff: **STATE OF NEVADA**

Recorder: **LARA CORCORAN**

Counsel for Plaintiff: **LINDSEY MOORS, DEP. D.A.**

vs.

& **NICOLE CANNIZZARO, CHF. DEP. D.A.**

Defendant: **DEVOHN MARKS**

Counsel for Defendant: **JESS MATSUDA, ESQ.**

## TRIAL BEFORE THE COURT

### STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	Photo Torrey Pines Pub bldg	7/22/19	N	7/22/19	WA
2	Photo Torrey Pines Pub entrance	7/22/19		7/22/19	WA
3	Photo double door w/ address	7/22/19		7/22/19	WA
4	Photo Torrey Pines w/ metro vehicle	7/22/19		7/22/19	WA
5	Photo Side door	7/22/19	✓	7/22/19	WA
6	Photo Side door zoomed view	7/22/19	N	7/22/19	WA
7	Photo Side door wide view	7/22/19		7/22/19	WA
8	Photo Side view w/ vehicle	7/22/19		7/22/19	WA
9	Photo tan building w/ camera & trees	7/22/19		7/22/19	WA
10	Photo parking lot w/ tree & part of bldg	7/22/19		7/22/19	WA
11	Photo parking lot w/ tree	7/22/19		7/22/19	WA
12	Photo red door	7/22/19		7/22/19	WA
13	Photo bar w/ 3 people on right	7/22/19		7/22/19	WA
14	Photo bar w/ eagles sign	7/22/19		7/22/19	WA
15	Photo bar center corner	7/22/19		7/22/19	WA
16	Photo bar w/ 2 people on left	7/22/19	✓	7/22/19	WA
17	Photo bar hallway	7/22/19		7/22/19	WA

# EXHIBIT(S) LIST

C337017

STATE OF NEVADA

VS.

DEVOHN MARKS

## STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
18	Photo bar Walkway(left)	7/22/19	N	7/22/19	WA
19	Photo bar w/video games	7/22/19		7/22/19	WA
20	Photo bar exit	7/22/19	↓	7/22/19	WA
21	Photo doors w/thermostat on wall	7/22/19	N	7/22/19	WA
22	Photo open door w/left gate	7/22/19	N	7/22/19	WA
23	Photo bar Walkway w/skull decal	7/22/19		7/22/19	WA
24	Photo bar w/2 people sitting on right	7/22/19		7/22/19	WA
25	Photo pool table centered	7/22/19		7/22/19	WA
26	Photo pool table(left)	7/22/19		7/22/19	WA
27	Photo pool tables	7/22/19		7/22/19	WA
28	Photo pool tables(right)	7/22/19		7/22/19	WA
29	Photo pool table w/person sitting down	7/22/19		7/22/19	WA
30	Photo bar TV w/tables	7/22/19		7/22/19	WA
31	Photo bar Walkway w/popcorn machine	7/22/19	↓	7/22/19	WA
32	Photo bar Walkway w/popcorn machine <sup>wood</sup>	7/22/19	N	7/22/19	WA
33	Photo bar counter w/towels	7/22/19		7/22/19	WA
34	Photo bloodied towels	7/22/19		7/22/19	WA
35	Photo gaming machine w/towel	7/22/19		7/22/19	WA
36	Photo ash tray w/card	7/22/19		7/22/19	WA
37	Photo blood on floor	7/22/19		7/22/19	WA
38	Photo blood on floor(left)	7/22/19		7/22/19	WA
39	Photo blood splatter on floor	7/22/19		7/22/19	WA
40	Photo pool of blood on floor	7/22/19		7/22/19	WA
41	Photo pool of blood w/measure	7/22/19	✓	7/22/19	WA
42	Photo behind bar	7/22/19	N	7/22/19	WA

# EXHIBIT(S) LIST

C337017

STATE OF NEVADA

VS.

DEVOHN MARKS

## STATE'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
43	Photo behind bar w/grade A sign	7/22/19	N	7/22/19	WA
44	Photo behind bar zoomed	7/22/19		7/22/19	WA
45	Photo behind bar w/debris on floor	7/22/19		7/22/19	WA
46	Photo behind bar w/trash can (centered)	7/22/19	✓	7/22/19	WA
47	Photo behind bar w/trash can (right)	7/22/19	N	7/22/19	WA
48	Photo behind bar floor w/debris	7/22/19		7/22/19	WA
49	Photo green zippered pouch	7/22/19		7/22/19	WA
50	Photo cash drawer w/bottles on left	7/22/19		7/22/19	WA
51	Photo cash drawer	7/22/19	✓	7/22/19	WA
52	Photo behind bar exit	7/22/19	N	7/22/19	WA
53	Photo bar counter w/fire extinguisher	7/22/19	N	7/22/19	WA
54	Photo man w/hospital gown	7/22/19	N	7/22/19	WA
55	Photo man's head (face)	7/22/19	N	7/22/19	WA
56	Photo man's injured back & head	7/22/19	N	7/22/19	WA
57	Photo head wound (wide)	7/22/19	N	7/22/19	WA
58	Photo head wound (zoomed)	7/22/19	N	7/22/19	WA
59	Photo head wound w/measure	7/22/19	N	7/22/19	WA
60	Photo bar w/TV turned on	7/22/19	N	7/22/19	WA
61	Photo behind bar w/man raising right arm	7/22/19	N	7/22/19	WA
62	Photo man sitting @ bar	7/22/19	N	7/22/19	WA
63	DVD Torrey Pines Pub video #2	7/22/19	S	7/22/19	WA
64	DVD Torrey Pines Pub video #1	7/22/19	S	7/22/19	WA
65	CD cell data	7/24/19	S	7/24/19	WA
66	CD Reports	7-25-19	N	7-25-19	WA
64A	DVD Torrey Pines Pub Video #2 (working) video of 63	7/24/19	S	7/24/19	WA



## EXHIBIT(S) LIST

Case No.: C337017

Trial Date: JULY 8, 2019

Dept. No.: **V**

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Plaintiff: **STATE OF NEVADA**

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**vs.**

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Defendant: **DEVOHN MARKS**

**Counsel for Defendant: JESS MATSUDA, ESQ.**

## TRIAL BEFORE THE COURT

## COURT'S EXHIBITS

[illegible]



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

JESS Y. MATSUDA, ESQ.  
228 S. 4<sup>TH</sup> ST., STE 300  
LAS VEGAS, NV 89101

DATE: January 21, 2020  
CASE: C-18-337017-2

RE CASE: STATE OF NEVADA vs. DEVOHN MARKS

NOTICE OF APPEAL FILED: January 17, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:



Case Appeal Statement

- NRAP 3 (a)(1), Form 2



Order



Notice of Entry of Order

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NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; JUDGMENT OF CONVICTION AND RESTITUTION (JURY TRIAL); DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

DEVOHN MARKS,

Defendant(s).

Case No: C-18-337017-2

Dept No: V

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 21 day of January 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk