

*Steven D. Grierson*

Willie Carter #1114323

In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018

Electronically Filed  
Feb 20 2020 03:28 p.m.  
Elizabeth A. Brown  
Clerk of Nevada Supreme Court

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Clark

Willie Carter  
Plaintiff,  
vs.  
The State of Nevada  
Defendant.

A-19-804110-W  
Case No. C-13-292507-2  
Dept. No. XVIII  
Docket \_\_\_\_\_

### NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,  
Willie Carter, in and through his proper person, hereby  
appeals to the Supreme Court of Nevada from the ORDER denying and/or  
dismissing the

Habeas Corpus/Motion To Correct Illegal Sentence

ruled on the 13th day of January, 2020.

Dated this 11th day of February, 2020.

Respectfully Submitted,

Willie Carter, Willie Carter

RECEIVED  
FEB 18 2020

CLERK OF THE COURT

**CERTIFICATE OF SERVICE BY MAILING**

I, Willie Carter, hereby certify, pursuant to NRCP 5(b), that on this 11  
day of February, 2020, I mailed a true and correct copy of the foregoing, "Notice  
of Appeal for Habeas Corpus"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of The Court  
200 Lewis Ave  
Las Vegas, NV 89155

CC:FILE

DATED: this 11 day of February, 2020.

Willie Carter  
Willie Carter # 1114323  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
**IN FORMA PAUPERIS:**

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Habeas Corpus  
(Title of Document)

filed in District Court Case number A-19-804110-W

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

B. For the administration of a public program or for an application  
for a federal or state grant.

Willie Carter  
Signature

2/11/20  
Date

Willie Carter  
Print Name

\_\_\_\_\_  
Title

## I. Defendant Was Subject Of Ineffective Counsel

Defendant filed petition of Habeas Corpus to make the court aware of the illegal application of a weapons enhancement to his sentence. Defendant did not file petition of Habeas Corpus to prove innocence for the crimes he was convicted of. Ineffective Counsel was a major factor in the defendant being illegally sentenced as his court appointed attorney never argued NRS193.165. Indeed, defendant is procedurally time barred from filing a Habeas Corpus, but he failed to file because of ineffective counsel on part of his court appointed Attorney Anthony Goldstein. Defendant's attorney seemed oblivious to the nuances of NRS193.165, because he never argued about the illegal application of the weapons enhancement being applied to the sentence of the defendant. Based on the existence of ineffective counsel this petition for Habeas Corpus should prove worthy of being dissected in court regardless of procedural time bar.

## II. Defendant Was Illegally Sentenced

Defendant was illegally sentenced based on the plain language of NRS193.165(4). Subsections 1, 2, and 3 of NRS193.165 focus on how to apply the weapons enhancement to the sentence of those who qualify for such a penalty to be imposed. NRS193.165(4) states: The provisions of subsections 1, 2, and 3 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime. Per PSI, defendant was convicted of NRS200.380 Robbery with use of a deadly weapon, which is not a generic robbery as erroneously stated by the respondent. To be convicted of Robbery with the use of a deadly weapon one must possess a weapon during the commission of the crime. Thus, Robbery with the use of a deadly weapon carries a more harsh penalty than a generic robbery because of the existence of a weapon, but robbery with the use of a deadly weapon can't be followed by the application of a weapons enhancement because of NRS193.165(4). NRS193.165(4) supports the defendant's claim of being illegally sentenced because a firearm or other deadly weapon is a necessary element in both crimes the defendant was convicted of NRS200.380, NRS200.010, Robbery with use of deadly weapon and Attempted Murder. Defendant was convicted of Attempted Murder NRS200.010 Per PSI. A firearm or other deadly weapon is a necessary element for one to be charged or convicted of Attempted Murder NRS200.010

1  
2 which further supports the defendant's claim of  
3 being illegally sentenced by way of the erroneous  
4 application of the weapons enhancement NRS 193.165  
5 NRS 193.165(4) specifies that the defendant can not  
6 have a weapons enhancement applied legally to his  
7 sentence because a firearm, other deadly weapon or  
8 tear gas is a necessary element in both crimes the  
9 defendant was convicted of.

10 Furthermore NRS 193.165(5) states:

11 The court shall not grant probation to or suspend the  
12 sentence of any person who is convicted of using a  
13 firearm, other deadly weapon or tear gas in the  
14 commission of any of the following crimes:

15 (a) murder

16 (b) kidnapping in first degree

17 (c) sexual assault or

18 (d) robbery

19 NRS 193.165(5) speaks to what charges are not  
20 probationable under Nevada law. NRS 193.165(5)  
21 does not ~~contemplate~~ contemplate or speak to what crimes  
22 can have a weapons enhancement applied to them  
23 as erroneously stated by the respondent. Per PSI  
24 defendant was never charged or convicted of  
25 Murder as erroneously stated by the respondent.

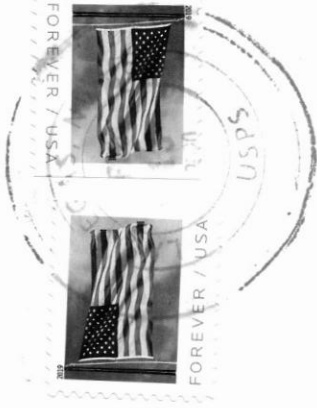
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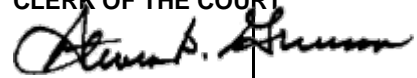
Willie Carter #1114323  
SDCC  
PO Box 208  
Indian Springs, NV  
89070



Clerk of the Court  
200 Lewis Ave  
Las Vegas, NV 89155

0910186300 0075





1 ASTA

2  
3  
4  
5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 WILLIE CARTER  
14 aka WILLIE TERRY CARTER,

15 Defendant(s),

Case No: C-13-292507-2

Dept No: XVIII

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Willie Carter

20 2. Judge: Mary Kay Holthus

21 3. Appellant(s): Willie Carter

22 Counsel:

23 Willie Carter #1114323  
24 P.O. Box 208  
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.



Las Vegas, NV 89101  
(702) 671-2700

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

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

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

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

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

9. Date Commenced in District Court: September 11, 2013

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

Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 66185, 74010

12. Child Custody or Visitation: N/A

Dated This 19 day of February 2020.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

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

cc: Willie Carter

Willie Carter, 1114323  
Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070-0208

*Steven D. Grierson*

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Clark

Willie Carter  
Plaintiff,  
vs.  
The State of Nevada  
Defendant.

A-19-804110-W  
CASE No. C-13-292507-2  
DEPT.No. XVIII

Clerk of The Court DESIGNATION OF RECORD ON APPEAL  
TO: 200 LEWIS AVE.  
Las Vegas, NV  
89155-2212

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 11 day of February, 2020.

RESPECTFULLY SUBMITTED BY:

Willie Carter  
Willie Carter # 1114323  
Plaintiff/In Propria Persona

# CASE SUMMARY

## CASE NO. C-13-292507-2

State of Nevada  
vs  
Willie Carter

§ Location: Department 18  
§ Judicial Officer: Holthus, Mary Kay  
§ Filed on: 09/11/2013  
§ Case Number History:  
§ Cross-Reference Case Number: C292507  
§ Defendant's Scope ID #: 5181937  
§ Grand Jury Case Number: 13AGJ050

### CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013	Case Status:	07/16/2014 Closed
Filed As: CONSPIRACY TO COMMIT ROBBERY	F	9/11/2013			
2. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
Filed As: BURGLARY WHILE IN POSSESSION OF A FIREARM	F	9/11/2013			
3. ATTEMPT MURDER	200.010	F	08/22/2013		
Filed As: ROBBERY WITH USE OF A DEADLY WEAPON	F	9/11/2013			
4. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
5. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
6. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
7. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
8. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
9. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	F	08/22/2013		
10. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.010	F	08/22/2013		
11. ASSAULT WITH A DEADLY WEAPON	200.471.2b	F	08/22/2013		
12. DISCHARGE FIREARM WITHIN A STRUCTURE	202.287.1b	F	08/22/2013		

#### Related Cases

A-19-804110-W (Writ Related Case)  
C-13-292507-1 (Multi-Defendant Case)  
C-13-292507-3 (Multi-Defendant Case)

#### Statistical Closures

07/16/2014 Guilty Plea with Sentence (before trial) (CR)

#### Warrants

Indictment Warrant - Carter, Willie (Judicial Officer: Bell, Linda Marie )

10/31/2013 5:14 PM Returned - Served

10/30/2013 11:00 AM Active

Fine: \$0

Bond: \$340,000.00 Cash or Surety

Indictment Warrant - Carter, Willie (Judicial Officer: Bell, Linda Marie )

09/11/2013 11:45 AM Returned - Served

Fine: \$0

Bond: \$340,000.00 Cash or Surety

DATE



CASE ASSIGNMENT

**CASE SUMMARY****CASE NO. C-13-292507-2****Current Case Assignment**

Case Number	C-13-292507-2
Court	Department 18
Date Assigned	01/07/2019
Judicial Officer	Holthus, Mary Kay

**PARTY INFORMATION**

<b>Defendant</b>	<b>Carter, Willie</b>	<i>Lead Attorneys</i> <b>Goldstein, Anthony M.</b> <i>Retained</i> 7027961114(W)
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b> 702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
<b><u>EVENTS</u></b>		
09/11/2013	 Indictment <i>Indictment</i>	
09/11/2013	 Warrant <i>Indictment Warrant</i>	
09/12/2013	 Indictment Warrant Return	
09/23/2013	 Transcript of Proceedings <i>Reporter's Transcript of Proceedings - Grand Jury Hearing September 10, 2013</i>	
10/04/2013	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witnesses</i>	
10/08/2013	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Witnesses and/or Expert Witnesses</i>	
10/14/2013	 Petition <i>Petition for a Writ of Habeus Corpus (Pretrial)</i>	
10/30/2013	 Indictment <i>Superseding Indictment</i>	
10/30/2013	 Warrant <i>Superseding Indictment Warrant</i>	
10/31/2013	 Superseding Indictment <i>Second Superseding Indictment</i>	
10/31/2013	 Guilty Plea Agreement	
11/06/2013	 Transcript of Proceedings <i>Reporter's Transcript of Proceedings - Grand Jury Hearing Superseding Indictment October 29, 2013</i>	

**CASE SUMMARY**  
**CASE NO. C-13-292507-2**

12/17/2013	 PSI
01/16/2014	 Judgment of Conviction <i>JUDGMENT OF CONVICTION (PLEA OF GUILTY)</i>
03/18/2014	 Order <i>Order for Transcripts</i>
03/24/2014	 Transcript of Proceedings <i>Reporter's Transcript of Proceedings Plea October 31, 2013</i>
07/16/2014	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
01/05/2015	Case Reassigned to Department 9 <i>District Court Case Reassignment 2015</i>
01/07/2019	Case Reassigned to Department 18 <i>Judicial Reassignment - From Judge Togliatti to Judge Holthus</i>
12/16/2019	 Motion to Modify Sentence Filed By: Defendant Carter, Willie <i>Motion to Correct Illegal Sentence</i>
01/13/2020	 Findings of Fact, Conclusions of Law and Order <i>Findings of Fact, Conclusions of Law, and Order</i>
01/15/2020	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law, and Order</i>
02/18/2020	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
02/18/2020	 Designation of Record on Appeal <i>Designation of Record on Appeal</i>
02/19/2020	 Case Appeal Statement Filed By: Defendant Carter, Willie <i>Case Appeal Statement</i>

**DISPOSITIONS**

10/31/2013	<p><b>Disposition</b> (Judicial Officer: Bixler, James)</p> <p>4. ROBBERY WITH USE OF A DEADLY WEAPON Amended Information Filed/Charges Not Addressed PCN: Sequence:</p> <p>5. ROBBERY WITH USE OF A DEADLY WEAPON Amended Information Filed/Charges Not Addressed PCN: Sequence:</p> <p>6. ROBBERY WITH USE OF A DEADLY WEAPON Amended Information Filed/Charges Not Addressed PCN: Sequence:</p>
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**CASE SUMMARY**  
**CASE NO. C-13-292507-2**

7. ROBBERY WITH USE OF A DEADLY WEAPON  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:
8. ROBBERY WITH USE OF A DEADLY WEAPON  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:
9. ROBBERY WITH USE OF A DEADLY WEAPON  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:
10. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:
11. ASSAULT WITH A DEADLY WEAPON  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:
12. DISCHARGE FIREARM WITHIN A STRUCTURE  
Amended Information Filed/Charges Not Addressed  
PCN: Sequence:

10/31/2013 **Plea** (Judicial Officer: Bixler, James)

1. ROBBERY WITH USE OF A DEADLY WEAPON  
Guilty  
PCN: Sequence:
2. ROBBERY WITH USE OF A DEADLY WEAPON  
Guilty  
PCN: Sequence:
3. ATTEMPT MURDER  
Guilty  
PCN: Sequence:
4. ROBBERY WITH USE OF A DEADLY WEAPON  
Charges Amended/Dropped  
PCN: Sequence:
5. ROBBERY WITH USE OF A DEADLY WEAPON  
Charges Amended/Dropped  
PCN: Sequence:
6. ROBBERY WITH USE OF A DEADLY WEAPON  
Charges Amended/Dropped  
PCN: Sequence:
7. ROBBERY WITH USE OF A DEADLY WEAPON  
Charges Amended/Dropped  
PCN: Sequence:
8. ROBBERY WITH USE OF A DEADLY WEAPON  
Charges Amended/Dropped  
PCN: Sequence:
9. ROBBERY WITH USE OF A DEADLY WEAPON  
Charges Amended/Dropped  
PCN: Sequence:

# CASE SUMMARY

## CASE NO. C-13-292507-2

## 10. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

Charges Amended/Dropped

PCN: Sequence:

## 11. ASSAULT WITH A DEADLY WEAPON

Charges Amended/Dropped

PCN: Sequence:

## 12. DISCHARGE FIREARM WITHIN A STRUCTURE

Charges Amended/Dropped

PCN: Sequence:

01/07/2014 **Disposition** (Judicial Officer: Bixler, James)

## 1. ROBBERY WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

## 2. ROBBERY WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

## 3. ATTEMPT MURDER

Guilty

PCN: Sequence:

01/07/2014 **Adult Adjudication** (Judicial Officer: Bixler, James)

## 1. ROBBERY WITH USE OF A DEADLY WEAPON

08/22/2013 (F) 200.380 (DC50138)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:6 Years, Maximum:15 Years

Consecutive Enhancement:for Use of a Deadly Weapon, Minimum:6 Years, Maximum:15 Years

01/07/2014 **Adult Adjudication** (Judicial Officer: Bixler, James)

## 2. ROBBERY WITH USE OF A DEADLY WEAPON

08/22/2013 (F) 200.380 (DC50138)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:6 Years, Maximum:15 Years

Consecutive Enhancement:for Use of a Deadly Weapon, Minimum:6 Years, Maximum:15 Years

Concurrent: Charge 1

01/07/2014 **Adult Adjudication** (Judicial Officer: Bixler, James)

## 3. ATTEMPT MURDER

08/22/2013 (F) 200.010 (DC50029)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:6 Years, Maximum:20 Years

Concurrent: Charge 1 &amp; 2

Credit for Time Served: 138 Days


Fee Totals:

Administrative Assessment Fee	25.00
\$25	
DNA Analysis Fee	150.00
\$150	
Genetic Marker	

**CASE SUMMARY**  
**CASE NO. C-13-292507-2**

Analysis AA Fee	3.00
\$3	
Fee Totals \$	178.00

**HEARINGS**

09/11/2013  **Grand Jury Indictment** (11:45 AM) (Judicial Officer: Bell, Linda Marie)

**MINUTES**

**Warrant**

Inactive Indictment Warrant

Matter Heard;

Journal Entry Details:


*Edward Golec, 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 13AGJ050B to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-292507-2, Department 24. Ms. Thomson requested a warrant and argued bail. COURT ORDERED, WARRANT WILL ISSUE \$340,000.00 TOTAL BAIL; Exhibits(s) 1-5 lodged with the Clerk of District Court. COURT FURTHER ORDERED, matter SET for Arraignment. WARRANT (CUSTODY) 9-19-13 8:30 AM INITIAL ARRAIGNMENT (DEPT. 24) ;*

**SCHEDULED HEARINGS**

**Initial Arraignment** (09/19/2013 at 8:30 AM) (Judicial Officer: Bixler, James)

09/19/2013 **Initial Arraignment** (8:30 AM) (Judicial Officer: Bixler, James)

09/19/2013 **Indictment Warrant Return** (8:30 AM) (Judicial Officer: Bixler, James)

09/19/2013  **All Pending Motions** (8:30 AM) (Judicial Officer: Bixler, James)

Trial Date Set;

Journal Entry Details:

*ARRAIGNMENT...INDICTMENT WARRANT RETURN Deft Carter present in custody. Mr. Goldstein stated he was appointed by the Justice Court at the Lower Level and that case was dismissed. Deft has now been indicted by the Grand Jury. COURT ORDERED, Anthony Goldstein is APPOINTED to represent deft. DEFT. CARTER ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Upon Court's inquiry, Mr. Goldstein stated he has not received the Grand Jury transcript. Court noted, the Grand Jury return was on 9/11/13, and the Court Reporter has until 9/25/13 to file the transcript. The deft has 21 days to file the Writ from the date the Grand Jury Transcript is filed. Ms. Thomson advised the Court this is Ms. Mercer's case. Court informed the parties, the Court has a capital murder case set the same date, and if it goes forward, this case will go to the Overflow Department. CUSTODY (COC) 10/31/13 @ 8:30 A.M. CALENDAR CALL 11/4/13 @ 10:00 A.M. TRIAL BY JURY ;*


10/29/2013  **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Bixler, James)

*Defendants Petition for a Writ of Habeas Corpus (Pretrial)*

Off Calendar;

Journal Entry Details:

*Deft present in custody. Mr. Goldstein advised the Court the matter is RESOLVED. He called the Court's Law Clerk last Friday to let him know that there is no need to address the Writ. The Court can leave the Calendar Call on calendar for Thursday, 10/31/13. He has the Guilty Plea Agreement to go over with the deft. NEGOTIATIONS; deft will plead to one count of Conspiracy to Commit Robbery, two counts of Robbery with Use of a Deadly Weapon to run CONCURRENT, and one count of Attempt Murder. Deft concurred. COURT ORDERED, the Deft's writ is taken OFF CALENDAR, matter CONTINUED to 10/31/13 for Change of Plea/Calendar Call. CUSTODY (COC) 10/31/13 @ 8:30 A.M. CHANGE OF PLEA/CALENDAR CALL ;*

10/30/2013  **Grand Jury Indictment** (11:00 AM) (Judicial Officer: Bell, Linda Marie)

**MINUTES**

**Warrant**

10/30/2013 Inactive Indictment Warrant

Matter Heard;

Journal Entry Details:

*Edward Golec, 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 SUMMARY

## CASE NO. C-13-292507-2

Case Number 13AGJ050B to the Court. COURT ORDERED, the Superseding Indictment may be filed and is assigned Case Number C-13-292507-2, Department 24. Ms. Rhoades requested a warrant and argued bail. COURT ORDERED, WARRANT WILL ISSUE \$340,000.00 TOTAL BAIL. Exhibits 1a and 6-9 lodged with the Clerk of District Court; exhibits 1-5 were previously lodged. COURT FURTHER ORDERED, Justice Court case 13F166614X DISMISSED; matter SET for Arraignment. WARRANT (CUSTODY) 11-7-13 8:30 AM STATUS CHECK: SUPERSEDING INDICTMENT (DEPT. 24);

### SCHEDULED HEARINGS



**Status Check** (11/07/2013 at 8:30 AM) (Judicial Officer: Bixler, James)  
Status Check: Superseding Indictment

10/31/2013 **Calendar Call** (8:30 AM) (Judicial Officer: Bixler, James)

10/31/2013 **Change of Plea** (8:30 AM) (Judicial Officer: Bixler, James)



**All Pending Motions** (8:30 AM) (Judicial Officer: Bixler, James)

Plea Entered;

Journal Entry Details:

CALENDAR CALL...CHANGE OF PLEA Deft Carter present in custody. Guilty Plea Agreement FILED IN OPEN COURT. Record Reflect, State electronically filed the SUPERSEDING INDICTMENT on 10/30/13. Mr. Goldstein stated matter RESOLVED with regard to his client. Ms. Mercer stated deft needs to be arraigned on the Superseding Indictment. DEFT. CARTER ARRAIGNED AND PLED NOT GUILTY to the Superseding Indictment. Thereafter, State moved to FILE IN OPEN COURT a Second Amended Superseding Indictment. NEGOTIATIONS: State will not seek Habitual Criminal treatment, no opposition to concurrent time between CTS 1 & 2 the Robbery UDW counts, but retains right to argue for consecutive time on CT 3, the Attempt Murder count, and will not argue for more than twelve (12) years on the bottom end of the sentence, and State will not argue whether this case should run concurrent or consecutive to the California case. DEFT CARTER ARRAIGNED and PLED GUILTY to the Second Amended Indictment, CTS 1 & 2 - ROBBERY WITH USE OF A DEADLY WEAPON (F), and CT 3 - ATTEMPT MURDER (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing. Mr. Goldstein moved to WITHDRAW the Writ on filed, COURT SO ORDERED. Trial date VACATED. CUSTODY (COC) 1/7/14 @ 8:30 A.M. SENTENCING (2ND SUPERSEDING INDICTMENT) ;

11/04/2013 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Bixler, James)  
Vacated - per Judge



**Status Check** (8:30 AM) (Judicial Officer: Bixler, James)

Status Check: Superseding Indictment

Off Calendar;

Journal Entry Details:

Court NOTED this defendant has previously entered a plea and has been set for sentencing. COURT ORDERED, matter OFF CALENDAR. CUSTODY (COC);

01/07/2014 **Sentencing** (8:30 AM) (Judicial Officer: Bixler, James)

Defendant Sentenced;

Journal Entry Details:

Deft present in custody. Court noted, deft pled to two counts of Robbery with UDW, and one count of Attempt Murder. Colloquy between Court and counsel regarding penalty. Court stated, the State AGREED not to seek Habitual Criminal treatment; State AGREED not to seek more than 12 years on the bottom end; State has no opposition to CTS 1 & 2 running concurrent, but retained right to argue whether CT 3 should run concurrent or consecutive. Ms. Mercer concurred. Statements by Court regarding deft's prior record and facts of the case. Court received a letter from deft and copies were made for both counsel. Following arguments by counsel, and statement by deft, COURT ORDERED, DEFT CARTER ADJUDGED GUILTY of CTS 1 & 2 - ROBBERY WITH USE OF A DEADLY WEAPON; and CT 3 - ATTEMPT MURDER (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, including testing to determine genetic markers, and a \$3.00 DNA Collection Fee; Defendant SENTENCED on CT 1 - ROBBERY - to a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) and a CONSECUTIVE MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY WEAPON (F); CT 2 - ROBBERY - to a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) and a CONSECUTIVE MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY WEAPON (F); CTS 1 & 2 to run CONCURRENT with each other; and on CT 3 - Deft SENTENCED to a MAXIMUM of TWENTY (20) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections; CT 3 to run CONCURRENT with CTS

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. C-13-292507-2**

*1 & 2; and debt to receive 138 DAYS credit for time served. BOND, if any, EXONERATED. NDC ;*

01/07/2020



**Motion to Modify Sentence** (9:00 AM) (Judicial Officer: Holthus, Mary Kay)

**01/07/2020, 01/09/2020**

*Motion to Correct Illegal Sentence*

Matter Continued;

Denied;

Journal Entry Details:

*Deft. not present. Mr. Goldstein indicated Deft. was at the prison and would not be present at the instant hearing. Additionally, Mr. Goldstein noted Deft. filed the instant Motion without his knowledge; however, he reviewed the Motion and Deft. was requesting for his sentence to be lowered. Court advised Deft. was being represented by counsel, and the instant Motion had already been ruled upon and denied for the same reason. Following colloquy, COURT ORDERED Motion to Correct Illegal Sentence was hereby DENIED. Mr. Merback noted the instant motion was denied on merit as well. State to prepare the Order. NDC;*

Matter Continued;

Denied;

Journal Entry Details:

*Mr. Goldstein and Deft. not present. Court inquired if the State had filed an Opposition, which Mr. Lexis indicated they did. Court noted Mr. Goldstein requested that matter be continued until Thursday, January, 9, 2020. COURT SO ORDERED. NDC 1/9/20 9:00 AM CONTINUED: MOTION TO CORRECT ILLEGAL SENTENCE;*

DATE

FINANCIAL INFORMATION

**Defendant** Carter, Willie

Total Charges

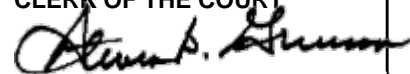
178.00

Total Payments and Credits

107.55

**Balance Due as of 2/19/2020**

**70.45**



**FCL**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN NIMAN**  
Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**THE STATE OF NEVADA,**  
  
**Plaintiff,**

**-vs-**

**WILLIE TERRY CARTER**  
**#1114323**

**Defendant.**

**CASE NO: A-19-804110-W**  
**C-13-292507-2**  
**DEPT NO: XVIII**

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

**DATE OF HEARING: DECEMBER 19, 2019**  
**TIME OF HEARING: 9:00 AM**

THIS CAUSE having come on for hearing before the Honorable MARY KAY HOLTHUS, District Judge, on the 19th day of December 2019, the Petitioner not being present, represented by counsel, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MEGAN THOMSON, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On September 11, 2013, Willie Terry Carter (hereinafter "Defendant") was indicted by  
4 the Grand Jury with the crimes of: one count Conspiracy To Commit Robbery (Category B  
5 Felony- NRS 199.480, 200.380); one count Robbery With Use of a Deadly Weapon (Category  
6 B Felony- NRS 205.060); seven counts Attempt Murder With Use of a Deadly Weapon  
7 (Category B Felony-NRS 200.010, 200.030, 193.165), one count Assault With a Deadly  
8 Weapon (Category B Felony 200.471), and one count Discharge of Firearm Within A  
9 Structure (Category B Felony- NRS 202.287).

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11 On October 29, 2013, Defendant advised the Court that issues raised in the Petition had been  
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13 On October 30, 2013, the State filed a Superseding Indictment charging Defendant with  
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23 On January 7, 2014, Defendant was sentenced on Count 1- Robbery- to a maximum of  
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25 (NDC) and a consecutive maximum of fifteen (15) years and a minimum of six (6) years in  
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4 Department of Corrections; Count 3 to run concurrent with Counts 1 & 2; and Defendant to  
5 receive 138 days credit for time served. Bond, if any, Exonerated. On January 16, 2014, the  
6 Judgement of Conviction was filed.

7 On October 17, 2019, Defendant filed a Petition for Writ of Habeas Corpus (Post-  
8 Conviction). On October 29, 2019, the Court filed an Order for Defendant's Petition holding  
9 that a response would assist the Court in determining whether Petitioner is illegally  
10 imprisoned. The Court ordered the State respond to Defendant's Petition. The State's response  
11 now follows.

### 12 STATEMENT OF THE FACTS

13 The Court relied on the following factual summary in sentencing Defendant:

14 On August 22, 2013, responded [sic] to a residence in a reference  
15 to a robbery with a deadly weapon. Victim 1 called the police and  
16 stated that three male subjects with guns kicked in the door of his  
17 residence; Victim 1 retrieved his girlfriend's gun from the upstairs  
18 bedroom and shot one of subjects. The subjects then fled the  
19 residence. Officer's arrived on the scene and learned that Victim  
20 1 along with seven other individuals, including minor children  
21 (DOB 07-23-2000 and 05-05-2010), where [sic] inside the home  
22 at the time of the robbery. Minutes later, officers learned that a  
23 male subject was located at a local store, had been shot, and was  
24 bleeding. The male subject was identified as Cory Hubbard and he  
25 was transported to UMC for his injuries.

26 Through investigations, a neighbor's outdoor video camera  
27 showed a dark colored SUV vehicle pull up, then three male  
28 subjects exited the vehicle and walked up to the victim's front  
door. One subject appeared to knock at the door while the other  
two subjects moved to the side door. A female subject opened the  
door and appeared to talk with the first subject for a few seconds.  
At that point, the three subjects rushed into the residence. Closing  
the door behind them. Approximately two minutes later, two  
subjects ran out leaving one subject inside. The two subjects fled  
the scene in the SUV. The third subject then exited the residence  
and fled on foot.

1           Officers were attempting to locate the suspects and the  
2 suspects' vehicle when a male subject jumped over the side gate  
3 of a residence. The subject matched the description of one of the  
4 robbery suspects; he was identified as Willie Carter and taken into  
5 custody. On Mr. Carter's person, the officer located a cell phone.  
6 The victims were taken to the scene and a one-on-one was  
7 conducted; Victim 2, Victim 6, and Victim 4 identified Mr. Carter  
8 as one of the subjects who entered the home with a gun. Victim 2  
9 stated that Mr. Carter, "...left after taking his cell phone. He let  
10 off a round and then fled the scene."

11           The officer interviewed Victim 1 who stated that he was  
12 upstairs when he heard voices coming from downstairs yelling for  
13 people to get on the floor. Victim 1 looked downstairs and saw  
14 unknown male subjects and he went back into the room to get his  
15 girlfriend's gun. While retrieving the gun, Victim 1 heard the  
16 subject saying, "He ran upstairs! Go get him, he ran upstairs!"  
17 Victim 1 grabbed the gun and went back towards the stairs and  
18 saw a male subject coming up the stairs with a gun in his hands.  
19 Victim 1 pointed his gun at the male subject and fired two to three  
20 times. The male subject retreated down the stairs. Victim 1  
21 recalled that someone fired a gun at him from downstairs. Victim  
22 1 stated that he was in fear for his life and the well-being of his  
23 family and friends who were in his house.

24           The other victims of the house reported that there was a  
25 knock at the door; Victim 5 opened the door and three male  
26 subjects with firearms barged into the home and told everyone to  
27 get on the ground. Victim 6 reported that Mr. Carter's firearm was  
28 pointed at the center of her face and also pointed the firearm at  
Victim 4 and her three-year-old child (Victim 7) and threatened to  
shoot them. Mr. Carter took Victim 5's Ipad [sic] and Victim 6's  
and Victim 2's cell phones; Victim 2, Victim 3, and Victim 4 did  
not have property stolen from them. When the subjects questioned  
if someone was upstairs, Victim 5 and Victim 6 ran into a closet.  
While in the closet, they heard two gunshots then heard Victim 1  
question whether the male subjects had left the residence. Victim  
6 recalled that Mr. Carter shot at Victim 1 but missed. When  
leaving the closet, Victim 5 observed the three male subjects  
tripping over each other trying to exit the front door. The victims  
were in fear of their lives as well as their children's lives.

          On August 23, 2013, an interview was conducted with Mr.  
Carter who stated that he lives in California and had only been in  
Las Vegas for a few days when he met a male subject known to  
him as "E." E stated that it was always pooping [sic] at his house  
and invited him over. Mr. Carter knocked on the front door and  
was met by a female. Mr. Carter entered the residence and was

1 only there thirty seconds before someone started shooting. Mr.  
2 Carter fled from the area on foot and was later detained by officers.  
3 The officer informed Mr. Carter of the surveillance video which  
4 showed him arriving to the victim's house with two other male  
5 subjects. Mr. Carter responded by saying he was just looking to  
6 party and that he did not remember any details of what happened  
7 as he had been drinking earlier that day. Mr. Carter could not  
8 remember where he had been picked up by his co-conspirators, or  
9 the identity of the people he was with when they drove to the  
10 victim's residence. Mr. Carter stated that he did not have a gun,  
11 fire a gun, nor threatened anyone with a gun.

12 Due to the aforementioned factors, Mr. Carter was arrested  
13 and booked accordingly at the Clark County Detention Center.

14 Contact was made with Mr. Hubbard at UMC; he claimed  
15 to have been walking in an unknown area and was shot be an  
16 unknown person. Mr. Hubbard only told the officer he was shot  
17 and would not talk to officers until he was released.

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Presentence Investigation Report, December 13, 2013 at 5-6.

#### **AUTHORITY**

#### **I. DEFENDANT'S PETITION IS PROCEDURALLY TIME BARRED**

Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) is denied because it is time barred, and Petitioner failed to show good cause or prejudice.

A petition challenging a judgment of conviction's validity must be filed within one year of the judgment filed or within one year of the remittitur issues, unless there is good cause to show delay. NRS 34.726(1). The Supreme Court of Nevada has held that NRS 34.726 should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). Under the statute, the one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 107, 967 P.2d 1132, 1133-34 (1998).

The one-year limit for preparing petitions for post-conviction relief under NRS 34.726 is strictly applied. In Gonzalez v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late despite evidence

1 presented by the defendant that he purchased postage through the prison and mailed the Notice  
2 within the one-year time limit.

3 Furthermore, the Nevada Supreme Court has held that the district court has a duty to  
4 consider whether a defendant's post-conviction petition claims are procedurally barred. State  
5 v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The  
6 Riker Court found that "[a]pplication of the statutory procedural default rules to post-  
7 conviction habeas petitions is mandatory," noting:

8 Habeas corpus petitions that are filed many years after conviction  
9 are an unreasonable burden on the criminal justice system. The  
10 necessity for a workable system dictates that there must exist a  
time when a criminal conviction is final.

11 Id. (quoting Groesbeck v. Warden, 100 Nev. 259, 261, 679 P.2d 1268, 1269 (1984)).  
12 Additionally, the Court noted that procedural bars "cannot be ignored [by the district court]  
13 when properly raised by the State." Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court  
14 has granted no discretion to the district courts regarding whether to apply the statutory  
15 procedural bars; the rules must be applied.

16 In this case, the Judgement of Conviction ("JOC") was filed on January 16, 2014.  
17 Defendant filed his Petition on October 17, 2019. This is nearly five (5) years after the filing  
18 of Defendant's JOC. This is beyond the one-year time bar. Accordingly, this Court denies this  
19 petition as it is time-barred and absent a showing of good cause and prejudice.

20 A showing of good cause and prejudice may overcome procedural bars. "To establish  
21 good cause, appellants *must* show that an impediment external to the defense prevented their  
22 compliance with the applicable procedural rule. A qualifying impediment might be shown  
23 where the factual or legal basis for a claim was not reasonably available at the time of default."  
24 Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added). The Court  
25 continued, "appellants cannot manufacture good cause[.]" Id. at 621, 81 P.3d at 526. To  
26 establish prejudice, the defendant must show "not merely that the errors of [the proceedings]  
27 created possibility of prejudice, but that they worked to his actual and substantial disadvantage,  
28 in affecting the state proceedings with error of constitutional dimensions.'" Hogan v. Warden,



1 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152,  
2 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there must be a “substantial reason;  
3 one that affords a legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506  
4 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Clearly, any  
5 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

6 Here, Defendant fails to show good cause. Defendant filed this petition on October 17,  
7 2019, five (5) years after filing of the JOC. All of the facts and law necessary to raise his  
8 complaints were available for a timely petition. This Court finds Defendant failed to  
9 demonstrate good cause. Additionally, Defendant failed to show prejudice, which is addressed  
10 below. see Section II.

## 11 II. DEFENDANT’S SENTENCE IS NOT ILLEGAL

12 Defendant’s Petition for Writ of Habeas Corpus (Post-Conviction) is denied because  
13 Defendant was legally and accurately sentenced.

14 NRS 176.555 states that “[t]he court may correct an illegal sentence at any time.” See  
15 also Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992). However, the grounds  
16 to correct an illegal sentence are interpreted narrowly under a limited scope. See Edwards v.  
17 State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Haney v. State, 124 Nev. 408,  
18 411, 185 P.3d 350, 352 (2008). “A motion to correct an illegal sentence is an appropriate  
19 vehicle for raising the claim that a sentence is facially illegal at any time; such a motion cannot  
20 be used as a vehicle for challenging the validity of a judgment of conviction or sentence based  
21 on alleged errors occurring at trial or sentencing.” Edwards, 112 Nev. at 708, 918 P.2d at 324.

22 “Motions to correct illegal sentences address only the facial legality of a sentence.” Id.  
23 Motions to correct illegal sentences evaluate whether the sentence imposed on the defendant  
24 is ““at variance with the controlling statute, or illegal in the sense that the court goes beyond  
25 its authority by acting without jurisdiction or imposing a sentence in excess of the statutory  
26 maximum provided.”” Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).  
27 Other claims attacking the conviction or sentence must be raised by a timely filed direct appeal  
28

1 or a timely filed Petition for a Post-Conviction Writ of Habeas Corpus per NRS 34.720-34.830,  
2 or other appropriate motion. See Id.

3 Here, Defendant claims that the State illegally applied a weapons enhancement, NRS  
4 193.165, to his sentence. Petition at 3. Defendant alleges that he was illegally sentenced  
5 because Robbery (NRS 200.380) and Attempted Murder (NRS 200.010) are both crimes in  
6 which a deadly weapon is a necessary element, and therefore any deadly weapon enhancement  
7 was illegally applied pursuant to NRS 193.165(4). Petition at 4. However, even if this petition  
8 is construed as a Motion to Correct an Illegal Sentence, Defendant's claim fails.

9 NRS 193.165(4) provides:

10 4. The provisions of subsections 1, 2 and 3 do not apply where  
11 the use of a firearm, other deadly weapon or tear gas is a  
necessary element of such crime.

12 Nev. Rev. Stat. Ann. § 193.165 (West)

13 Defendant alleges that NRS 193.165(4) is relevant to his case because a "deadly  
14 weapon" is a necessary element of both Robbery and Attempt Murder, therefore precluding  
15 any enhancement during sentencing. However, Defendant's robbery charge under NRS  
16 200.380 is a generic robbery, and a deadly weapon is not one of the elements. Similarly,  
17 murder proscribed by NRS 200.010 does not require a deadly weapon to charge a defendant  
18 with murder or attempt murder. The use of a deadly weapon is not inherent in any robbery or  
19 an attempt murder conviction-both could occur, for instance, by using one's hands. Further,  
20 NRS 193.165(5) states:

21 5. The court shall not grant probation to or suspend the sentence  
22 of any person who is convicted of using a firearm, other deadly  
23 weapon or tear gas in the commission of any of the following  
crimes:

- 24 (a) **Murder**;  
25 (b) Kidnapping in the first degree;  
(c) Sexual assault; or  
(d) **Robbery**.

26 Nev. Rev. Stat. Ann. § 193.165(5) (West)

27 Clearly, NRS 193.165(5) contemplates the use of a deadly weapon enhancement  
28 being applicable to both murder and robbery. Id. And, since a deadly weapon is not an

1 essential element of either crime, Defendant's claim that NRS 193.165(4) applies to the  
2 matter at hand is without merit. Thus, this Court denies Defendant's claim.

3 **ORDER**

4 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus  
5 (Post-Conviction) shall be, and it is, hereby denied. The State's Motion to Dismiss shall be,  
6 and it is, hereby granted.

7 DATED this 13 day of January, 2020  
~~December, 2019.~~

8   
DISTRICT JUDGE

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

12 BY   
13

14 JOHN NIMAN  
Deputy District Attorney  
Nevada Bar #14408

15  
16 **CERTIFICATE OF MAILING**

17 I hereby certify that service of the above and foregoing was made this 13 day of  
18 January, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

19 WILLIE TERRY CARTER, #1114323  
20 SOUTHERN DESERT CORRECTIONAL  
21 PO BOX 208  
INDIAN SPRINGS, NV 89070

22  
23 BY   
24

25 E. DEL PADRE  
26 Secretary for the District Attorney's Office  
27  
28



NEO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

WILLIE CARTER,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-13-292507-2

Dept No: XVIII

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

**PLEASE TAKE NOTICE** that on January 13, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on January 15, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**CERTIFICATE OF E-SERVICE / MAILING**

I hereby certify that on this 15 day of January 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

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

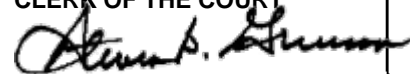
☒ The United States mail addressed as follows:

Willie Carter # 1114323  
P.O. Box 208  
Indian Springs, NV 89070

Anthony M. Goldstein, Esq.  
2421 Tech Center Ct., Ste 100  
Las Vegas, NV 89128

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



**FCL**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN NIMAN**  
Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
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-vs-

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#1114323

Defendant.

CASE NO: A-19-804110-W

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DEPT NO: XVIII

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6 Judgement of Conviction was filed.

7 On October 17, 2019, Defendant filed a Petition for Writ of Habeas Corpus (Post-  
8 Conviction). On October 29, 2019, the Court filed an Order for Defendant's Petition holding  
9 that a response would assist the Court in determining whether Petitioner is illegally  
10 imprisoned. The Court ordered the State respond to Defendant's Petition. The State's response  
11 now follows.

### 12 STATEMENT OF THE FACTS

13 The Court relied on the following factual summary in sentencing Defendant:

14 On August 22, 2013, responded [sic] to a residence in a reference  
15 to a robbery with a deadly weapon. Victim 1 called the police and  
16 stated that three male subjects with guns kicked in the door of his  
17 residence; Victim 1 retrieved his girlfriend's gun from the upstairs  
18 bedroom and shot one of subjects. The subjects then fled the  
19 residence. Officer's arrived on the scene and learned that Victim  
20 1 along with seven other individuals, including minor children  
21 (DOB 07-23-2000 and 05-05-2010), where [sic] inside the home  
22 at the time of the robbery. Minutes later, officers learned that a  
23 male subject was located at a local store, had been shot, and was  
24 bleeding. The male subject was identified as Cory Hubbard and he  
25 was transported to UMC for his injuries.

26 Through investigations, a neighbor's outdoor video camera  
27 showed a dark colored SUV vehicle pull up, then three male  
28 subjects exited the vehicle and walked up to the victim's front  
door. One subject appeared to knock at the door while the other  
two subjects moved to the side door. A female subject opened the  
door and appeared to talk with the first subject for a few seconds.  
At that point, the three subjects rushed into the residence. Closing  
the door behind them. Approximately two minutes later, two  
subjects ran out leaving one subject inside. The two subjects fled  
the scene in the SUV. The third subject then exited the residence  
and fled on foot.

1           Officers were attempting to locate the suspects and the  
2 suspects' vehicle when a male subject jumped over the side gate  
3 of a residence. The subject matched the description of one of the  
4 robbery suspects; he was identified as Willie Carter and taken into  
5 custody. On Mr. Carter's person, the officer located a cell phone.  
6 The victims were taken to the scene and a one-on-one was  
7 conducted; Victim 2, Victim 6, and Victim 4 identified Mr. Carter  
8 as one of the subjects who entered the home with a gun. Victim 2  
9 stated that Mr. Carter, "...left after taking his cell phone. He let  
10 off a round and then fled the scene."

11           The officer interviewed Victim 1 who stated that he was  
12 upstairs when he heard voices coming from downstairs yelling for  
13 people to get on the floor. Victim 1 looked downstairs and saw  
14 unknown male subjects and he went back into the room to get his  
15 girlfriend's gun. While retrieving the gun, Victim 1 heard the  
16 subject saying, "He ran upstairs! Go get him, he ran upstairs!"  
17 Victim 1 grabbed the gun and went back towards the stairs and  
18 saw a male subject coming up the stairs with a gun in his hands.  
19 Victim 1 pointed his gun at the male subject and fired two to three  
20 times. The male subject retreated down the stairs. Victim 1  
21 recalled that someone fired a gun at him from downstairs. Victim  
22 1 stated that he was in fear for his life and the well-being of his  
23 family and friends who were in his house.

24           The other victims of the house reported that there was a  
25 knock at the door; Victim 5 opened the door and three male  
26 subjects with firearms barged into the home and told everyone to  
27 get on the ground. Victim 6 reported that Mr. Carter's firearm was  
28 pointed at the center of her face and also pointed the firearm at  
Victim 4 and her three-year-old child (Victim 7) and threatened to  
shoot them. Mr. Carter took Victim 5's Ipad [sic] and Victim 6's  
and Victim 2's cell phones; Victim 2, Victim 3, and Victim 4 did  
not have property stolen from them. When the subjects questioned  
if someone was upstairs, Victim 5 and Victim 6 ran into a closet.  
While in the closet, they heard two gunshots then heard Victim 1  
question whether the male subjects had left the residence. Victim  
6 recalled that Mr. Carter shot at Victim 1 but missed. When  
leaving the closet, Victim 5 observed the three male subjects  
tripping over each other trying to exit the front door. The victims  
were in fear of their lives as well as their children's lives.

          On August 23, 2013, an interview was conducted with Mr.  
Carter who stated that he lives in California and had only been in  
Las Vegas for a few days when he met a male subject known to  
him as "E." E stated that it was always pooping [sic] at his house  
and invited him over. Mr. Carter knocked on the front door and  
was met by a female. Mr. Carter entered the residence and was



1 only there thirty seconds before someone started shooting. Mr.  
2 Carter fled from the area on foot and was later detained by officers.  
3 The officer informed Mr. Carter of the surveillance video which  
4 showed him arriving to the victim's house with two other male  
5 subjects. Mr. Carter responded by saying he was just looking to  
6 party and that he did not remember any details of what happened  
7 as he had been drinking earlier that day. Mr. Carter could not  
8 remember where he had been picked up by his co-conspirators, or  
9 the identity of the people he was with when they drove to the  
10 victim's residence. Mr. Carter stated that he did not have a gun,  
11 fire a gun, nor threatened anyone with a gun.

12 Due to the aforementioned factors, Mr. Carter was arrested  
13 and booked accordingly at the Clark County Detention Center.

14 Contact was made with Mr. Hubbard at UMC; he claimed  
15 to have been walking in an unknown area and was shot be an  
16 unknown person. Mr. Hubbard only told the officer he was shot  
17 and would not talk to officers until he was released.

18 Presentence Investigation Report, December 13, 2013 at 5-6.

#### 19 AUTHORITY

#### 20 **I. DEFENDANT'S PETITION IS PROCEDURALLY TIME BARRED**

21 Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) is denied because it  
22 is time barred, and Petitioner failed to show good cause or prejudice.

23 A petition challenging a judgment of conviction's validity must be filed within one year  
24 of the judgment filed or within one year of the remittitur issues, unless there is good cause to  
25 show delay. NRS 34.726(1). The Supreme Court of Nevada has held that NRS 34.726 should  
26 be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528  
27 (2001). Under the statute, the one-year time bar proscribed by NRS 34.726 begins to run from  
28 the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed.  
Dickerson v. State, 114 Nev. 1084, 107, 967 P.2d 1132, 1133-34 (1998).

The one-year limit for preparing petitions for post-conviction relief under NRS 34.726  
is strictly applied. In Gonzalez v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002), the  
Nevada Supreme Court rejected a habeas petition that was filed two days late despite evidence

1 presented by the defendant that he purchased postage through the prison and mailed the Notice  
2 within the one-year time limit.

3 Furthermore, the Nevada Supreme Court has held that the district court has a duty to  
4 consider whether a defendant's post-conviction petition claims are procedurally barred. State  
5 v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The  
6 Riker Court found that "[a]pplication of the statutory procedural default rules to post-  
7 conviction habeas petitions is mandatory," noting:

8 Habeas corpus petitions that are filed many years after conviction  
9 are an unreasonable burden on the criminal justice system. The  
10 necessity for a workable system dictates that there must exist a  
time when a criminal conviction is final.

11 Id. (quoting Groesbeck v. Warden, 100 Nev. 259, 261, 679 P.2d 1268, 1269 (1984)).  
12 Additionally, the Court noted that procedural bars "cannot be ignored [by the district court]  
13 when properly raised by the State." Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court  
14 has granted no discretion to the district courts regarding whether to apply the statutory  
15 procedural bars; the rules must be applied.

16 In this case, the Judgement of Conviction ("JOC") was filed on January 16, 2014.  
17 Defendant filed his Petition on October 17, 2019. This is nearly five (5) years after the filing  
18 of Defendant's JOC. This is beyond the one-year time bar. Accordingly, this Court denies this  
19 petition as it is time-barred and absent a showing of good cause and prejudice.

20 A showing of good cause and prejudice may overcome procedural bars. "To establish  
21 good cause, appellants *must* show that an impediment external to the defense prevented their  
22 compliance with the applicable procedural rule. A qualifying impediment might be shown  
23 where the factual or legal basis for a claim was not reasonably available at the time of default."  
24 Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added). The Court  
25 continued, "appellants cannot manufacture good cause[.]" Id. at 621, 81 P.3d at 526. To  
26 establish prejudice, the defendant must show "not merely that the errors of [the proceedings]  
27 created possibility of prejudice, but that they worked to his actual and substantial disadvantage,  
28 in affecting the state proceedings with error of constitutional dimensions.'" Hogan v. Warden,

1 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152,  
2 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there must be a “substantial reason;  
3 one that affords a legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506  
4 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Clearly, any  
5 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

6 Here, Defendant fails to show good cause. Defendant filed this petition on October 17,  
7 2019, five (5) years after filing of the JOC. All of the facts and law necessary to raise his  
8 complaints were available for a timely petition. This Court finds Defendant failed to  
9 demonstrate good cause. Additionally, Defendant failed to show prejudice, which is addressed  
10 below. see Section II.

## 11 II. DEFENDANT’S SENTENCE IS NOT ILLEGAL

12 Defendant’s Petition for Writ of Habeas Corpus (Post-Conviction) is denied because  
13 Defendant was legally and accurately sentenced.

14 NRS 176.555 states that “[t]he court may correct an illegal sentence at any time.” See  
15 also Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992). However, the grounds  
16 to correct an illegal sentence are interpreted narrowly under a limited scope. See Edwards v.  
17 State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Haney v. State, 124 Nev. 408,  
18 411, 185 P.3d 350, 352 (2008). “A motion to correct an illegal sentence is an appropriate  
19 vehicle for raising the claim that a sentence is facially illegal at any time; such a motion cannot  
20 be used as a vehicle for challenging the validity of a judgment of conviction or sentence based  
21 on alleged errors occurring at trial or sentencing.” Edwards, 112 Nev. at 708, 918 P.2d at 324.

22 “Motions to correct illegal sentences address only the facial legality of a sentence.” Id.  
23 Motions to correct illegal sentences evaluate whether the sentence imposed on the defendant  
24 is ““at variance with the controlling statute, or illegal in the sense that the court goes beyond  
25 its authority by acting without jurisdiction or imposing a sentence in excess of the statutory  
26 maximum provided.”” Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).  
27 Other claims attacking the conviction or sentence must be raised by a timely filed direct appeal  
28

1 or a timely filed Petition for a Post-Conviction Writ of Habeas Corpus per NRS 34.720-34.830,  
2 or other appropriate motion. See Id.

3 Here, Defendant claims that the State illegally applied a weapons enhancement, NRS  
4 193.165, to his sentence. Petition at 3. Defendant alleges that he was illegally sentenced  
5 because Robbery (NRS 200.380) and Attempted Murder (NRS 200.010) are both crimes in  
6 which a deadly weapon is a necessary element, and therefore any deadly weapon enhancement  
7 was illegally applied pursuant to NRS 193.165(4). Petition at 4. However, even if this petition  
8 is construed as a Motion to Correct an Illegal Sentence, Defendant's claim fails.

9 NRS 193.165(4) provides:

10 4. The provisions of subsections 1, 2 and 3 do not apply where  
11 the use of a firearm, other deadly weapon or tear gas is a  
necessary element of such crime.

12 Nev. Rev. Stat. Ann. § 193.165 (West)

13 Defendant alleges that NRS 193.165(4) is relevant to his case because a "deadly  
14 weapon" is a necessary element of both Robbery and Attempt Murder, therefore precluding  
15 any enhancement during sentencing. However, Defendant's robbery charge under NRS  
16 200.380 is a generic robbery, and a deadly weapon is not one of the elements. Similarly,  
17 murder proscribed by NRS 200.010 does not require a deadly weapon to charge a defendant  
18 with murder or attempt murder. The use of a deadly weapon is not inherent in any robbery or  
19 an attempt murder conviction-both could occur, for instance, by using one's hands. Further,  
20 NRS 193.165(5) states:

21 5. The court shall not grant probation to or suspend the sentence  
22 of any person who is convicted of using a firearm, other deadly  
23 weapon or tear gas in the commission of any of the following  
crimes:

- 24 (a) **Murder**;  
25 (b) Kidnapping in the first degree;  
(c) Sexual assault; or  
(d) **Robbery**.

26 Nev. Rev. Stat. Ann. § 193.165(5) (West)

27 Clearly, NRS 193.165(5) contemplates the use of a deadly weapon enhancement  
28 being applicable to both murder and robbery. Id. And, since a deadly weapon is not an

1 essential element of either crime, Defendant's claim that NRS 193.165(4) applies to the  
2 matter at hand is without merit. Thus, this Court denies Defendant's claim.

3 **ORDER**

4 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus  
5 (Post-Conviction) shall be, and it is, hereby denied. The State's Motion to Dismiss shall be,  
6 and it is, hereby granted.

7 DATED this 13 day of January, 2020  
~~December, 2019~~.

8   
DISTRICT JUDGE

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

13 BY

  
14 JOHN NIMAN  
15 Deputy District Attorney  
16 Nevada Bar #14408

17 **CERTIFICATE OF MAILING**

18 I hereby certify that service of the above and foregoing was made this 13 day of  
January, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

19 WILLIE TERRY CARTER, #1114323  
20 SOUTHERN DESERT CORRECTIONAL  
21 PO BOX 208  
22 INDIAN SPRINGS, NV 89070

23 BY



24 E. DEL PADRE  
25 Secretary for the District Attorney's Office  
26  
27  
28

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 11, 2013**

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C-13-292507-2      State of Nevada  
                                 vs  
                                 Willie Carter

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**September 11, 2013    11:45 AM      Grand Jury Indictment**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Aaron Carbajal

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Palal, Binu G.	Attorney
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney

**JOURNAL ENTRIES**

- Edward Golec, 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 13AGJ050B to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-292507-2, Department 24. Ms. Thomson requested a warrant and argued bail. COURT ORDERED, WARRANT WILL ISSUE \$340,000.00 TOTAL BAIL; Exhibits(s) 1-5 lodged with the Clerk of District Court. COURT FURTHER ORDERED, matter SET for Arraignment.

WARRANT (CUSTODY)

9-19-13 8:30 AM INITIAL ARRAIGNMENT (DEPT. 24)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 19, 2013**

C-13-292507-2      State of Nevada  
vs  
Willie Carter

**September 19, 2013      8:30 AM**

**All Pending Motions**

**HEARD BY:** Bixler, James

**COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Theresa Lee

**RECORDER:**

**REPORTER:** Bill Nelson

**PARTIES**

<b>PRESENT:</b>	Carter, Willie	Defendant
	Goldstein, Anthony M.	Attorney
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney

**JOURNAL ENTRIES**

- ARRAIGNMENT...INDICTMENT WARRANT RETURN

Deft Carter present in custody. Mr. Goldstein stated he was appointed by the Justice Court at the Lower Level and that case was dismissed. Deft has now been indicted by the Grand Jury. COURT ORDERED, Anthony Goldstein is APPOINTED to represent deft. DEFT. CARTER ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Upon Court's inquiry, Mr. Goldstein stated he has not received the Grand Jury transcript. Court noted, the Grand Jury return was on 9/11/13, and the Court Reporter has until 9/25/13 to file the transcript. The deft has 21 days to file the Writ from the date the Grand Jury Transcript is filed. Ms. Thomson advised the Court this is Ms. Mercer's case. Court informed the parties, the Court has a capital murder case set the same date, and if it goes forward, this case will go to the Overflow Department.

CUSTODY (COC)

10/31/13 @ 8:30 A.M. CALENDAR CALL

11/4/13 @ 10:00 A.M. TRIAL BY JURY



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 29, 2013**

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C-13-292507-2      State of Nevada  
vs  
Willie Carter

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**October 29, 2013      8:30 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Bixler, James

**COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Theresa Lee  
Athena Trujillo

**RECORDER:**

**REPORTER:** Robert Cangemi

**PARTIES**

<b>PRESENT:</b>	Carter, Willie	Defendant
	Goldstein, Anthony M.	Attorney
	Radovic, Michael	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft present in custody. Mr. Goldstein advised the Court the matter is RESOLVED. He called the Court's Law Clerk last Friday to let him know that there is no need to address the Writ. The Court can leave the Calendar Call on calendar for Thursday, 10/31/13. He has the Guilty Plea Agreement to go over with the deft. NEGOTIATIONS; deft will plead to one count of Conspiracy to Commit Robbery, two counts of Robbery with Use of a Deadly Weapon to run CONCURRENT, and one count of Attempt Murder. Deft concurred. COURT ORDERED, the Deft's writ is taken OFF CALENDAR, matter CONTINUED to 10/31/13 for Change of Plea/Calendar Call.

CUSTODY (COC)

10/31/13 @ 8:30 A.M. CHANGE OF PLEA/CALENDAR CALL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 30, 2013**

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C-13-292507-2      State of Nevada  
                                 vs  
                                 Willie Carter

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**October 30, 2013      11:00 AM      Grand Jury Indictment**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Aaron Carbajal

**RECORDER:** Debbie Winn

**REPORTER:**

**PARTIES**

**PRESENT:**      Rhoades, Kristina A.      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Edward Golec, 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 13AGJ050B to the Court. COURT ORDERED, the Superseding Indictment may be filed and is assigned Case Number C-13-292507-2, Department 24. Ms. Rhoades requested a warrant and argued bail. COURT ORDERED, WARRANT WILL ISSUE \$340,000.00 TOTAL BAIL. Exhibits 1a and 6-9 lodged with the Clerk of District Court; exhibits 1-5 were previously lodged. COURT FURTHER ORDERED, Justice Court case 13F166614X DISMISSED; matter SET for Arraignment.

WARRANT (CUSTODY)

11-7-13 8:30 AM STATUS CHECK: SUPERSEDING INDICTMENT (DEPT. 24)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 31, 2013**

C-13-292507-2      State of Nevada  
vs  
Willie Carter

**October 31, 2013      8:30 AM      All Pending Motions**

**HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Robert Cangemi**PARTIES**

<b>PRESENT:</b>	Carter, Willie	Defendant
	Goldstein, Anthony M.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

**- CALENDAR CALL...CHANGE OF PLEA**

Deft Carter present in custody. Guilty Plea Agreement FILED IN OPEN COURT. Record Reflect, State electronically filed the SUPERSEDING INDICTMENT on 10/30/13. Mr. Goldstein stated matter RESOLVED with regard to his client. Ms. Mercer stated deft needs to be arraigned on the Superseding Indictment. DEFT. CARTER ARRAIGNED AND PLED NOT GUILTY to the Superseding Indictment. Thereafter, State moved to FILE IN OPEN COURT a Second Amended Superseding Indictment. NEGOTIATIONS: State will not seek Habitual Criminal treatment, no opposition to concurrent time between CTS 1 & 2 the Robbery UDW counts, but retains right to argue for consecutive time on CT 3, the Attempt Murder count, and will not argue for more than twelve (12) years on the bottom end of the sentence, and State will not argue whether this case should run concurrent or consecutive to the California case. DEFT CARTER ARRAIGNED and PLED GUILTY to the Second Amended Indictment, CTS 1 & 2 - ROBBERY WITH USE OF A DEADLY WEAPON (F), and CT 3 - ATTEMPT MURDER (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing. Mr. Goldstein moved to

WITHDRAW the Writ on filed, COURT SO ORDERED. Trial date VACATED.

CUSTODY (COC)

1/7/14 @ 8:30 A.M. SENTENCING (2ND SUPERSEDING INDICTMENT)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 07, 2013**

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C-13-292507-2      State of Nevada  
                                 vs  
                                 Willie Carter

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**November 07, 2013      8:30 AM      Status Check**

**HEARD BY:** Bixler, James      **COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Theresa Lee  
                                 Shelly Landwehr

**RECORDER:**

**REPORTER:** JoAnn Melendez

**PARTIES**

<b>PRESENT:</b>	Carter, Willie	Defendant
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Court NOTED this defendant has previously entered a plea and has been set for sentencing. COURT ORDERED, matter OFF CALENDAR.

CUSTODY (COC)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 07, 2014**

C-13-292507-2      State of Nevada  
vs  
Willie Carter

**January 07, 2014      8:30 AM      Sentencing**

**HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Robert Cangemi**PARTIES**

<b>PRESENT:</b>	Carter, Willie	Defendant
	Goldstein, Anthony M.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft present in custody. Court noted, deft pled to two counts of Robbery with UDW, and one count of Attempt Murder. Colloquy between Court and counsel regarding penalty. Court stated, the State AGREED not to seek Habitual Criminal treatment; State AGREED not to seek more than 12 years on the bottom end; State has no opposition to CTS 1 & 2 running concurrent, but retained right to argue whether CT 3 should run concurrent or consecutive. Ms. Mercer concurred. Statements by Court regarding deft's prior record and facts of the case. Court received a letter from deft and copies were made for both counsel. Following arguments by counsel, and statement by deft, COURT ORDERED, DEFT CARTER ADJUDGED GUILTY of CTS 1 & 2 - ROBBERY WITH USE OF A DEADLY WEAPON; and CT 3 - ATTEMPT MURDER (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, including testing to determine genetic markers, and a \$3.00 DNA Collection Fee; Defendant SENTENCED on CT 1 - ROBBERY - to a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) and a CONSECUTIVE MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY

WEAPON (F); CT 2 - ROBBERY - to a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) and a CONSECUTIVE MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections (NDC) for the USE OF A DEADLY WEAPON (F); CTS 1 & 2 to run CONCURRENT with each other; and on CT 3 - Deft SENTENCED to a MAXIMUM of TWENTY (20) YEARS and a MINIMUM of SIX (6) YEARS in the Nevada Department of Corrections; CT 3 to run CONCURRENT with CTS 1 & 2; and deft to receive 138 DAYS credit for time served. BOND, if any, EXONERATED.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 07, 2020**

---

C-13-292507-2      State of Nevada  
vs  
Willie Carter

---

**January 07, 2020      9:00 AM      Motion to Modify Sentence**

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

**COURT CLERK:** Dara Yorke

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

**PRESENT:**      Lexis, Chad N.      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Mr. Goldstein and Deft. not present. Court inquired if the State had filed an Opposition, which Mr. Lexis indicated they did. Court noted Mr. Goldstein requested that matter be continued until Thursday, January, 9, 2020. COURT SO ORDERED.

NDC

1/9/20 9:00 AM CONTINUED: MOTION TO CORRECT ILLEGAL SENTENCE



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 09, 2020**

C-13-292507-2      State of Nevada  
vs  
Willie Carter

**January 09, 2020      9:00 AM      Motion to Modify Sentence**

**HEARD BY:** Holthus, Mary Kay

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Dara Yorke

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Carter, Willie	Defendant
	Goldstein, Anthony M.	Attorney
	Merback, William J.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft. not present. Mr. Goldstein indicated Deft. was at the prison and would not be present at the instant hearing. Additionally, Mr. Goldstein noted Deft. filed the instant Motion without his knowledge; however, he reviewed the Motion and Deft. was requesting for his sentence to be lowered. Court advised Deft. was being represented by counsel, and the instant Motion had already been ruled upon and denied for the same reason. Following colloquy, COURT ORDERED Motion to Correct Illegal Sentence was hereby DENIED. Mr. Merback noted the instant motion was denied on merit as well. State to prepare the Order.

NDC

**Exhibits:**

- 1. Proposed Indictment**
- 2. Jury Instructions**
- 3. Photo**
- 4. Photo**
- 5. CD**

**Exhibits 1-5 are to be lodged with the Clerk of the Court.**

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*As to Deft Joseph:*

(1) CT - CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 199.480, 200.380);

(1) CT - BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060);

(7) CTS - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165)

Def. Counsel(s): HUBBARD – BRENT PERCIVAL, ESQ.  
CARTER – ANTHONY GOLDSTEIN, ESQ.  
JOSEPH – BRET WHIPPLE, ESQ.

WARRANTS (1 WEEK):

HUBBARD–

CARTER –

JOSEPH -

DEFT'S HUBBARD AND CARTER ARE IN CUSTODY @ CCDC (C292507  
– CC 10/31; 13F16614X – PH IN JC 11)

LAS VEGAS JUSTICE COURT CASE TO BE DISMISSED: 13F16614X

Exhibits:

1. Proposed Indictment
- 1a. Superseding Indictment
2. Jury Instructions
3. Photo
4. Photo
5. CD – 911 Call
6. Photo Lineup
7. Photo Lineup
8. Photo Lineup
9. Transcript

Exhibits 1-5 were previously lodged with the Clerk of the Court.  
Exhibits 1a and 6 -9 are to be lodged with the Clerk of the Court.

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# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DESIGNATION OF RECORD ON APPEAL; DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

WILLIE CARTER  
aka WILLIE TERRY CARTER,

Defendant(s).

Case No: C-13-292507-2

Dept No: XVIII

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 19 day of February 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk