

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Mar 18 2020 11:41 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

WILLIE TERRY CARTER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-13-292507-2

Docket No: 80630
Consolidated with 80631

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT

WILLIE CARTER # 1114323,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT

STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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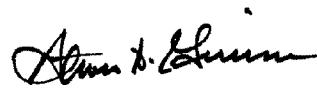
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CLERK OF THE COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO. C292507-2

DEPT. NO. XXIV

WILLIE CARTER
aka Willie Terry Carter
#5181937

Defendant.

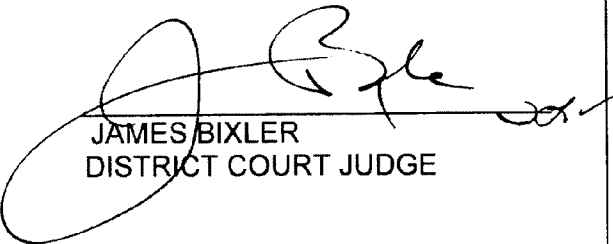
JUDGMENT OF CONVICTION

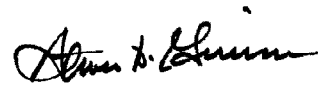
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 2 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 3 –ATTEMPT MURDER (Category B Felony) in violation of NRS 200.010, 200.030, 193.330; thereafter, on the 7th day of January, 2014, the Defendant was present in court for sentencing with his counsel ANTHONY M. GOLDSTEIN, ESQ., and good cause appearing,

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
2 addition to the \$25.00 Administrative Assessment Fee and a \$150.00 DNA Analysis
3 Fee including testing to determine genetic markers plus \$3.00 DNA Collection Fee,
4 the Defendant is sentenced to the Nevada Department of Corrections as follows: As to
5 COUNT 1 – to a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM parole
6 eligibility of SIX (6) YEARS MONTHS plus a CONSECUTIVE term of FIFTEEN (15)
7 YEARS with a MINIMUM parole eligibility of SIX (6) YEARS for the Use of a Deadly
8 Weapon; as to COUNT 2 - to a MAXIMUM of FIFTEEN (15) YEARS with a MINIMUM
9 parole eligibility of SIX (6) YEARS MONTHS plus a CONSECUTIVE term of FIFTEEN
10 (15) YEARS with a MINIMUM parole eligibility of SIX (6) YEARS for the Use of a
11 Deadly Weapon, COUNT 2 run CONCURRENT with COUNT 1; as to COUNT 3 - to a
12 MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole eligibility of SIX (6)
13 YEARS; COUNT 3 to run CONCURRENT with COUNTS 1 and 2; with ONE
14 HUNDRED THIRTY-EIGHT (138) days credit for time served.
15
16
17

18
19 DATED this 15th day of January, 2014
20
21

22 
23 JAMES BIXLER
24 DISTRICT COURT JUDGE
25
26
27
28



CLERK OF THE COURT

1 **ORDR**

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

5 LIZ MERCER
6 Chief Deputy District Attorney
7 Nevada Bar #010681
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 WILLIE CARTER,
12 #5181937

13 Defendant.

CASE NO: C-13-292507-2

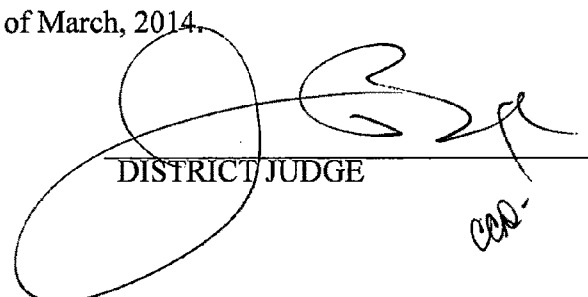
DEPT NO: XXIV

ORDER FOR TRANSCRIPT

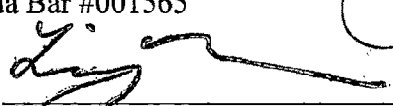
14 Upon the ex-parte application of the State of Nevada, represented by STEVEN B.
15 WOLFSON, Clark County District Attorney, by and through, LIZ MERCER, Chief Deputy
16 District Attorney, and good cause appearing therefor,

17 IT IS HEREBY ORDERED that a transcript of the entry of plea heard on the 31st day
18 of October, 2013, be prepared by BILL NELSON/BOB CANGEM, Court reporter for the
19 above-entitled Court.

20 DATED this 17th day of March, 2014.

21 
22 DISTRICT JUDGE

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

26 BY 

27 LIZ MERCER
28 Chief Deputy District Attorney
Nevada Bar #010681

mmw/GCU

1 TRAN

2
3 IN THE EIGHTH JUDICIAL DISTRICT COURT
4 CLARK COUNTY, NEVADA

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5
6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

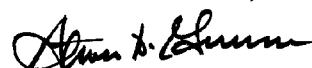
9 WILLIE CARTER,)

10 Defendant.)

) Case No.

) C292507

) Dept. No. 24



CLERK OF THE COURT

11 -----
12 PLEA
13 -----

14 Before the Honorable James M. Bixler
15 Thursday, October 31, 2013, 8:30 a.m.

16 Reporter's Transcript of Proceedings
17 -----

18 APPEARANCES:

19 For the State: Elizabeth Mercer, Esq.
20 Chief Deputy District
21 Attorney

22 For the Defendant: Anthony Goldstein, Esq.
23 Las Vegas, Nevada

24
25 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

1 Las Vegas, Nevada, Thursday, October 31,
2 2013

3 * * * * *

4
5 THE CLERK: Next, 6-B.

6 THE COURT: Mr. Carter, bottom of page 6.

7 The Defendant, Willie Terry Carter is
8 present in custody.

9 I have a guilty plea agreement.

10 MR. GOLDSTEIN: Anthony Goldstein for the
11 Defendant.

12 It is resolved, Your Honor, but
13 procedurally, there needs to be a superseding
14 indictment filed, because a third Defendant was
15 added.

16 MS. MERCER: He needs to be arraigned on
17 it.

18 MR. GOLDSTEIN: But it only involves the
19 third Defendant being added to the case.

20 The charges involving Mr. Carter aren't
21 effected at all, it is just merely adding the third
22 Defendant.

23 THE COURT: Is it the same superseding
24 indictment that we have for the co-Defendant?

25 MS. MERCER: Yes.

1 THE COURT: Mr. Carter.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: There has been a superseding
4 indictment in the case that you were previously
5 charged with.

6 First of all, that's your correct name,
7 Willie Terry Carter?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you read and write
10 English?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Have you had a chance to go
13 through the superseding indictment?

14 THE DEFENDANT: Yes.

15 THE COURT: With your attorney?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand the charges
18 that you are charged with?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: How many counts was he named
21 in the total of 15 counts, but he is only named in
22 one through 12?

23 MS. MERCER: Yes.

24 THE COURT: But you are named in Counts 1
25 through 12 of this superseding indictment?

1 THE DEFENDANT: Yes.

2 THE COURT: Did you go through these
3 charges with your attorney?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you understand what you
6 are charged with?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you want me to read those
9 charges to you, or do you waive the reading of those
10 charges?

11 THE DEFENDANT: I would to waive, sir.

12 THE COURT: Now, you are going to
13 plead -- pursuant to the guilty plea agreement, you
14 are going to plead guilty to 3 charges.

15 Counts 1 and 2 is robbery with use of a
16 deadly weapon, a Category B felony.

17 And Count 3 is attempt murder, a Category B
18 felony.

19 Out of those 12 charges, you are pleading
20 guilty to 3 of them, and then the State is
21 dismissing the rest of the charges that you are
22 named in; is that your understanding?

23 THE DEFENDANT: Yes, Your Honor.

24 MS. MERCER: Your Honor, if we get him to
25 plead not guilty to the superseding, I will file a

1 second superseding.

2 THE COURT: As to the 12 charges that you
3 were named in this the superseding indictment, you
4 are going to plead not guilty.

5 Is that correct?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Now, we are moving on to the
8 next phase, where the State is going to file a
9 second --

10 MR. GOLDSTEIN: Correct.

11 THE COURT: -- a second superseding
12 indictment, and you have reached an agreement with
13 the State.

14 Is that right?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And the agreement that you
17 reached with the State is reflected in this guilty
18 plea agreement.

19 Is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: Did you read through it?

22 THE DEFENDANT: Yes.

23 THE COURT: And discuss it with your
24 attorney?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And according to the guilty
2 plea agreement, you are going to withdraw your plea
3 of not guilty.

4 Is that correct?

5 THE DEFENDANT: Yes.

6 THE COURT: As to 3 counts, Count 1 and
7 2, and Count 3, Counts 1 and 2 are robbery with use
8 of a deadly weapon, Category B felonies.

9 And Count 3 is a Category B felony, attempt
10 murder.

11 How are you going to be pleading to those 3
12 charges?

13 THE DEFENDANT: Guilty, Your Honor.

14 THE COURT: When you read through this
15 guilty plea agreement, did you understand what you
16 were reading?

17 THE DEFENDANT: Yes.

18 THE COURT: And you have discussed the
19 terms of the guilty plea agreement with your
20 attorney.

21 Is that correct?

22 THE DEFENDANT: Yes.

23 THE COURT: You read it and discussed the
24 guilty plea agreement before you signed it?

25 THE DEFENDANT: Yes.

1 THE COURT: I am showing you page 6 of
2 the guilty plea agreement, is that your signature?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Is there anything in the
5 guilty plea agreement that did you not understand?

6 THE DEFENDANT: No, sir.

7 THE COURT: Did anybody threaten you or
8 coerce you to get you to plead guilty?

9 THE DEFENDANT: No.

10 THE COURT: Did anybody promise you
11 anything not in the guilty plea agreement to get you
12 to plead guilty?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Did you read through the
15 section of the guilty plea agreement entitled waiver
16 of rights?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Did you understand those
19 rights?

20 THE DEFENDANT: Yes.

21 THE COURT: You discussed those right with
22 your attorney, right?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Those rights consist
25 basically of your rights in regards to having a

1 trial.

2 Is that correct?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Your right to confront and
5 cross-examine witnesses against you.

6 Your right to subpoena witnesses on your own
7 behalf.

8 Your right to testify, if you choose to
9 testify.

10 Your right against self-incrimination, if
11 you don't want to testify.

12 Your right to appeal.

13 All of those rights were explained to you,
14 is that correct?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you wish to waive all of
17 those rights, and not have a trial, and you waive
18 all of those rights to plead guilty to these 3
19 charges?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: According to the guilty plea
22 agreement, the State will retain the right to argue
23 at the time of sentencing on each of the 3 counts
24 that you are pleading guilty to.

25 Is that correct?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: The State has further agreed
3 that they will not seek habitual criminal treatment
4 at the time of sentencing.

5 Is that also your understanding?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: What is your understanding --
8 the State will not oppose the sentences on the 2
9 counts of robbery with use of a deadly weapon to run
10 concurrent to one another, but retains the right to
11 argue that the sentence on the attempt murder should
12 run consecutive.

13 Do you understand what that means?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: What is your understanding of
16 the range of sentence that the Court could impose on
17 the charge of robbery with use of a deadly weapon.

18 It has 2 components. There is a robbery
19 charge, and there is an enhancement for use of a
20 deadly weapon.

21 What is your understanding of the range of
22 the sentence for the robbery?

23 THE DEFENDANT: 2 to 15.

24 THE COURT: 2 to 15 years.

25 THE COURT: By law, the enhancement for

1 use of a deadly weapon has to be consecutive to the
2 robbery.

3 Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: What is the range of sentence
6 for the enhancement of use of a deadly weapon?

7 THE DEFENDANT: 1 to 15.

8 THE COURT: So, even though the State has
9 agreed that Counts 1 and 2, the 2 robbery charges
10 can run concurrent to each other, the charge of
11 robbery, and then the enhancement of use of a deadly
12 weapon have to be consecutive, one after other.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: The maximum sentence for the
16 robbery is 6 to 15 years, that's the maximum
17 sentence that the Court could impose for the
18 robbery.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Then the Court has to add on
22 the consecutive.

23 The Court could max that out with another 6
24 to 15 years for the enhancement.

25 So, for each of the 2 robbery charges, if I

1 maxed you out at the time of sentencing, it would be
2 6 to 15 for the robbery, plus a consecutive 6 to 15
3 for use of a deadly weapon.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: I could do that on both of
7 the robbery charges, but they would run concurrent,
8 so that's the maximum sentence, 6 to 15 and 6 to
9 15.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: However, what is your
13 understanding of the range of sentence that the
14 Court could impose for Count 3, attempt murder?

15 THE DEFENDANT: 2 to 10.

16 MR. GOLDSTEIN: 2 to 20.

17 THE COURT: So, the maximum sentence for the
18 attempt murder would be 8 to 20 years, you
19 understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: The State retains the right
22 to argue that that sentence should be sentenced
23 consecutive to the 2 robbery counts.

24 Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Let's talk about what the
2 maximum sentence that the Court could impose at the
3 time of sentencing.

4 The Court could sentence you to 6 to 15 for
5 the robberies, and an additional 6 to 15 years for
6 use of a deadly weapon.

7 That would cover counts one and 2, do you
8 understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Then, if I maxed you out on
11 the attempt murder charge, that would be another 8
12 to 20 years.

13 So it is possible that if I maxed you out on
14 all 3 counts, you would doing 14 years on the
15 bottom, and 30, plus 20, it would be 50 years on the
16 top end.

17 It is possible, if I maxed you out on all 3
18 counts, you could be doing 50 years on the top end,
19 and 14 years on the bottom end.

20 Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: The State is going to be
23 arguing, and probably they are going to be arguing
24 for the maximum sentence.

25 MR. GOLDSTEIN: The cap is 12.

1 MS. MERCER: I agree to not argue for no
2 more than 12 years on the bottom end.

3 THE COURT: So, part of the deal is they
4 won't argue for more than 12 years.

5 If I maxed you out, I could give you 14.

6 They are not asking for the max.

7 In any event, you understand potentially
8 what the maximum sentence could be, pursuant to the
9 agreement, 12 to 50 years.

10 Do you understand that?

11 MR. GOLDSTEIN: Your Honor, just to clarify,
12 that's a cap for the State's argument of 12 years on
13 the bottom, not any kind of agreement that's the
14 sentence we are going to recommend anyway.

15 THE COURT: Right.

16 All I am doing is explaining to you what the
17 maximum sentence could be, because when it comes
18 time for the sentence to be imposed, that sentence,
19 if imposed, is completely and entirely up to me.

20 No one could promise or predict what kind of
21 sentence I am going to impose.

22 I will tell you that if that is the cap that
23 the State agreed to, I will honor that, and at the
24 very worst, you wouldn't get sentenced to anything
25 that the State agreed not to argue for.

1 So it would be to there or somewhere down.

2 Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: You understand that you are
5 entering this plea with these 3 charges,
6 understanding the potential maximum sentence that
7 the Court could impose.

8 Is that correct?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Once again, no one can
11 promise or predict what kind of sentence the Court
12 is going to impose, that I am going to impose at the
13 time of sentence.

14 Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: So, I am going to read to you
17 from the superseding indictment.

18 I am going to read the fact allegations in
19 the superseding indictment, and you tell me if they
20 are accurate or not.

21 We will go through the 2 counts for
22 robbery.

23 MR. GOLDSTEIN: Your Honor, the second
24 superseding indictment.

25 THE COURT: The second superseding

1 indictment.

2 It says that on or about August 22, 2013 you
3 and the co-Defendants did then and there willfully,
4 unlawfully and intentionally take property which was
5 an iPad, and/or cell phones, and/or other unknown
6 property from Darny Van.

7 And/or an iPad or other cell phones or
8 unknown property from the person of Asia Hood.

9 And/or an iPad and/or cell phones or other
10 unknown property from the person of Kenneth
11 Flenory.

12 And/or iPad and/or cell phones and/or
13 unknown property from the person of David Powers.

14 You took this property from them in their
15 presence, by means of force or violence, or fear of
16 force or violence, against their will, while you
17 using a deadly weapon, to-wit: a firearm in the
18 commission of this robbery.

19 And it says that you are liable under one of
20 several theories; either you directly committed the
21 crime, or you aided and abetted in the commission of
22 the crime, or you provided -- you either committed
23 it or you aided and abetted.

24 MS. MERCER: And/or conspired.

25 THE COURT: And/or that you conspired to

1 commit those crimes.

2 So you understand the factual assertions
3 that I just read to you in the complaint?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Are they true?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: You guys, you knew what was
8 going on you when you were robbing these people of
9 cell phones and property, and iPads.

10 You guys had a gun.

11 Is that all true?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: The second count, Count 2
14 says -- that was Count 1.

15 Count 2 says that once again you and your
16 associates in the case did willfully, knowingly and
17 intentionally take person property from -- the
18 property being an iPad and/or cell phones and/or
19 other unknown property from Anthony Roberts.

20 iPad, cell phones or other unknown property
21 from Thavin Van, T-h-a-v-i-n V-a-n, Thavin Van.

22 And then additional iPads, cell phones or
23 other unknown property from the person of Trinity
24 Briones.

25 Again, you took property from those folks

1 either with the use of force or violence, or the
2 fear of force or violence, and against their will.

3 And again, you either did it by one of 3
4 ways, you either directly committed the offense, or
5 you aided and abetted in the commitment of the
6 offense, or you conspired to commit the offense.

7 Is that also true?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Again, you and these folks --
10 apparently there is 2 counts, 2 different cases?

11 MS. MERCER: A different sets of victims,
12 Your Honor.

13 And you forgot the penalty with regards to
14 the use of a firearm.

15 THE COURT: And Count 2, also, the second
16 count, you guys stole this property from these
17 folks, and you were using a firearm when that
18 happened, true?

19 THE DEFENDANT: I was; yes, Your Honor.

20 MR. GOLDSTEIN: It wasn't one event, Your
21 Honor, it is just a different set of victims listed
22 in Count 2 as Count 1.

23 THE COURT: The first set of victims in
24 Count 1 were together when they stole all of this.

25 MS. MERCER: They were all in the same

1 house, Your Honor.

2 I just want to make sure that there was a
3 count of robbery as to each victim.

4 Each victim was named in the indictment.

5 MR. GOLDSTEIN: Additionally, each victim
6 was charged as a separate robbery with use count.

7 For purposes of the negotiation, we
8 consolidated it into 2 counts.

9 THE COURT: The reason is, they could have,
10 and they did originally charge you with a separate
11 count of robbery with use of a deadly weapon on each
12 one of those victims, as they are entitled to do.

13 Because you negotiated the count, they
14 consolidated the victims in the 2 counts.

15 Is that your understanding?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: The fact is you guys robbed
18 with a gun all of those people of personal property,
19 phones, iPads and other property.

20 Is that correct?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Count 3 says that on that
23 same day, you did then and there, without lawful
24 authority and intentionally, willfully and with
25 malice aforethought, did attempt to kill David

1 Powers by shooting David Powers --

2 Ms. Mercer: By shooting at.

3 THE COURT: -- by shooting at, is that all
4 true?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Are you the one that fired
7 the gun?

8 THE DEFENDANT: Yes.

9 THE COURT: Once again, you are entering
10 a plea of guilty to these 3 charges freely and
11 voluntarily.

12 Is that correct?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And you understand the
15 potential consequence that may result from your
16 entering this plea of guilty at the time of
17 sentencing.

18 Is that also correct?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Anything else?

21 MS. MERCER: No.

22 THE COURT: All right.

23 The Court will accept your plea guilty to
24 Count 1, a Category B felony, attempt robbery with
25 use of a deadly weapon.

1 And Count 2, also robbery with use of a
2 deadly weapon.

3 As well as Count 3, a Category B felony
4 offense of attempt murder, as having been freely and
5 voluntarily entered.

6 Now, the process is, I will set you down for
7 sentencing in approximately 60 days.

8 Somebody from Parole and Probation is going
9 to be able to talk to you, so expect to talk to
10 somebody within the next few weeks.

11 And then when the Presentence Investigative
12 Report is prepared, you will need to sit down and go
13 through it with Mr. Goldstein, and make sure that
14 the information is accurate.

15 If it is not accurate, it needs to be
16 corrected before we impose sentence.

17 THE CLERK: January 7, 2014 for sentencing.

18 MR. GOLDSTEIN: At this point I can withdraw
19 the pretrial writ of habeas corpus that I filed
20 previously.

21 THE COURT: The writ is withdrawn.
22

23 (Proceedings concluded.)
24
25

1 C E R T I F I C A T E

2 STATE OF NEVADA)

3) ss.

4 CLARK COUNTY)

5

6 I, Robert A. Cangemi, CCR 888, do hereby
7 certify that I reported the foregoing proceedings,
8 and that the same is true and accurate as reflected
9 by my original machine shorthand notes taken at said
10 time and place before the Hon. James M. Bixler,
11 District Court Judge presiding.

12 Dated at Las Vegas, Nevada this 24th
13 day of March, 2014.

14

15 /s/ Robert A. Cangemi

16 Robert A. Cangemi, CCR 888

17 Certified Court Reporter

18 Las Vegas, Nevada

19

20

21

22

23

24

25

abettor

defendant

A abettor (15:21) (15:23) (17:5) able (20:9) accept (19:23) according (6:1) (8:21) accurate (14:20) (20:14) (20:15) (21:8) add (10:21) added (2:15) (2:19) adding (2:21) additional (12:5) (16:22) additionally (18:5) aforethought (18:25) after (10:12) again (14:10) (16:15) (16:25) (17:3) (17:9) (19:9) against (8:5) (8:10) (15:16) (17:2) agree (13:1) agreed (9:2) (10:9) (13:23) (13:25) agreement (2:9) (4:13) (5:12) (5:16) (5:18) (6:2) (6:15) (6:19) (6:24) (7:2) (7:5) (7:11) (7:15) (8:22) (13:9) (13:13) aided (15:21) (15:23) (17:5) all (2:21) (3:6) (5:13) (8:16) (8:18) (12:14) (12:17) (13:16) (16:11) (17:24) (17:25) (18:18) (19:3) (19:22) allegations (14:18) also (9:5) (17:7) (17:15) (19:18) (20:1) and/or (15:5) (15:7) (15:9) (15:12) (15:24) (15:25) (16:18) another (9:10) (10:23) (12:11) anthony (1:21) (2:10) (16:19) any (13:7) (13:13) anybody (7:7) (7:10) anything (7:4) (7:11) (13:24) (19:20) anyway (13:14) apparently (17:10) appeal (8:12) appearances (1:18) approximately (2:7) are (3:18) (3:24) (4:6) (4:12) (4:14) (4:19) (4:21) (5:4) (5:7) (6:2) (6:7) (6:11) (8:24) (12:23) (13:6) (13:14) (14:4) (14:20) (15:19) (16:5) (18:12) (19:6) (19:9) aren't (2:20) argue (8:22) (9:11) (11:22) (13:1) (13:4) (13:25) arguing (12:23) argument (13:12) arraigned (2:16) asia (15:8) asking (13:6) assertions (16:2) associates (16:16) attempt (4:17) (6:9) (9:11) (11:14) (11:18) (12:11) (18:25) (19:24) (20:4) attorney (1:20) (3:15) (4:3) (5:24) (6:20) (7:22) august (15:2) authority (18:24)	(16:22) certified (21:17) certify (21:7) chance (3:12) charge (9:17) (9:19) (10:10) (12:11) (18:10) charged (3:5) (3:18) (4:6) (18:6) charges (2:20) (3:17) (4:3) (4:9) (4:10) (4:14) (4:19) (4:21) (5:2) (6:12) (8:19) (10:9) (10:25) (11:7) (14:5) (19:10) chief (1:20) choose (8:8) clarify (13:11) clark (1:3) (21:4) clerk (2:5) (20:17) co-defendant (2:24) co-defendants (15:3) coerce (7:8) comes (13:1) commission (15:18) (15:21) commit (16:1) (17:6) commitment (17:5) committed (15:20) (15:22) (17:4) complaint (16:3) completely (13:19) components (9:18) concluded (20:23) concurrent (9:10) (10:10) (11:7) confront (8:4) consecutive (9:12) (10:1) (10:12) (10:22) (11:2) (11:23) consequence (19:15) consist (7:24) consolidated (18:8) (18:14) conspired (15:24) (15:25) (17:6) corpus (20:19) correct (3:6) (5:5) (5:10) (5:19) (6:4) (6:21) (8:2) (8:14) (8:25) (14:8) (18:20) (19:12) (19:18) corrected (20:16) could (9:16) (10:17) (10:23) (11:6) (11:14) (12:2) (12:4) (12:18) (13:5) (13:8) (13:17) (13:20) (14:7) (18:9) count (4:17) (6:6) (6:7) (6:9) (11:14) (16:13) (16:14) (16:15) (17:15) (17:16) (17:22) (17:24) (18:3) (18:6) (18:11) (18:13) (18:22) (19:24) (20:1) (20:3) counts (3:20) (3:21) (3:24) (4:15) (6:6) (6:7) (8:23) (9:9) (10:9) (11:23) (12:7) (12:14) (12:18) (14:21) (17:10) (18:8) (18:14) county (1:3) (21:4) court (1:3) (2:6) (2:23) (3:1) (3:3) (3:9) (3:12) (3:15) (3:17) (3:20) (3:24) (4:2) (4:5) (4:8) (4:12) (5:2) (5:7) (5:11) (5:16) (5:21) (5:23) (6:1) (6:6) (6:14) (6:18) (6:23) (7:1) (7:4) (7:7) (7:10) (7:14) (7:18) (7:21) (7:24) (8:4) (8:16) (8:21) (9:2) (9:7) (9:15) (9:16) (9:24) (9:25) (10:5) (10:8) (10:15) (10:17) (10:21) (10:23) (11:6) (11:12) (11:14) (11:17) (11:21) (12:1) (12:2) (12:4) (12:10) (12:22) (13:3) (13:15) (14:4) (14:7) (14:10) (14:11) (14:16) (14:25) (15:25) (16:5) (16:7) (16:13) (17:9) (17:15) (17:23) (18:9) (18:17) (18:22) (19:3) (19:6) (19:9) (19:14) (19:20) (19:22) (19:23) (20:21) (21:11) (21:17) cover (12:7) crime (15:21) (15:22) crimes (16:1) criminal (9:3) cross-examine (8:5) custody (2:8)
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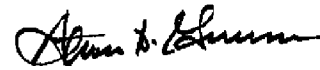
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CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA

CASE NO.: C-13-292507-2

VS

DEPARTMENT 24

WILLIE CARTER

CRIMINAL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

DISPOSITIONS:

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☒ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
 - ☐ Dismissed (during trial)
 - ☐ Acquittal
 - ☐ Guilty Plea with Sentence (during trial)
 - ☐ Conviction
- ☐ Jury Trial
 - ☐ Dismissed (during trial)
 - ☐ Acquittal
 - ☐ Guilty Plea with Sentence (during trial)
 - ☐ Conviction
- ☐ Other Manner of Disposition

DATED this 15th day of July, 2014.


JAMES BIXLER
DISTRICT COURT JUDGE



RECEIVED

JUL 16 2014

CLERK OF THE COURT

Willie Terry Carter #1114323
 Southern Desert Correctional Center
 23010 Cold Creek Rd.
 PO Box 206
 Indian Springs, NV 89070

FILED

DEC 16 2019

John L. Sullivan
 CLERK OF COURT

District Court
 Clark County, Nevada

Willie Terry Carter #1114323
 Petitioner / Plaintiff

C-13-292507-2
 Dept. XVIII

= VS =

The State of Nevada
 Respondant / Defendant

January 7, 2020
 9:00 AM

Motion To Correct Illegal Sentence

Comes now, Petitioner / Plaintiff Willie Terry Carter
 pro-per, and respectfully moves this Honorable
 Court to issue a petition for a Motion to
 Correct an Illegal Sentence, being filed
 contemporaneously herewith, directing the State
 of Nevada to correct an illegal sentence by
 nullifying / removing the weapons enhancement from
 his sentence.

This motion is made and based pursuant to the
 supporting points and authorities attached hereto
 as well as all papers, pleadings, documents on file
 in this case, as well as oral arguments deemed
 necessary by this honorable court. *Dated this 13th Day December 2019* Willie Terry Carter

RECEIVED
 DEC 16 2019
 CLERK OF COURT

Statement of Facts

1
2 The Petitioner/Plaintiff Willie Terry Carter being
3 found guilty of crimes of Count 1 & 2 - Robbery
4 with the use of a Deadly Weapon (Category B
5 Felony) in violation of NRS 200.380, 193.165;
6 and Count 3 Attempted Murder (Category B Felony)
7 in violation of NRS 200.010, 200.030, 193.330,
8 was sentenced on the 7th day of January, 2014
9 as follows:

10 As to count 1 & 2 - Robbery with the use of
11 a Deadly Weapon 6 to 15 years concurrent with
12 Count 3 Attempted Murder 6 to 20 years consecutive
13 to the Deadly Weapons Enhancement of Counts
14 1 & 2 - 6 to 15 years. The imposed sentence is to
15 be served in the Nevada Department of Corrections.

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Points And Authorities

Legal Argument

I. The State of Nevada Illegally applied a Weapons Enhancement NRS 193.165, to Willie Terry Carter's sentence in violation of NRS 193.165(4)

Petitioner/Plaintiff Willie Terry Carter claims that The State of Nevada illegally applied a Weapons Enhancement NRS 193.165 to his sentence. NRS 193.165(4) clearly states the following: (NRS 193.165(4) The provisions of subsections 1, 2, and 3 do not apply where the use of a firearm or other deadly weapon or tear gas is a necessary element of such crime.) Based on NRS 193.165(4) Willie Terry Carter was clearly a victim of an error made by The State of Nevada, which ultimately led to him being illegally sentenced and forced to endure a harsh penalty that goes against the plain language of NRS 193.165(4).

Petitioner/Plaintiff Willie Terry Carter was found guilty of Robbery with the use of a Deadly Weapon (Category B Felony) NRS 200.380, and Attempted Murder (Category B Felony) NRS 200.010 both crimes are inconsistent with the application of a Weapons Enhancement NRS 193.165 because NRS 193.165(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

1
2 necessary element of such crime. Based on the
3 plain language of NRS 193.165(4) the Petitioner/
4 Plaintiff Willie Terry Carter was illegally sentenced
5 by the State of Nevada because Robbery with
6 the use of a deadly weapon NRS 200.380 and
7 Attempted Murder NRS 200.010 are both crimes in
8 which a deadly weapon is a necessary element.
9 Thus, a weapons enhancement cannot be legally
10 applied to the Petitioner/Plaintiff Willie Terry
11 Carter's sentence. Robbery with the use of a
12 deadly weapon is not a generic robbery, so a
13 weapon is a necessary element in such crime.
14 Likewise, a weapon is a necessary element in
15 a crime such as Attempted Murder. The Petitioner
16 Plaintiff has been illegally sentenced because the
17 State of Nevada improperly applied NRS 193.165(4).

18 //

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20 II. NRS 176.555 "The court may correct an
21 illegal sentence at any time"

22 Petitioner/Plaintiff Willie Terry Carter cannot
23 be time barred for filing a motion to correct an
24 illegal sentence.

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2 III. Conclusion

3 wherefore, all of the above states reasons,
4 The Petitioner/Plaintiff respectfully requests this
5 Honorable Court to order the State of Nevada
6 to remove the Weapons Enhancement from his
7 sentence.

8
9 "Dated this 13th day of December 2019

10 Respectfully Submitted

11 Willie Carter = Willie Terry Carter
12 Petitioner/Plaintiff

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Certificate of Service by Mailing

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I, Willie Terry Carter hereby certify, pursuant to NRCP 5(b), that on this 13th day of December 2019, I mailed a true and correct copy of the following "Motion to Correct an Illegal Sentence", by depositing it in the Southern Desert Correctional Center legal library, First-Class Postage, Fully prepaid addressed as follows:

Clark County DA's office
200 Lewis Ave
Las Vegas, NV 89115

Clerk of the Court
200 Lewis Ave.
Las Vegas, NV 89115

CC: File

Dated this 13th day of December 2019

Willie Carter
Willie Terry Carter #1114323
Plaintiff / In Propria Personam
Post Office Box 208 (SDCC)
Indian Springs, NV 89170
IN FORMA PAUPERIS

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

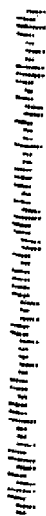
LAS VEGAS NV 890
13 DEC 2019 PM 4

FOREVER / USA

FOREVER / USA

clerk of the Court
200 Lewis Ave.
Las Vegas, NV 89115

89101-630000





1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JOHN NIMAN
6 Deputy District Attorney
7 Nevada Bar #14408
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 WILLIE TERRY CARTER
13 #1114323

14 Defendant.

CASE NO: A-19-804110-W

C-13-292507-2

DEPT NO: XVIII

15 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

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

18 THIS CAUSE having come on for hearing before the Honorable MARY KAY
19 HOLTHUS, District Judge, on the 19th day of December 2019, the Petitioner not being
20 present, represented by counsel, the Respondent being represented by STEVEN B.
21 WOLFSON, Clark County District Attorney, by and through MEGAN THOMSON, Chief
22 Deputy District Attorney, and the Court having considered the matter, including briefs,
23 transcripts, and documents on file herein, now therefore, the Court makes the following
24 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).

10 On October 14, 2013, Defendant filed a Petition for Writ of Habeas Corpus (Pretrial).
11 On October 29, 2013, Defendant advised the Court that issues raised in the Petition had been
12 resolved and that there was no need to address the Petition.

13 On October 30, 2013, the State filed a Superseding Indictment charging Defendant with
14 the crimes of: two counts Robbery With Use of a Deadly Weapon (Category B Felony – NRS
15 200.380, 193.165), and one count Attempt Murder (Category B Felony- NRS 200.010,
16 200.030, 193.330). Defendant was arraigned and pled not guilty to the Superseding
17 Indictment.

18 On October 31, 2013, the State moved to file in open court a Second Amended
19 Superseding Indictment. The same day Defendant was arraigned and pled guilty to: Counts 1
20 & 2- Robbery With Use of a Deadly Weapon (Category B Felony- NRS 200.380, 193.165)
21 and Count 3- Attempt Murder (Category B Felony- NRS 200.010, 200.030, 193.330). The
22 Guilty Plea Agreement was filed the same day in open court.

23 On January 7, 2014, Defendant was sentenced on Count 1- Robbery- to a maximum of
24 fifteen (15) years and a minimum of six (6) years in the Nevada Department of Corrections
25 (NDC) and a consecutive maximum of fifteen (15) years and a minimum of six (6) years in
26 the Nevada Department of Corrections (NDC) for the Use of a Deadly Weapon; Count 2-
27 Robbery- to a maximum of fifteen (15) years and a minimum of six (6) years in the Nevada
28 Department of Corrections (NDC) and a consecutive maximum of fifteen (15) years and a

1 minimum of six (6) years in the Nevada Department of Corrections (NDC) for the Use of a
2 Deadly Weapon; Counts 1 & 2 to run concurrent with each other; and on Count 3- Defendant
3 sentenced to a maximum of twenty (20) years and a minimum of six (6) years in the Nevada
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 and 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
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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
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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
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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
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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
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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
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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
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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
weapon or tear gas in the commission of any of the following
23 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.

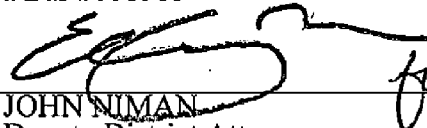
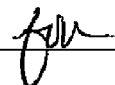
3 ORDER

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 
9 DISTRICT JUDGE

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

12 BY  

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



1 NEO

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 WILLIE CARTER,

5
6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: C-13-292507-2

Dept No: XVIII

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

10
11 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.

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

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

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

21 ☒ By e-mail:

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

23
24 ☒ The United States mail addressed as follows:

25 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

26
27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk



1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JOHN NIMAN
6 Deputy District Attorney
7 Nevada Bar #14408
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 WILLIE TERRY CARTER
13 #1114323

14 Defendant.

CASE NO: A-19-804110-W

C-13-292507-2

DEPT NO: XVIII

15 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

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

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

25 //

26 //

27 //

28 //

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).

10 On October 14, 2013, Defendant filed a Petition for Writ of Habeas Corpus (Pretrial).
11 On October 29, 2013, Defendant advised the Court that issues raised in the Petition had been
12 resolved and that there was no need to address the Petition.

13 On October 30, 2013, the State filed a Superseding Indictment charging Defendant with
14 the crimes of: two counts Robbery With Use of a Deadly Weapon (Category B Felony – NRS
15 200.380, 193.165), and one count Attempt Murder (Category B Felony- NRS 200.010,
16 200.030, 193.330). Defendant was arraigned and pled not guilty to the Superseding
17 Indictment.

18 On October 31, 2013, the State moved to file in open court a Second Amended
19 Superseding Indictment. The same day Defendant was arraigned and pled guilty to: Counts 1
20 & 2- Robbery With Use of a Deadly Weapon (Category B Felony- NRS 200.380, 193.165)
21 and Count 3- Attempt Murder (Category B Felony- NRS 200.010, 200.030, 193.330). The
22 Guilty Plea Agreement was filed the same day in open court.

23 On January 7, 2014, Defendant was sentenced on Count 1- Robbery- to a maximum of
24 fifteen (15) years and a minimum of six (6) years in the Nevada Department of Corrections
25 (NDC) and a consecutive maximum of fifteen (15) years and a minimum of six (6) years in
26 the Nevada Department of Corrections (NDC) for the Use of a Deadly Weapon; Count 2-
27 Robbery- to a maximum of fifteen (15) years and a minimum of six (6) years in the Nevada
28 Department of Corrections (NDC) and a consecutive maximum of fifteen (15) years and a

1 minimum of six (6) years in the Nevada Department of Corrections (NDC) for the Use of a
2 Deadly Weapon; Counts 1 & 2 to run concurrent with each other; and on Count 3- Defendant
3 sentenced to a maximum of twenty (20) years and a minimum of six (6) years in the Nevada
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 and 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
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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
weapon or tear gas in the commission of any of the following
23 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.

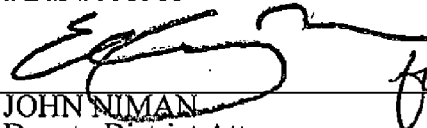
3 ORDER

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 
9 DISTRICT JUDGE

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

12 BY 
13 JOHN NIMAN
14 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 E. DEL PADRE
25 Secretary for the District Attorney's Office
26
27
28

Steven D. Grierson

1 Willie Carter #1114323
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

5 IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF Clark
7

8
9 Willie Carter
10 Plaintiff,
11 vs.
12 the State of Nevada
13 Defendant.
14

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

15
16 **NOTICE OF APPEAL**

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

21 Habeas Corpus/Motion To Correct Illegal Sentence

22 _____
23 ruled on the 13th day of January, 2020.

24
25 Dated this 11th day of February, 2020

26 Respectfully Submitted,

27 Willie Carter, Willie Carter
28

RECEIVED
FEB 16 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. Defendants 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 ~~range~~ 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.

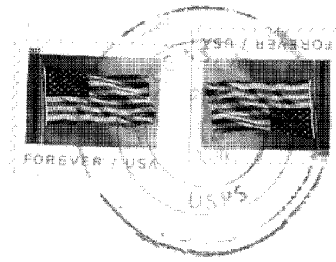
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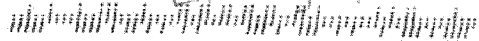
29

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



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

990186300 0075



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

Electronically Filed
2/18/2020 10:23 AM
Steven D. Grierson
CLERK OF THE COURT

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



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 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12
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 1. Appellant(s): Willie Carter

19 2. Judge: Mary Kay Holthus

20 3. Appellant(s): Willie Carter

21 Counsel:

22
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

DOCUMENTARY EXHIBITS

Grand Jury Case # 13A 6-J050 A-B

Exhibit # 1

Date 9.10.2013

1 IND

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LIZ MERCER
6 Chief Deputy District Attorney
7 Nevada Bar #010681
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12
13 DISTRICT COURT
14 CLARK COUNTY, NEVADA
15

16 THE STATE OF NEVADA,

17 Plaintiff,

18 -vs-

19 CORY DEALVONE HUBBARD,
20 #5994122
21 WILLIE CARTER, aka,
22 Willie Terry Carter, #5181937

23 Defendant(s).

CASE NO:

DEPT NO:

INDICTMENT

24 STATE OF NEVADA }
25 COUNTY OF CLARK } ss.

26 The Defendant(s) above named, CORY DEALVONE HUBBARD and WILLIE
27 CARTER, aka, Willie Terry Carter, accused by the Clark County Grand Jury of the crime(s)
28 of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 199.480, 200.380);
BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS
205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS
200.380, 193.165) ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), ASSAULT WITH A
DEADLY WEAPON (Category B Felony - NRS 200.471); and DISCHARGE OF
FIREARM WITHIN A STRUCTURE (Category B Felony - NRS 202.287) committed at

1 and within the County of Clark, State of Nevada, on or about the 22nd day of August, 2013,
2 as follows:

3 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

4 Defendants and an unidentified person did then and there meet with each other and
5 between themselves, and each of them with the other, wilfully, unlawfully, and feloniously
6 conspire and agree to commit a crime, to-wit: robbery, and in furtherance of said
7 conspiracy, Defendants did commit the acts as set forth in Counts 3 through 9, said acts
8 being incorporated by this reference as though fully set forth herein.

9 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

10 Defendants and an unidentified person did then and there wilfully, unlawfully, and
11 feloniously enter, while in possession of one or more firearms, with intent to commit a
12 Larceny and/or any felony, and/or a Robbery, that certain building occupied by DARMY
13 VAN, and/or ASIA HOOD, and/or KENNETH FLENORY and/or DAVID POWERS
14 and/or ANTHONY ROBERTS and/or THADIN VAN and/or TRINITY BRIONES, located
15 at 657 Shirehampton Drive, Las Vegas, Clark County, Nevada.

16 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants and an unidentified person did then and there wilfully, unlawfully, and
18 feloniously take personal property, to-wit: an iPad and/or one or more cell phones and/or
19 unknown property, from the person of DARMY VAN, or in her presence, by means of force
20 or violence or fear of injury to, and without the consent and against the will of the said
21 DARNY VAN, said Defendants and the unidentified person using a deadly weapon, to-wit:
22 one or more firearms, during the commission of said crime; the Defendants and the
23 unidentified person being criminally liable under one or more of the following principles of
24 criminal liability, to-wit: (1) by directly committing this crime and/or (2) by aiding or
25 abetting in the commission of this crime, with the intent that this crime be committed, by
26 providing counsel and/or encouragement and by entering into a course of conduct whereby
27 the Defendants and the unidentified person accompanied each other to the crime scene where
28 one or both of the Defendants and/or the unidentified person had a firearm and one or more

1 of the Defendants and/or the unidentified person went through the home taking an iPad
2 and/or cell phone(s) and/or unknown property, Defendants and the unidentified person
3 leaving the crime scene together, the Defendants and the unidentified person encouraging
4 one another throughout by actions and words, and the Defendants and the unidentified
5 person acting in concert throughout, and/or (3) pursuant to a conspiracy to commit this
6 crime.

7 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

8 Defendants and an unidentified person did then and there wilfully, unlawfully, and
9 feloniously take personal property, to-wit: iPad and/or one or more cell phones and/or
10 unknown property, from the person of ASIA HOOD, or in her presence, by means of force
11 or violence or fear of injury to, and without the consent and against the will of the said ASIA
12 HOOD, said Defendants and the unidentified person using a deadly weapon, to-wit: one or
13 more firearms, during the commission of said crime; the Defendants and the unidentified
14 person being criminally liable under one or more of the following principles of criminal
15 liability, to-wit: (1) by directly committing this crime and/or (2) by aiding or abetting in the
16 commission of this crime, with the intent that this crime be committed, by providing counsel
17 and/or encouragement and by entering into a course of conduct whereby the Defendants and
18 the unidentified person accompanied each other to the crime scene where one or both of the
19 Defendants and/or the unidentified person had a firearm and one or more of the Defendants
20 and/or the unidentified person went through the home taking an iPad and/or cell phone(s)
21 and/or unknown property, and/or taking an iPad and/or cell phone from the person of ASIA
22 HOOD while a firearm was pointed at ASIA HOOD, Defendants and the unidentified
23 person leaving the crime scene together, the Defendants and the unidentified person
24 encouraging one another throughout by actions and words, and the Defendants and the
25 unidentified person acting in concert throughout, and/or (3) pursuant to a conspiracy to
26 commit this crime.

27 ///

28 ///

1 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendants and an unidentified person did then and there wilfully, unlawfully, and
3 feloniously take personal property, to-wit: iPad and/or one or more cell phones and/or
4 unknown property, from the person of KENNETH FLENORY, or in his presence, by means
5 of force or violence or fear of injury to, and without the consent and against the will of the
6 said KENNETH FLENORY, said Defendants and the unidentified person using a deadly
7 weapon, to-wit: one or more firearms, during the commission of said crime; the Defendants
8 and the unidentified person being criminally liable under one or more of the following
9 principles of criminal liability, to-wit: (1) by directly committing this crime and/or (2) by
10 aiding or abetting in the commission of this crime, with the intent that this crime be
11 committed, by providing counsel and/or encouragement and by entering into a course of
12 conduct whereby the Defendants and the unidentified person accompanied each other to the
13 crime scene where one or both of the Defendants and/or the unidentified person had a
14 firearm and one or more of the Defendants and/or the unidentified person went through the
15 home taking an iPad and/or cell phone(s) and/or unknown property, and one or more of
16 Defendants and/or the unidentified individual took a cell phone and/or unknown property
17 from the person of KENNETH FLENORY, Defendants and the unidentified person leaving
18 the crime scene together, the Defendants and the unidentified person encouraging one
19 another throughout by actions and words, and the Defendants and the unidentified person
20 acting in concert throughout, and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

22 Defendants did then and there wilfully, unlawfully, and feloniously take personal
23 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
24 person of DAVID POWERS, or in his presence, by means of force or violence or fear of
25 injury to, and without the consent and against the will of the said DAVID POWERS, said
26 Defendants and the unidentified person using a deadly weapon, to-wit: one or more firearms,
27 during the commission of said crime; the Defendants and the unidentified person being
28 criminally liable under one or more of the following principles of criminal liability, to-wit:

1 (1) by directly committing this crime and/or (2) by aiding or abetting in the commission of
2 this crime, with the intent that this crime be committed, by providing counsel and/or
3 encouragement and by entering into a course of conduct whereby the Defendants and the
4 unidentified person accompanied each other to the crime scene where one or both of the
5 Defendants and/or the unidentified person had a firearm and one or more of the Defendants
6 and/or the unidentified person went through the home taking an iPad and/or cell phone(s)
7 and/or unknown property, Defendants and the unidentified person leaving the crime scene
8 together, the Defendants and the unidentified person encouraging one another throughout by
9 actions and words, and the Defendants and the unidentified person acting in concert
10 throughout, and/or (3) pursuant to a conspiracy to commit this crime.

11 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

12 Defendants did then and there wilfully, unlawfully, and feloniously take personal
13 property, to-wit: iPad and/or one or more cell phones and/or unknown property, from the
14 person of ANTHONY ROBERTS, or in his presence, by means of force or violence or fear
15 of injury to, and without the consent and against the will of the said ANTHONY ROBERTS,
16 said Defendants and the unidentified person using a deadly weapon, to-wit: one or more
17 firearms, during the commission of said crime; the Defendants and the unidentified person
18 being criminally liable under one or more of the following principles of criminal liability, to-
19 wit: (1) by directly committing this crime and/or (2) by aiding or abetting in the commission
20 of this crime, with the intent that this crime be committed, by providing counsel and/or
21 encouragement and by entering into a course of conduct whereby the Defendants and the
22 unidentified person accompanied each other to the crime scene where one or both of the
23 Defendants and/or the unidentified person had a firearm and one or more of the Defendants
24 and/or the unidentified person went through the home taking an iPad and/or cell phone(s)
25 and/or unknown property, and/or and one or more of Defendants and/or the unidentified
26 individual pointed a firearm at the said ANTHONY ROBERTS and/or grabbed the said
27 ANTHONY ROBERTS and pushed the said ANTHONY ROBERTS to the ground and
28 proceeded to rifle through his pockets, Defendants and the unidentified person leaving the

1 crime scene together, the Defendants and the unidentified person encouraging one another
2 throughout by actions and words, and the Defendants and the unidentified person acting in
3 concert throughout, and/or (3) pursuant to a conspiracy to commit this crime.

4 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants did then and there wilfully, unlawfully, and feloniously take personal
6 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
7 person of THADIN VAN, or in his presence, by means of force or violence or fear of injury
8 to, and without the consent and against the will of the said THADIN VAN, said Defendants
9 and the unidentified person using a deadly weapon, to-wit: one or more firearms, during the
10 commission of said crime; the Defendants and the unidentified person being criminally liable
11 under one or more of the following principles of criminal liability, to-wit: (1) by directly
12 committing this crime and/or (2) by aiding or abetting in the commission of this crime, with
13 the intent that this crime be committed, by providing counsel and/or encouragement and by
14 entering into a course of conduct whereby the Defendants and the unidentified person
15 accompanied each other to the crime scene where one or both of the Defendants and/or the
16 unidentified person had a firearm and one or more of the Defendants and/or the unidentified
17 person went through the home taking an iPad and/or cell phone(s) and/or unknown property,
18 and/or one or more of Defendants and/or the unidentified individual took pointed a firearm at
19 the said THAVIN VAN and told the said THAVIN VAN not to look at him and threatened
20 to shoot her if she did, Defendants and the unidentified person leaving the crime scene
21 together, the Defendants and the unidentified person encouraging one another throughout by
22 actions and words, and the Defendants and the unidentified person acting in concert
23 throughout, and/or (3) pursuant to a conspiracy to commit this crime.

24 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

25 Defendants did then and there wilfully, unlawfully, and feloniously take personal
26 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
27 person of TRINITY BRIONES, or in her presence, by means of force or violence or fear of
28 injury to, and without the consent and against the will of the said TRINITY BRIONES, said

1 Defendants and the unidentified person using a deadly weapon, to-wit: one or more firearms,
2 during the commission of said crime; the Defendants and the unidentified person being
3 criminally liable under one or more of the following principles of criminal liability, to-wit:
4 (1) by directly committing this crime and/or (2) by aiding or abetting in the commission of
5 this crime, with the intent that this crime be committed, by providing counsel and/or
6 encouragement and by entering into a course of conduct whereby the Defendants and the
7 unidentified person accompanied each other to the crime scene where one or both of the
8 Defendants and/or the unidentified person had a firearm and one or more of the Defendants
9 and/or the unidentified person went through the home taking an iPad and/or cell phone(s)
10 and/or unknown property, one or more of Defendants and/or the unidentified individual
11 pointed a firearm at the said TRINITY BRIONES, Defendants and the unidentified person
12 leaving the crime scene together, the Defendants and the unidentified person encouraging
13 one another throughout by actions and words, and the Defendants and the unidentified
14 person acting in concert throughout, and/or (3) pursuant to a conspiracy to commit this
15 crime.

16 COUNT 10 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

17 Defendant WILLIE CARTER did then and there, without authority of law, and
18 malice aforethought, willfully and feloniously attempt to kill DAVID POWERS, a human
19 being, by shooting at the said DAVID POWERS, with a deadly weapon, to-wit: a firearm.

20 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

21 Defendant WILLIE CARTER did then and there wilfully, unlawfully, feloniously
22 and intentionally place another person in reasonable apprehension of immediate bodily harm
23 and/or did unlawfully attempt to use physical force against another person, to-wit: DAVID
24 POWERS, with use of a deadly weapon, to-wit: a firearm, by shooting at the said DAVID
25 POWERS.

26 ///

27 ///

28 ///

1 COUNT 12 – DISCHARGE OF FIREARM WITHIN A STRUCTURE

2 Defendant WILLIE CARTER did then and there wilfully, unlawfully, maliciously
3 and feloniously, while in, on or under a structure or vehicle, discharge a firearm within or
4 from the structure or vehicle; the structure or vehicle being within an area designated by a
5 City or County Ordinance as a populated area for the purpose of prohibiting the discharge of
6 weapons; the Defendant committing the crime in the following manner, to-wit: by the said
7 Defendant shooting a firearm while inside the home located at 657 Shirehampton Drive, Las
8 Vegas, Clark County, Nevada.

9 COUNT 13 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

10 Defendant CORY HUBBARD did then and there, without authority of law, and
11 malice aforethought, willfully and feloniously attempt to kill DAVID POWERS, a human
12 being, by shooting at the said DAVID POWERS, with a deadly weapon, to-wit: a firearm.

13 COUNT 14 - ASSAULT WITH A DEADLY WEAPON

14 Defendant CORY HUBBARD did then and there wilfully, unlawfully, feloniously
15 and intentionally place another person in reasonable apprehension of immediate bodily harm
16 and/or did unlawfully attempt to use physical force against another person, to-wit: DAVID
17 POWERS, with use of a deadly weapon, to-wit: a firearm, by shooting at the said DAVID
18 POWERS.

19 COUNT 15 – DISCHARGE OF FIREARM WITHIN A STRUCTURE

20 Defendant CORY HUBBARD did then and there wilfully, unlawfully, maliciously
21 and feloniously, while in, on or under a structure or vehicle, discharge a firearm within or
22 from the structure or vehicle; the structure or vehicle being within an area designated by a

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1 City or County Ordinance as a populated area for the purpose of prohibiting the discharge of
2 weapons; the Defendant committing the crime in the following manner, to-wit: by the said
3 Defendant shooting a firearm while inside the home located at 657 Shirehampton Drive, Las
4 Vegas, Clark County, Nevada.

5 DATED this ____ day of September, 2013.

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

9 BY

10 LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
11

12 ENDORSEMENT: A True Bill
13

14 Foreperson, Clark County Grand Jury
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1 Names of witnesses testifying before the Grand Jury:

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

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27 13AGJ050A-B/13F13793A-B/ed-GJ

28 LVMPD EV# 1308224087

(TK2)

Grand Jury Case # 13A6J050A-C

Exhibit # - 1A

Date 10-29-2013

1 IND

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LIZ MERCER
6 Chief Deputy District Attorney
7 Nevada Bar #010681
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13
14 Plaintiff,
15
16 -vs-

CASE NO:
DEPT NO:

17 CORY DEALVONE HUBBARD,
18 #5994122
19 WILLIE CARTER, aka,
20 Willie Terry Carter, #5181937
21 STELMAN JOSEPH #5990580

SUPERSEDING
INDICTMENT

Defendant(s).

22 STATE OF NEVADA }
23 COUNTY OF CLARK } ss.

24 The Defendant(s) above named, CORY DEALVONE HUBBARD, WILLIE
25 CARTER, aka, Willie Terry Carter and STELMAN JOSEPH, accused by the Clark County
26 Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY (Category B
27 Felony - NRS 199.480, 200.380); BURGLARY WHILE IN POSSESSION OF A FIREARM
28 (Category B Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON
(Category B Felony - NRS 200.380, 193.165) ATTEMPT MURDER WITH USE OF A
DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165),
ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471), and
DISCHARGE OF FIREARM WITHIN A STRUCTURE (Category B Felony - NRS

1 202.287) committed at and within the County of Clark, State of Nevada, on or about the
2 22nd day of August, 2013, as follows:

3 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

4 Defendants did then and there meet with each other and between themselves, and
5 each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to
6 commit a crime, to-wit: robbery, and in furtherance of said conspiracy, Defendants did
7 commit the acts as set forth in Counts 2 through 9, said acts being incorporated by this
8 reference as though fully set forth herein.

9 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

10 Defendants did then and there wilfully, unlawfully, and feloniously enter, while in
11 possession of one or more firearms, with intent to commit a Larceny and/or any felony,
12 and/or a Robbery, that certain building occupied by DARNY VAN, and/or ASIA HOOD,
13 and/or KENNETH FLENORY and/or DAVID POWERS and/or ANTHONY ROBERTS
14 and/or THAVIN VAN and/or TRINITY BRIONES, located at 657 Shirehampton Drive, Las
15 Vegas, Clark County, Nevada.

16 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants did then and there wilfully, unlawfully, and feloniously take personal
18 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
19 person of DARNY VAN, or in her presence, by means of force or violence or fear of injury
20 to, and without the consent and against the will of the said DARNY VAN, said Defendants
21 using a deadly weapon, to-wit: one or more firearms, during the commission of said crime;
22 the Defendants being criminally liable under one or more of the following principles of
23 criminal liability, to-wit: (1) by directly committing this crime and/or (2) by aiding or
24 abetting in the commission of this crime, with the intent that this crime be committed, by
25 providing counsel and/or encouragement and by entering into a course of conduct whereby
26 the Defendants accompanied each other to the crime scene where one or more of the
27 Defendants had a firearm and one or more of the Defendants went through the home taking
28 an iPad and/or cell phone(s) and/or unknown property, Defendants leaving the crime scene

1 together, the Defendants encouraging one another throughout by actions and words, and the
2 Defendants acting in concert throughout, and/or (3) pursuant to a conspiracy to commit this
3 crime.

4 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendants did then and there wilfully, unlawfully, and feloniously take personal
6 property, to-wit: iPad and/or one or more cell phones and/or unknown property, from the
7 person of ASIA HOOD, or in her presence, by means of force or violence or fear of injury
8 to, and without the consent and against the will of the said ASIA HOOD, said Defendants
9 using a deadly weapon, to-wit: one or more firearms, during the commission of said crime;
10 the Defendants being criminally liable under one or more of the following principles of
11 criminal liability, to-wit: (1) by directly committing this crime and/or (2) by aiding or
12 abetting in the commission of this crime, with the intent that this crime be committed, by
13 providing counsel and/or encouragement and by entering into a course of conduct whereby
14 the Defendants accompanied each other to the crime scene where one or more of the
15 Defendants had a firearm and one or more of the Defendants went through the home taking
16 an iPad and/or cell phone(s) and/or unknown property, and/or taking an iPad and/or cell
17 phone from the person of ASIA HOOD while a firearm was pointed at ASIA HOOD,
18 Defendants leaving the crime scene together, the Defendants encouraging one another
19 throughout by actions and words, and the Defendants acting in concert throughout, and/or
20 (3) pursuant to a conspiracy to commit this crime.

21 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

22 Defendants did then and there wilfully, unlawfully, and feloniously take personal
23 property, to-wit: iPad and/or one or more cell phones and/or unknown property, from the
24 person of KENNETH FLENORY, or in his presence, by means of force or violence or fear
25 of injury to, and without the consent and against the will of the said KENNETH FLENORY,
26 said Defendants using a deadly weapon, to-wit: one or more firearms, during the commission
27 of said crime; the Defendants being criminally liable under one or more of the following
28 principles of criminal liability, to-wit: (1) by directly committing this crime and/or (2) by

1 aiding or abetting in the commission of this crime, with the intent that this crime be
2 committed, by providing counsel and/or encouragement and by entering into a course of
3 conduct whereby the Defendants accompanied each other to the crime scene where one or
4 more of the Defendants had a firearm and one or more of the Defendants went through the
5 home taking an iPad and/or cell phone(s) and/or unknown property, and one or more of
6 Defendants took a cell phone and/or unknown property from the person of KENNETH
7 FLENORY, Defendants leaving the crime scene together, the Defendants encouraging one
8 another throughout by actions and words, and the Defendants acting in concert throughout,
9 and/or (3) pursuant to a conspiracy to commit this crime.

10 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

11 Defendants did then and there wilfully, unlawfully, and feloniously take personal
12 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
13 person of DAVID POWERS, or in his presence, by means of force or violence or fear of
14 injury to, and without the consent and against the will of the said DAVID POWERS, said
15 Defendants using a deadly weapon, to-wit: one or more firearms, during the commission of
16 said crime; the Defendants being criminally liable under one or more of the following
17 principles of criminal liability, to-wit: (1) by directly committing this crime and/or (2) by
18 aiding or abetting in the commission of this crime, with the intent that this crime be
19 committed, by providing counsel and/or encouragement and by entering into a course of
20 conduct whereby the Defendants accompanied each other to the crime scene where one or
21 more of the Defendants had a firearm and one or more of the Defendants went through the
22 home taking an iPad and/or cell phone(s) and/or unknown property, Defendants leaving the
23 crime scene together, the Defendants encouraging one another throughout by actions and
24 words, and the Defendants acting in concert throughout, and/or (3) pursuant to a conspiracy
25 to commit this crime.

26 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

27 Defendants did then and there wilfully, unlawfully, and feloniously take personal
28 property, to-wit: iPad and/or one or more cell phones and/or unknown property, from the

1 person of ANTHONY ROBERTS, or in his presence, by means of force or violence or fear
2 of injury to, and without the consent and against the will of the said ANTHONY ROBERTS,
3 said Defendants using a deadly weapon, to-wit: one or more firearms, during the commission
4 of said crime; the Defendants being criminally liable under one or more of the following
5 principles of criminal liability, to-wit: (1) by directly committing this crime and/or (2) by
6 aiding or abetting in the commission of this crime, with the intent that this crime be
7 committed, by providing counsel and/or encouragement and by entering into a course of
8 conduct whereby the Defendants accompanied each other to the crime scene where one or
9 more of the Defendants had a firearm and one or more of the Defendants went through the
10 home taking an iPad and/or cell phone(s) and/or unknown property, and/or and one or more
11 of Defendants pointed a firearm at the said ANTHONY ROBERTS and/or grabbed the said
12 ANTHONY ROBERTS and pushed the said ANTHONY ROBERTS to the ground and
13 proceeded to rifle through his pockets, Defendants leaving the crime scene together, the
14 Defendants encouraging one another throughout by actions and words, and the Defendants
15 acting in concert throughout, and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

17 Defendants did then and there wilfully, unlawfully, and feloniously take personal
18 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
19 person of THAVIN VAN, or in his presence, by means of force or violence or fear of injury
20 to, and without the consent and against the will of the said THAVIN VAN, said Defendants
21 using a deadly weapon, to-wit: one or more firearms, during the commission of said crime;
22 the Defendants being criminally liable under one or more of the following principles of
23 criminal liability, to-wit: (1) by directly committing this crime and/or (2) by aiding or
24 abetting in the commission of this crime, with the intent that this crime be committed, by
25 providing counsel and/or encouragement and by entering into a course of conduct whereby
26 the Defendants accompanied each other to the crime scene where one or more of the
27 Defendants had a firearm and one or more of the Defendants went through the home taking
28 an iPad and/or cell phone(s) and/or unknown property, and/or one or more of Defendants

1 pointed a firearm at the said THAVIN VAN and told the said THAVIN VAN not to look at
2 him and threatened to shoot her if she did, Defendants leaving the crime scene together, the
3 Defendants encouraging one another throughout by actions and words, and the Defendants
4 acting in concert throughout, and/or (3) pursuant to a conspiracy to commit this crime.

5 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

6 Defendants did then and there wilfully, unlawfully, and feloniously take personal
7 property, to-wit: an iPad and/or one or more cell phones and/or unknown property, from the
8 person of TRINITY BRIONES, or in her presence, by means of force or violence or fear of
9 injury to, and without the consent and against the will of the said TRINITY BRIONES, said
10 Defendants using a deadly weapon, to-wit: one or more firearms, during the commission of
11 said crime; the Defendants being criminally liable under one or more of the following
12 principles of criminal liability, to-wit: (1) by directly committing this crime and/or (2) by
13 aiding or abetting in the commission of this crime, with the intent that this crime be
14 committed, by providing counsel and/or encouragement and by entering into a course of
15 conduct whereby the Defendants accompanied each other to the crime scene where one or
16 more of the Defendants had a firearm and one or more of the Defendants went through the
17 home taking an iPad and/or cell phone(s) and/or unknown property, one or more of
18 Defendants pointed a firearm at the said TRINITY BRIONES, Defendants leaving the crime
19 scene together, the Defendants encouraging one another throughout by actions and words,
20 and the Defendants acting in concert throughout, and/or (3) pursuant to a conspiracy to
21 commit this crime.

22 COUNT 10 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

23 Defendant WILLIE CARTER did then and there, without authority of law, and
24 malice aforethought, willfully and feloniously attempt to kill DAVID POWERS, a human
25 being, by shooting at the said DAVID POWERS, with a deadly weapon, to-wit: a firearm.

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1 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

2 Defendant WILLIE CARTER did then and there wilfully, unlawfully, feloniously
3 and intentionally place another person in reasonable apprehension of immediate bodily harm
4 and/or did unlawfully attempt to use physical force against another person, to-wit: DAVID
5 POWERS, with use of a deadly weapon, to-wit: a firearm, by shooting at the said DAVID
6 POWERS.

7 COUNT 12 - DISCHARGE OF FIREARM WITHIN A STRUCTURE

8 Defendant WILLIE CARTER did then and there wilfully, unlawfully, maliciously
9 and feloniously, while in, on or under a structure or vehicle, discharge a firearm within or
10 from the structure or vehicle; the structure or vehicle being within an area designated by a
11 City or County Ordinance as a populated area for the purpose of prohibiting the discharge of
12 weapons; the Defendant committing the crime in the following manner, to-wit: by the said
13 Defendant shooting a firearm while inside the home located at 657 Shirehampton Drive, Las
14 Vegas, Clark County, Nevada.

15 COUNT 13 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

16 Defendant CORY HUBBARD did then and there, without authority of law, and
17 malice aforethought, willfully and feloniously attempt to kill DAVID POWERS, a human
18 being, by shooting at the said DAVID POWERS, with a deadly weapon, to-wit: a firearm.

19 COUNT 14 - ASSAULT WITH A DEADLY WEAPON

20 Defendant CORY HUBBARD did then and there wilfully, unlawfully, feloniously
21 and intentionally place another person in reasonable apprehension of immediate bodily harm
22 and/or did unlawfully attempt to use physical force against another person, to-wit: DAVID
23 POWERS, with use of a deadly weapon, to-wit: a firearm, by shooting at the said DAVID
24 POWERS.

25 COUNT 15 - DISCHARGE OF FIREARM WITHIN A STRUCTURE

26 Defendant CORY HUBBARD did then and there wilfully, unlawfully, maliciously
27 and feloniously, while in, on or under a structure or vehicle, discharge a firearm within or
28 from the structure or vehicle; the structure or vehicle being within an area designated by a

1 City or County Ordinance as a populated area for the purpose of prohibiting the discharge of
2 weapons; the Defendant committing the crime in the following manner, to-wit: by the said
3 Defendant shooting a firearm while inside the home located at 657 Shirehampton Drive, Las
4 Vegas, Clark County, Nevada.

5 DATED this _____ day of October, 2013.

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

9 BY

10 LIZ MERCER
11 Chief Deputy District Attorney
Nevada Bar #010681

12 ENDORSEMENT: A True Bill

13
14 _____
Foreperson, Clark County Grand Jury

1 Names of witnesses testifying before the Grand Jury:
2 BASNER, SPENCER, LVMPD# 8784
3 BODDIE, CHRISTOPHER, LVMPD# 8914
4 BRUNO, BERNARD, LVMPD# 7912
5 FLENORY, KENNETH, 5419 VALLEY WELLS WY, LV NV 89113
6 HOOD, ASIA, 657 SHIREHAMPTON DR, LV NV 89178
7 POWERS, DAVID, 657 SHIREHAMPTON RD, LV NV 89178
8 ROBERTS, ANTHONY, 657 SHIREHAMPTON DR, LV NV 89178
9 ROBERTS, VINCENT, LVMPD# 5714
10 SCLIMENTI, MICHAEL, LVMPD# 6239
11
12 Additional witnesses known to the District Attorney at time of filing the Indictment:
13 ABELL, JEFFERY, LVMPD# 8744
14 BOOZE, RUSSELL, LVMPD# 6394
15 BRIONES, TRINITY, c/o CCDA, 200 Lewis Ave, LV, NV
16 CORNELL, LAURA, LVMPD# 13576
17 CUSTODIAN OF RECORDS, AMR
18 CUSTODIAN OF RECORDS, CCDC
19 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS
20 CUSTODIAN OF RECORDS, LVMPD RECORDS
21 FLYNN, PATRICK, LVMPD# 6463
22 HUTCHINGS, DANIEL, LVMPD# 8535
23 HUTH, DENISE, LVMPD# 8543
24 JOHNSTON, JEFFERY, LVMPD# 6640
25 LEE, DONALD, LVMPD# 10062
26 OBRIEN, CHRISTOPHER, LVMPD# 6801
27 TURNER, LINDA, LVMPD# 6015
28 VAN, DARNY, 657 SHIREHAMPTON DR, LV NV 89178

1 VAN, MATTHEW, 657 SHIREHAMPTON RD, LV NV 89178
2 VAN, THAVIN, 1127 RAYMOND AVE #2, LONG BEACH, CA 90804
3 WRIGHT, AMANDA, LVMPD# 9974
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27 13AGJ050A-C/13F13793A-B/13F16614X/ed-GJ
28 LVMPD EV# 1308224087
(TK2)

Grand Jury Case # 13AGJ050 A-B
Exhibit # 2
Date 9-10-2013

1 INST

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DISTRICT COURT
CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 CORY DEALVONE HUBBARD,
#5994122

12 WILLIE CARTER, aka,
Willie Terry Carter, #5181937,

13 Defendants.

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GRAND JURY INSTRUCTIONS

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1 **Conspiracy**

2 Conspiracy is an agreement or mutual understanding between two or more persons to
3 commit a crime. To be guilty of conspiracy, a defendant must intend to commit, or to aid in
4 the commission of, the specific crime agreed to. The crime is the agreement to do something
5 unlawful; it does not matter whether it was successful or not.

6 Conspiracy is an agreement or mutual understanding between two or more persons to
7 commit a crime. To be guilty of conspiracy, a defendant must intend to commit, or to aid in
8 the commission of, the specific crime agreed to. The crime is the agreement to do something
9 unlawful; it does not matter whether it was successful or not.

10 It is not necessary in proving a conspiracy to show a meeting of the alleged
11 conspirators or the making of an express or formal agreement. The formation and existence
12 of a conspiracy may be inferred from all circumstances tending to show the common intent
13 and may be proved in the same way as any other fact may be proved, either by direct
14 testimony of the fact or by circumstantial evidence, or by both direct and circumstantial
15 evidence.

16 Evidence of the commission of an act which furthered the purpose of an alleged
17 conspiracy is not, in itself, sufficient to prove that the person committing the act was a
18 member of such a conspiracy.

19 If a number of persons enter into an agreement to commit an illegal act then that
20 agreement is known in law as a conspiracy. If a conspiracy is established, and the purpose
21 thereof is to commit a dangerous felony, then each member of the conspiracy is responsible
22 and liable for the acts of the other member or members.

23 Each member of a criminal conspiracy is liable for each act and bound by each
24 declaration of every other member of the conspiracy if the act or the declaration is in
25 furtherance of the object of the conspiracy.

26 The act of one conspirator pursuant to or in furtherance of the common design of the
27 conspiracy is the act of all conspirators. Every conspirator is legally responsible for an act of
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1 a co-conspirator that follows as one of the probable and natural consequences of the object
2 of the conspiracy even if it was not intended as part of the original plan and even if he was
3 not present at the time of the commission of such act.
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1 **Deadly Weapon**

2 "Deadly weapon" means any instrument which, if used in the ordinary manner
3 contemplated by its design and construction, will or is likely to cause substantial bodily harm
4 or death; any weapon, device, instrument, material or substance which, under the
5 circumstances in which it is used, attempted to be used or threatened to be used, is readily
6 capable of causing substantial bodily harm or death.
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8 **Deadly Weapon**

9 You are instructed that a firearm is a deadly weapon.
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11 **Firearm**

12 You are instructed that "firearm" includes any firearm that is loaded or unloaded and
13 operable or inoperable. "Firearm" includes:

- 14 1. Any device designed to be used as a weapon from which a projectile may be
15 expelled through the barrel by the force of any explosion or other form of combustion.
- 16 2. Any device used to mark the clothing of a person with paint or any other
17 substance; and
- 18 3. Any device from which a metallic projectile, including any ball bearing or pellet,
19 may be expelled by means of spring, gas, air or other force.
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1 **Robbery**

2 Robbery is the unlawful taking of personal property from the person of another, or in
3 his presence, against his will, by means of force or violence or fear of injury, immediate or
4 future, to his person or property, or the person or property of a member of his family, or of
5 anyone in his company at the time of the robbery. Such force or fear must be used to obtain
6 or retain possession of the property, to prevent or overcome resistance to the taking, or to
7 facilitate escape, in either of which cases the degree of force is immaterial if used to compel
8 acquiescence to the taking of or escaping with the property.

9 Robbery is a felony.

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1 **Burglary**

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3 Every person who, by day or night, enters any automobile, with the intent to commit a
4 larceny and/or obtaining money under false pretenses therein is guilty of Burglary.

5 Every person who commits the crime of burglary, who has in his possession or gains
6 possession of any firearm at any time during the commission of the crime, at any time before
7 leaving the structure, or upon leaving the structure, is guilty of burglary while in possession
8 of a firearm.

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10 **Larceny**

11 Larceny is defined as the stealing, taking and carrying or leading or driving away of
12 the personal goods or property of another with the intent to permanently deprive the owner
13 thereof.

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1 **Attempt Murder**

2 Attempted murder is the performance of an act or acts which tend, but fail, to kill a
3 human being, when such acts are done with express malice, namely, with the deliberate
4 intention unlawfully to kill.

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1 **Assault with a Deadly Weapon**

2 An Assault With a Deadly Weapon is an intentional placing of another person in
3 reasonable apprehension of immediate bodily harm and/or unlawfully attempting to use
4 physical force against another person, by or through the use of a deadly weapon.

5 To constitute an assault, it is not necessary that any actual injury be inflicted.

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1 **Discharging firearm within a structure or vehicle; penalties.**

2 A person who is in, on, or under a structure or vehicle and who maliciously or
3 wantonly discharges or maliciously or wantonly causes to be discharged a firearm within or
4 from the structure or vehicle, if the structure or vehicle is within an area designated by city
5 or county ordinance as a populated area for the purpose of prohibiting the discharge of
6 weapons, is guilty of a felony.

7 It is unlawful to wilfully discharge any pistol, firearm, air gun, musket, or instrument
8 of any kind, character, or description which throws a bullet or missiles for any distance by
9 means of the elastic force of air or any explosive substance within the limits of the City of
10 Las Vegas, except in a regular licensed shooting gallery.

Grand Jury Case # 13A6J050A-C

Exhibit # 6

Date 10-29-2013

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PHOTO LINE-UP WITNESS INSTRUCTIONS

NAME: DAVID POWERS
ADDRESS: 657 SHIREHAMPTON LWN 89178
PHONE NUMBER: (702) 305-0628

EVENT #: 130822-4087
INTERVIEWED BY: J. ABEL
LOCATION: 657 SHIREHAMPTON
DATE & TIME: 10/10/13 20:14 hrs

"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. The fact that the photos are being shown to you should not cause you to believe or guess that the guilty person has been caught. You do not have to identify anyone. It is just as important to free innocent persons from suspicion as it is to identify those who are guilty. Please keep in mind that hair styles, beards, and mustaches are easily changed. Also, photographs do not always depict the true complexion of a person - it may be lighter or darker than shown in the photo. You should pay no attention to any markings or numbers that may appear on the photos. Also, pay no attention to whether the photos are in color or black and white, or any other difference in the type or style of the photographs. You should study only the person shown in each photograph. Please do not talk to anyone other than Police Officers while viewing the photos. You must make up your own mind and not be influenced by other witnesses, if any. When you have completed viewing all the photos, please tell me whether or not you can make an identification. If you can, tell me in your own words how sure you are of your identification. Please do not indicate in any way to other witnesses that you have or have not made an identification. Thank you."

SIGNED: *[Signature]*

DATE & TIME: 10-10-13

STATEMENT:

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Grand Jury Case # 13AG-J050A-C

Exhibit # 9

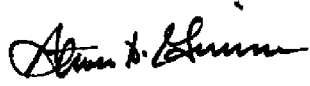
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
CORY DEALVONE HUBBARD, WILLIE)
CARTER, aka Willie Terry Carter,)
)
Defendants.)
_____)

GJ No. 13AGJ050AB
DC No. C292507

Taken at Las Vegas, Nevada
Tuesday, September 10, 2013
8:42 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

1 GRAND JURORS PRESENT ON SEPTEMBER 10, 2013

2

3 EDWARD GOLEC, Foreperson

4 JULIE SCHWERTFEGER, Deputy Foreperson

5 ASHLEY NAPIER, Secretary

6 SHARON BERGER, Assistant Secretary

7 ANNA ALVAREZ

8 SUSAN BEAUCHAMP

9 GERALD BRYAN

10 MICHAEL GARCIA

11 SHIRLEY JOHNSON

12 CHARLES KNIGHTEN

13 JOSEPH O'CONNELL

14 BRIAN RAMSEY

15 GARY ROGERS

16 CRAIG WISE

17 RONALD WORLEY

18

19 Also present at the request of the Grand Jury:

20 Elizabeth Mercer,
21 Chief Deputy District Attorney

22 Kristina Rhoades,
23 Deputy District Attorney

24

25

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1 LAS VEGAS, NEVADA, SEPTEMBER 10, 2013

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 THE FOREPERSON: Let the record reflect
10 that I have canvassed the waiting area and no one has
11 appeared in response to Notice of Intent to Seek
12 Indictment.

13 MS. MERCER: Good morning ladies and
14 gentlemen. My name is Liz Mercer, I'm a chief deputy
15 district attorney, and today with me is Kristina
16 Rhoades, another deputy district attorney in our office.
17 We are presenting the case of State of Nevada versus
18 Cory Hubbard and Willie Carter. It's Case Number
19 13AGJ050AB. The record should reflect that a copy of
20 the proposed Indictment has been marked as Grand Jury
21 Exhibit Number 1 and additionally we've marked
22 instructions regarding the elements of the offense as
23 Grand Jury Exhibit Number 2. I would just ask that
24 before you deliberate you review those instructions and
25 if you have any questions regarding the law grab myself

1 or Miss Rhoades. And the State's first witness will be
2 Asia Hood.

3 THE FOREPERSON: Please raise your right
4 hand.

5 You do solemnly swear the testimony you are
6 about to give upon the investigation now pending before
7 this Grand Jury shall be the truth, the whole truth, and
8 nothing but the truth, so help you God?

9 THE WITNESS: Yes.

10 THE FOREPERSON: Please be seated.

11 You are advised that you are here today to
12 give testimony in the investigation pertaining to the
13 offenses of conspiracy to commit robbery, burglary while
14 in possession of a firearm, robbery with use of a deadly
15 weapon, attempt murder with use of a deadly weapon,
16 assault with a deadly weapon, and discharge of firearm
17 within a structure, involving Cory Hubbard and Willie
18 Carter.

19 Do you understand this advisement?

20 THE WITNESS: Uh-huh.

21 THE FOREPERSON: Please state your first
22 and last name and spell both for the record.

23 THE WITNESS: Asia Hood. A-S-I-A, H-O-O-D.

24 THE FOREPERSON: Thank you.

25 ///

1 ASIA HOOD,
2 having been first duly sworn by the Foreperson of the
3 Grand Jury to testify to the truth, the whole truth,
4 and nothing but the truth, testified as follows:

5
6 EXAMINATION

7
8 BY MS. MERCER:

9 Q. Thank you, ma'am.

10 Ma'am, I want to direct your attention to
11 the 22nd of August 2013. On that date were you at your
12 sister's house?

13 A. Yes.

14 Q. And your sister is Darny Van?

15 A. Yes.

16 Q. Is that D-A-R-N-Y?

17 A. Yes.

18 Q. And Van is V-A-N?

19 A. Yeah.

20 Q. Okay. At about 8:45, 8:50 in the evening,
21 did something unusual happen?

22 A. Yes.

23 Q. Okay. And where were you when that
24 happened?

25 A. I was in the living room on the couch.

1 Q. What were you doing?

2 A. I was on my iPad, my sister's iPad.

3 Q. Was anyone else in the living room with
4 you?

5 A. Yeah. My aunt, her baby, my brother, my
6 sister and my other brother.

7 Q. Can you identify them for me by name
8 please?

9 A. KJ, Matt, Thavin, Trinity and Darny.

10 Q. Okay. And Thavin is T-H-A-V-I-N?

11 A. Uh-huh.

12 Q. And KJ is who?

13 A. KJ is Kenneth Flenory, my brother.

14 Q. At about 8:45 was there a knock at the
15 door?

16 A. Yes.

17 Q. And when there was a knock on the door did
18 you actually hear that knock?

19 A. Yeah, I heard it.

20 Q. When there was a knock who got up to answer
21 the door?

22 A. My sister Darny.

23 Q. Darny. And was it actually Darny's house?

24 A. Yes.

25 Q. Are you familiar with her boyfriend?

1 A. Yeah.

2 Q. And who is her boyfriend?

3 A. Boyfriend is Davion. David.

4 Q. And was he also at the house?

5 A. Yeah.

6 Q. Upstairs?

7 A. Yes.

8 Q. When your sister went to answer the door
9 what happened?

10 A. She got up and she was wondering who would
11 knock at the door at 8:45, like that late at night, and
12 she was on the phone with my sister so like they were
13 talking about it and then she got up to answer it cause
14 she thought it was one of her boyfriend's friends that
15 came by to visit.

16 Q. Okay. You can't testify to what anybody
17 might have been thinking or what anybody else said. I
18 need you to explain to me what happened when she went to
19 answer the door.

20 A. She went to go answer the door and like
21 when, during the knock on the door she opened it and
22 there was only one person there and he asked for a guy
23 named Darnell.

24 Q. Did you hear all of this taking place?

25 A. Yes.

1 Q. And then what happened?

2 A. That's all I heard after that. I didn't
3 hear him talk.

4 Q. But what happened after that?

5 A. Well, he came through the door and there
6 was two people following him with like, he was, the guy
7 that came in was the only one holding the gun that I saw
8 and two other guys came in and they all started running
9 around the house. And that's all I remember.

10 Q. You said that you noticed that the one that
11 came through the door first had a gun?

12 A. Yes.

13 Q. Were these individuals white, black,
14 Hispanic?

15 A. They were black.

16 Q. And the one with the gun, was he a lighter
17 complected black male or a darker complected black male?

18 A. He was lighter.

19 Q. I'm sorry?

20 A. Lighter.

21 Q. When you say he came through the door with
22 a gun, what was he doing with the gun?

23 A. He was holding it up, like just walking
24 around the house. I'm not sure what he was saying cause
25 I thought it was a joke so I wasn't sure, I wasn't

1 really paying attention.

2 Q. Was he pointing the gun at people?

3 A. Yes.

4 Q. And did your sister, when your sister saw
5 the gun did she scream?

6 A. Yes.

7 Q. What did she scream?

8 A. She said -- well, she was screaming at
9 everybody saying "they have a gun" and then she put her
10 hands up and she said "please don't hurt us."

11 Q. You said that they were going through the
12 house?

13 A. Yes.

14 Q. Were they looking for belongings?

15 A. Yes.

16 Q. At some point did the light complected
17 black male move the gun approach you in the living room?

18 A. Yes.

19 Q. Where were you at this point? Were you
20 still seated on the sofa?

21 A. Yes.

22 Q. When he approached you with the gun what
23 did he do?

24 A. He, I think he was yelling at me but I
25 wasn't sure. He told me to give me his, my stuff and

1 then he took my iPad and my phone.

2 Q. And was it actually your iPad or was it
3 your sister's iPad?

4 A. It was my sister's iPad and my phone.

5 Q. What kind of phone was it?

6 A. It was an iPhone 3G.

7 Q. And the iPad, was it Darny's iPad?

8 A. Yes, it was a mini iPad.

9 Q. Okay. Did you ever get those properties
10 back?

11 A. No.

12 Q. After he pointed the gun, or while he was
13 pointing the gun at you, did he try to do anything to
14 prevent you from seeing his face?

15 A. Yes, he put his hand like away from my face
16 so that I couldn't see him.

17 Q. So he tried to block your view of his face
18 with his hand?

19 A. Yes.

20 Q. Did he say anything to you while he was
21 pointing the gun at you?

22 A. I'm sure he said some cuss words but that's
23 all I remember. I was scared at that point.

24 Q. After he pointed the firearm at you and
25 took the iPad mini and the cell phone, what happened?

1 A. He went to my aunt and her baby, Thavin and
2 Trinity.

3 Q. Trinity is T-R-I-N-I-T-Y?

4 A. Yes.

5 Q. Is her last name Briones?

6 A. Yes.

7 Q. For the record that's B-R-I-O-N-E-S?

8 A. Yes.

9 Q. For the record how old were you on that
10 date?

11 A. Thirteen.

12 Q. How old was Trinity?

13 A. He's three.

14 Q. Three years old. Where was your aunt with
15 the baby?

16 A. She was next to the couch on the floor.
17 They were like ducking.

18 Q. And when they approached, or when the light
19 skinned black male approached Thavin and Trinity, what
20 happened?

21 A. Well, he put the gun to the baby's face and
22 her face and said "if you look up I'm going to shoot
23 you." And that's all I saw. And they were just putting
24 their head down.

25 Q. Did he walk out of the room at that point?

1 A. No. That guy had, most of the time he was,
2 had the gun connected her, like he wasn't doing much
3 else except like blocking her from looking.

4 Q. So was he primarily trying to make sure she
5 didn't move or try to look at any of the three black
6 males that entered the house?

7 A. Yes.

8 Q. At some point did he leave the room?

9 A. Yes.

10 Q. And when was that?

11 A. He left the room about up to two minutes
12 later.

13 Q. Did you see where he went?

14 A. Yes, he went on the bottom of the stairs.
15 And that's where they tried to shoot.

16 Q. When you say the bottom of the stairs, do
17 you mean the very bottom?

18 A. Yes. Like not to the stairs yet but on the
19 bottom, right before you touch them.

20 Q. And was he looking up the stairs?

21 A. Yes.

22 Q. And while he was in that position you heard
23 gunshots?

24 A. Yes.

25 Q. When you heard the gunshots what did you do

1 next?

2 A. I stood up and I hid in the closet with my
3 sister.

4 Q. Where was this closet in relation to the
5 living room?

6 A. It was kind of close by. It's a computer
7 room so it's like when you walk in the door it's like
8 right there.

9 Q. Which sister was it?

10 A. Darny.

11 Q. I need to back up for a second. When Darny
12 answered the door and the light skinned black male
13 entered with the handgun, was he pointing the gun at
14 Darny?

15 A. No, but the guy held her hand and like
16 tried to like get everybody to the side.

17 Q. When you say to the side, to the side
18 where?

19 A. To the side of the house like near the
20 living room kind of. But there's two living room so
21 it's like a little guest room and that's where he like
22 put her.

23 Q. Was he trying to get her out of the way?

24 A. Yes.

25 Q. Once you were inside of the closet were you

1 in a position to see anything else?

2 A. No.

3 Q. At some point did you peek out of the
4 closet and see the men leaving the house?

5 A. No. Well, I saw, at the end I went out and
6 that's when I saw them like falling on top of each other
7 trying to get out.

8 Q. What happened immediately before them
9 falling all over each other?

10 A. That's when one of the guys got shot and
11 that's when they tried to run out.

12 Q. You didn't personally see him get shot;
13 correct?

14 A. No.

15 Q. I'm going to ask the grand jurors to
16 disregard that last comment.

17 Did you hear a gunshot immediately
18 preceding them leaving the house?

19 A. No, I didn't even hear that.

20 Q. But you saw them stumbling over each other
21 at the front door?

22 A. Yes.

23 Q. And did they in fact leave the residence at
24 that point?

25 A. Yes.

1 Q. Did the police respond shortly after?

2 A. Yes.

3 Q. And you gave a taped statement; correct?

4 A. Yes.

5 Q. Were you also made aware that they had a
6 potential suspect in custody at some point that evening?

7 A. I didn't -- yeah. Yes.

8 Q. And did they ask you to do what's called a
9 show up with that person?

10 A. What is a show up?

11 Q. Did they take you to view that person?

12 A. Yes.

13 Q. And prior to viewing that person did they
14 give you some instruction?

15 A. Yes.

16 Q. And it was a Detective Scilimenti, correct,
17 who took you over there?

18 A. Yes.

19 Q. When he gave you those instructions was he
20 basically letting you know don't just assume this is the
21 person because we have him in custody?

22 A. Yes.

23 Q. And it's just as important to free an
24 innocent person as it is to find the right person?

25 A. Yes.

1 Q. And when you viewed that suspect were you
2 able to affirmatively identify him as someone in the
3 house?

4 A. Yes, I was almost sure but I wasn't
5 completely sure at the time.

6 Q. Which individual was he?

7 A. He was the light skinned one that was
8 holding the gun.

9 Q. The individual that got right up to your
10 face?

11 A. Yes.

12 Q. In total how long do you think that the
13 three black men were inside of your residence that
14 night? Or your sister's residence.

15 A. Probably up to eight minutes.

16 Q. Did you notice a second individual at any
17 point while they were inside, notice any physical
18 features?

19 A. I saw one but it was for a second because
20 he was running around the house.

21 Q. Was the second individual lighter
22 complected, about the same or darker --

23 A. He was darker.

24 Q. -- as the one with the gun?

25 A. He was darker.

1 Q. He was darker?

2 Was he also, in relation to the build of
3 the light skinned guy, was he a larger build or a
4 smaller build?

5 A. He was larger.

6 Q. I think you described him as thicker to the
7 detectives that night.

8 A. Yes.

9 Q. Is that accurate?

10 A. Yes.

11 Q. The light skinned black male, was he
12 thinner?

13 A. Yes, he was thin.

14 Q. About how tall was he?

15 A. He looked about 5'11", 6 feet.

16 Q. So then how tall would you say the dark
17 complected male was?

18 A. He was around 5'10".

19 Q. So a couple inches shorter?

20 A. Yes.

21 MS. MERCER: I don't have any further
22 questions for this witness.

23 THE FOREPERSON: Okay. Miss Hood, by law
24 these proceedings, anything you said here today and the
25 events you described are secret and you are prohibited

1 from discussing this with anyone. Otherwise there could
2 be a penalty or punishment of time in Clark County
3 Detention Center and fines involved. Okay? It would be
4 a gross misdemeanor and even a, you could be held in
5 contempt of court for discussing anything you said to us
6 today. Okay? Do you understand that admonition?

7 THE WITNESS: Yes, your Honor.

8 THE FOREPERSON: Okay. Thank you. You are
9 excused.

10 THE WITNESS: Thank you.

11 MS. RHOADES: The State's next witness is
12 David Powers.

13 THE FOREPERSON: Please raise your right
14 hand.

15 You do solemnly swear the testimony you are
16 about to give upon the investigation now pending before
17 this Grand Jury shall be the truth, the whole truth, and
18 nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 THE FOREPERSON: You are advised that you
21 are here today to give testimony in the investigation
22 pertaining to the offenses of conspiracy to commit
23 robbery, burglary while in possession of a firearm,
24 robbery with use of a deadly weapon, attempt murder with
25 use of a deadly weapon, assault with a deadly weapon,

1 and discharge of firearm within a structure, involving
2 Cory Hubbard and Willie Carter.

3 Do you understand this advisement?

4 THE WITNESS: Yes, I do.

5 THE FOREPERSON: Please state your first
6 and last name and spell both for the record.

7 THE WITNESS: David Powers. D-A-V-I-D,
8 Powers, P-O-W-E-R-S.

9 THE FOREPERSON: Thank you.

10 DAVID POWERS,
11 having been first duly sworn by the Foreperson of the
12 Grand Jury to testify to the truth, the whole truth,
13 and nothing but the truth, testified as follows:

14

15 EXAMINATION

16

17 BY MS. RHOADES:

18 Q. Thank you. David, I'm going to direct your
19 attention to August 22nd of this year. Were you at, on
20 that evening were you at 657 Shirehampton Drive?

21 A. Yes.

22 Q. Is that located here in Las Vegas, Clark
23 County, Nevada?

24 A. Yes.

25 Q. And who lives there?

1 A. Darny Van and me.

2 Q. What's your relationship with her?

3 A. My girlfriend.

4 Q. And around 8:45 that night who all was in
5 the residence?

6 A. Me, KJ, Darny, Thavin, Trinity, that's her
7 little baby, Asia, Tiger and Matt.

8 Q. And do you know Tiger's real name?

9 A. Tiger Roberts.

10 Q. Is it Anthony Roberts?

11 A. Anthony Roberts, yeah.

12 Q. And KJ, is that Kenneth Flenory?

13 A. Yes.

14 Q. And where were you around 8:45 that night?

15 A. I was upstairs in the master bedroom.

16 Q. Was anybody upstairs with you?

17 A. No.

18 Q. What were you doing upstairs in the master
19 bedroom?

20 A. I was playing on my phone.

21 Q. And what happened around 8:45 that night,
22 8:50?

23 A. I heard a -- I didn't hear the doorbell or
24 anything, I heard a sound, and I heard them say "get on
25 the floor, get on the floor," and I go run to the edge

1 of the stairs and I look down and I see the guns at
2 everybody's head and they're trying to get everybody on
3 the floor. And the guy, one of the guys seen me, I
4 don't know which one it was but he seen me and he
5 pointed to me and he said "he's upstairs go get that
6 MF". And he came charging up the stairs and at the same
7 time when I seen him coming towards the stairs, I knew
8 where her firearm was, so I ran to the desk, the
9 nightstand, grabbed it, and as he was coming up to the
10 stairs almost to the top I returned fire. I sent fire,
11 not return. He didn't shoot yet.

12 Q. I'm going to take it step by step. So you
13 were upstairs and the first thing you heard was someone
14 saying "get on the floor" downstairs?

15 A. Yes.

16 Q. Was everybody else that you mentioned that
17 was in the residence downstairs that night?

18 A. Yes.

19 Q. And did you recognize the voice that said
20 "get on the floor"?

21 A. No.

22 Q. So it was a different voice than all the
23 people that were there?

24 A. Yeah. The only voice I recognized was
25 Darny's voice. She was telling everybody to stay calm,

1 he has a gun, and I heard that.

2 Q. And when you looked down did you see
3 anybody coming through the door or were they already
4 inside the door?

5 A. They were already inside. They were waving
6 the gun around and putting people on the floor.

7 Q. And when you say they, how many people were
8 there?

9 A. I seen, I don't know if I recall seeing
10 three, but I know I seen two of them.

11 Q. And can you describe the two people that
12 you saw?

13 A. No. I can describe the guy that was coming
14 up the stairs. He was brown skinned, kind of tall. He
15 was darker brown, kind of tall, short hair. He had on a
16 black coat.

17 Q. Were the two people that you saw, could you
18 tell what race they were?

19 A. I could tell they were black.

20 Q. Had you ever seen them before?

21 A. No.

22 Q. And you said you heard one of the suspects
23 say "he's upstairs"?

24 A. Yeah.

25 Q. So somebody saw you upstairs?

1 A. He saw me peek down, yeah.

2 Q. And what happened after --

3 A. He told the guy to go get him. He said "go
4 get that MF, he's upstairs." And the guy was running
5 towards the stairs and as he was coming towards the
6 stairs, I knew her gun was on the nightstand so I run to
7 the nightstand, I grabbed it, I cocked the gun back, I
8 didn't know it was already cocked back and one of the
9 bullets fell on the floor and as he was running up the
10 stairs, he got maybe two stairs from the top, two or
11 three stairs away from being at the top, and that's when
12 I shot.

13 Q. So he was almost all the way up the stairs?

14 A. He was almost at the top, yeah.

15 Q. And did he have any weapon in his hand?

16 A. Yeah, he had a gun in his hand.

17 Q. Could you tell, could you see the person
18 who told another suspect to go up the stairs?

19 A. I couldn't see what he looked like, no. I
20 pretty much, I heard it and I was so scared that I just
21 took off running when I heard him say he's upstairs.

22 Q. And you couldn't tell if that person who
23 said go get him was lighter or darker?

24 A. I couldn't tell.

25 Q. Was the firearm that the suspect had that

1 was going up the stairs, was it pointed at you?

2 A. No, he was pumping his arms in a running
3 motion. So before he could even, he wasn't ready, he
4 didn't think I like, I was at the top of the stairs with
5 a gun. He thought I was maybe running to hide because
6 he was coming to look for me. He was running pumping
7 his arms coming up the stairs.

8 Q. He was running pumping his arms toward you
9 with a gun in his hand?

10 A. Yeah.

11 Q. What kind of gun did you get? Do you know
12 what kind of gun it was?

13 A. It was a .40 caliber.

14 Q. Who does that belong to?

15 A. Darny Van.

16 Q. And it's registered to her?

17 A. Yes.

18 Q. Was it semi-automatic or a revolver?

19 A. Semi-automatic.

20 Q. And so what did you do as he was at the top
21 of the stairs?

22 A. I returned, I shot two or three times, I
23 can't remember, and when I seen him turn his back I
24 stopped firing because I didn't want to hit him in his
25 back.

1 Q. Could you tell if you hit the suspect?

2 A. Yes, I could because he started shaking,
3 his body jerked like a couple times and then he turned
4 around and started running back downstairs.

5 Q. There was no other suspect, it was just
6 that one?

7 A. At that time it was just one so I didn't --

8 Q. Could you tell where you hit him at?

9 A. I knew it was in the chest area. I knew it
10 was somewhere right here on the left side of his chest,
11 in his chest area.

12 Q. On the left side of his chest?

13 A. Yes.

14 Q. The suspect's left, not your left?

15 A. The suspect's left. I'm sorry.

16 Q. Okay. And what happened after you shot
17 him?

18 A. He turned around and started running back
19 down the stairs and as he got to the bottom, I don't
20 know if it was him or if it was the guy that was already
21 downstairs, he shot at me and the bullet went right past
22 my head. I felt the wind of the bullet going past my
23 head.

24 Q. And you were not hit with the bullet?

25 A. No.

1 Q. But it came close to your head?

2 A. Yeah, it came real close.

3 Q. Did it hit a wall behind you?

4 A. Yeah, it was in the wall. They had to come
5 get it out of the wall.

6 Q. When you shot at the suspect, you said you
7 were pointing, but I just want to clarify for the
8 record. It was up in the upper left shoulder area of
9 the suspect?

10 A. Yes.

11 Q. The front area?

12 A. It was between the shoulder and the chest.
13 It was right in the center I thought.

14 Q. And when there was a shot fired at you, how
15 many shots were fired at you?

16 A. It was one initial shot, the one that went
17 past my head. And then maybe like five or six seconds
18 later there was one more shot fired and that's when they
19 were leaving. I think they fired it as they were
20 leaving, I don't know.

21 Q. Was that gunshot fired up the stairs?

22 A. Yeah, I think they retrieved the bullet
23 from on the stair rail, somewhere on the staircase.

24 Q. You didn't retrieve the bullet, right?

25 A. I didn't, no.

1 Q. I'm going to ask the grand jurors to
2 disregard that last statement.

3 A. I'm sorry.

4 Q. So you know for sure there that were two
5 shots fired up the stairs?

6 A. I know the one, the one shot that went past
7 my head, I can definitely say that one. The second one
8 I can't 100 percent sure say where it was coming from or
9 where they were aiming at.

10 Q. All the suspects were downstairs; is that
11 right?

12 A. Yeah.

13 Q. And you heard a second shot before the
14 suspects left the house?

15 A. Yes. Yes.

16 Q. And sometime during this did you call 911?

17 A. Yes.

18 Q. And at what point did you call 911?

19 A. I tried to call them right when I seen them
20 come in the house and when he came towards the stairs,
21 when he said go get him, I dropped my phone. I had
22 already dialed it but I didn't push send yet and the
23 phone fell out of my hand, so I took off running.

24 Q. Is that when you grabbed the gun?

25 A. Yes.

1 Q. And then when did you call 911 after that?

2 A. Right after, after they, when I screamed, I
3 said "are they gone, are they gone" and someone in the
4 house said "they're gone, they're gone" and that's when
5 I grabbed the phone, ran back and picked the phone up.

6 Q. Was that about at 8:50 p.m.?

7 A. Yes. Maybe a little earlier, seven, maybe
8 8:44, 8:45, somewhere around that area.

9 Q. And did the police arrive shortly after you
10 made that phone call to 911?

11 A. About three to five minutes after that.

12 Q. Did you see the suspects flee the
13 residence?

14 A. No.

15 Q. You just knew that they were gone?

16 A. Yes.

17 Q. Did you go with the detective, one of the
18 Metro detectives that was at the scene to identify a
19 suspect?

20 A. Yes.

21 Q. And did the detective inform you that that
22 suspect was in custody?

23 A. Yes.

24 Q. And did he give you instructions regarding
25 identifying him such that the fact that he was detained

1 should not influence your decision and that you didn't
2 have to identify anybody?

3 A. Yes.

4 Q. Were you able to identify that --

5 A. No.

6 Q. -- person that they had in custody as one
7 of the individuals that was in the house that night?

8 A. No. It was too -- I couldn't tell.

9 Q. And can you tell me what was going through
10 your head when you were up the stairs? I mean were you
11 paying attention to their faces?

12 A. I really was more concerned of them doing
13 something to my family. I thought they were going to
14 hurt somebody and hurt me so I couldn't think about
15 looking at their faces.

16 Q. And you didn't recognize anybody, any one
17 of those suspects that night?

18 A. No.

19 Q. And you had never seen them before that
20 night?

21 A. No.

22 Q. And Darny Van, is that the person that
23 actually owns the residence at 657 Shirehampton?

24 A. Yes.

25 MS. RHOADES: I have no further questions

1 for this witness. Do any members of the Grand Jury have
2 any questions for this witness?

3 BY A JUROR:

4 Q. Did you at any time see the suspects taking
5 any property from the people downstairs?

6 A. No, I didn't.

7 THE FOREPERSON: Okay. Mr. Powers, by law,
8 these proceedings are secret and you are prohibited from
9 disclosing to anyone anything that has transpired before
10 us, including evidence and statements presented to the
11 Grand Jury, any event occurring or statement made in the
12 presence of the Grand Jury, and information obtained by
13 the Grand Jury.

14 Failure to comply with this admonition is a
15 gross misdemeanor punishable by a year in the Clark
16 County Detention Center and a \$2,000 fine. In addition,
17 you may be held in contempt of court punishable by an
18 additional \$500 fine and 25 days in the Clark County
19 Detention Center.

20 Do you understand this admonition?

21 THE WITNESS: Yes, sir.

22 THE FOREPERSON: Okay. Thank you. You're
23 excused.

24 THE WITNESS: Thank you.

25 MS. MERCER: The next witness is CSA

1 Vincent Roberts.

2 THE FOREPERSON: Please raise your right
3 hand.

4 You do solemnly swear the testimony you are
5 about to give upon the investigation now pending before
6 this Grand Jury shall be the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE FOREPERSON: Please be seated.

10 You are advised that you are here today to
11 give testimony in the investigation pertaining to the
12 offenses of conspiracy to commit robbery, burglary while
13 in possession of a firearm, robbery with use of a deadly
14 weapon, attempt murder with use of a deadly weapon,
15 assault with a deadly weapon, and discharge of firearm
16 within a structure, involving Cory Hubbard and Willie
17 Carter.

18 Do you understand this advisement?

19 THE WITNESS: Yes.

20 THE FOREPERSON: Please state your first
21 and last name and spell both for the record.

22 THE WITNESS: My name is Vincent Roberts.
23 Spelling of the last name R-O-B-E-R-T-S. First name
24 Vincent, V-I-N-C-E-N-T.

25 THE FOREPERSON: Thank you.

1 VINCENT ROBERTS,
2 having been first duly sworn by the Foreperson of the
3 Grand Jury to testify to the truth, the whole truth,
4 and nothing but the truth, testified as follows:

5

6 EXAMINATION

7

8 BY MS. MERCER:

9 Q. Sir, where are you currently employed?

10 A. I'm sorry, I couldn't hear you.

11 Q. Where are you currently employed?

12 A. I'm currently employed with the Las Vegas
13 Metropolitan Police Department in the crimes scene
14 investigation section.

15 Q. How long have you been employed in that?

16 A. Almost 16 years.

17 Q. And were you working on August 22nd of
18 2013?

19 A. Yes, I was.

20 Q. In the late evening hours, early night
21 hours, at about 8:50 p.m., were you dispatched to an
22 address at 657 Shirehampton Drive?

23 A. I was not dispatched until 10 -- I didn't
24 arrive at the residence until 10:41 because I'm a
25 graveyard unit, we don't log on until 10 o'clock.

1 Q. But at that some pint you were dispatched
2 to that address; correct?

3 A. Yes.

4 Q. What was the purpose of your responding to
5 that location?

6 A. The purpose of responding was in response
7 to a robbery with a deadly weapon call and to document
8 the scene and recover any evidence related to that
9 crime.

10 Q. Okay. And did you in fact do that?

11 A. I'm sorry?

12 Q. Did you in fact do that?

13 A. Yes, I did.

14 Q. And prior to actually going through the
15 scene, did you have the opportunity to do some
16 surveillance at a neighbor's house?

17 A. Yes, I did.

18 Q. And why did you review that surveillance?

19 A. Primary reason for reviewing the
20 surveillance from my standpoint is to document the scene
21 to have a better understanding of what actually took
22 place. It helps me establish what I need to do when I
23 document a crime scene.

24 Q. Do you recall which neighbor's house that
25 surveillance was at?

1 A. Yes, it was at 622 Shirehampton Drive.

2 Q. Where is that in regards to the 657?

3 A. It's located directly east of the incident
4 residence at 657, across the street.

5 Q. When you viewed the surveillance, what of
6 significance to your job duties did you notice?

7 A. There were several things that were very
8 significant when I viewed the video. Prior to that I
9 had gotten a little bit of information about a vehicle
10 had been parked in a certain location so when I
11 initially watched the video I wanted to see different
12 views that they had depicted that showed a vehicle
13 parking just south of the residence and so I documented
14 that location. In addition to that I can see the
15 individuals exiting the vehicle, walking to the front of
16 the residence, and that helps me determine what they may
17 have touched, how they may have entered. So during that
18 part of the video viewing I see two of the individuals
19 go off to the side while one remains standing at the
20 door.

21 Q. So there were a total of three suspects
22 that got out of the vehicle?

23 A. There were three. I see three.

24 Q. What type of vehicle was it?

25 A. It was a sedan type of vehicle.

1 Q. Just for clarification purposes, the
2 surveillance video that you observed was of the robbery
3 incident that took place earlier in the evening;
4 correct?

5 A. Yes. It depicts that, yes.

6 Q. Okay. So you see two individuals stand off
7 from the door and one actually approach the front door?

8 A. Yes. All three of them walk up, two of
9 them kind of go to the side, to the west, to the left.
10 One's still there. And then I watched the door open,
11 there had to be some type of exchange for a little bit.

12 Q. Why do you say that?

13 A. Because there is a delay. So the door
14 opens, there is a delay so I don't know what is being
15 said to the person that's at the door. Then they enter.

16 Q. Okay. And when you say they, do you mean
17 the three suspects?

18 A. All three of them.

19 Q. Could you tell what race they were?

20 A. No, I could not. Well, from the video
21 originally, it's not exactly the best video, but I would
22 say they're probably black males.

23 Q. And you see the pause and then they all
24 three enter?

25 A. Yes.

1 Q. Did anything significant happen as they
2 were entering?

3 A. Yes. As they entered, on the video I can
4 see, because the door has glass windows, you can tell
5 there's some altercation taking place. It appears as if
6 they're grabbing someone. I see movement. And then
7 during the course of me watching the video, at some
8 point two individuals exit really quick, the door
9 closes, the third person's still inside. You see them
10 close the door, I still see a person moving, then the
11 door opens, I see a flash, he's running in the street
12 and he leaves.

13 Q. And the flash that you observed, is that
14 consistent with the flash from a gun being fired?

15 A. Yes.

16 Q. You indicated that when the door was closed
17 you were still able to see. Is that because of the
18 glass windows?

19 A. I'm sorry, I'm hard of hearing. I
20 apologize.

21 Q. You indicated that when the front door
22 closed you were still able to see what was going on just
23 inside of that front door?

24 A. Yes, on the video, yeah.

25 Q. Is that because of the glass windows to the

1 side of the door?

2 A. Yes.

3 Q. When you say that the two individuals
4 exited quickly, were they running?

5 A. Yes.

6 Q. And when this third individual exited, how
7 much of a delay after the first two suspects exited was
8 there?

9 A. Several seconds. Maybe 15 to 30. I'm not
10 sure exactly. It wasn't immediately like really fast
11 because the door closes and he's still in there. So the
12 two have already exited at that point and then the door
13 opens again, he exits, he runs out in the middle of the
14 street, kind of goes right, left, then he goes to the
15 north. I'm sorry, to the south.

16 Q. You can actually see him flee the location
17 on foot?

18 A. I'm sorry?

19 Q. You can actually see the third suspect flee
20 the location on foot?

21 A. Yes.

22 Q. When the first two individuals exited, did
23 they get into the vehicle?

24 A. Yes, they did. Yes.

25 Q. Did they leave the area in the vehicle?

1 A. And they did and that vehicle headed north.

2 Q. Okay. After you had the opportunity to
3 view the surveillance video at the neighbor's house did
4 you impound that video?

5 A. No. That's not one of my duties. So what
6 we did is we discussed that with the residents on how we
7 would be able to try to ascertain how to get that video.
8 We talked with the detective in the case. Normal
9 protocol is to have, in this case we were going to
10 arrange to have our forensic video analysis unit come
11 out to recover that video which is our normal protocol.

12 Q. Then you returned to 657 Shirehampton?

13 A. Yes.

14 Q. At that residence did you recover evidence
15 significant to the investigation?

16 A. Yes, I did.

17 Q. Starting with did you notice any bullet
18 holes?

19 A. Yes, I did.

20 Q. And how many bullet holes did you find?

21 A. Okay. We found, if I have to go by sheer
22 number, so there would be six bullet holes that we
23 found. But I have to describe it better so I can
24 articulate what I'm saying.

25 Q. I'll get there in a second.

1 As a crime scene investigation specialist
2 are you sometimes called upon to do what is called a
3 trajectory?

4 A. Yes.

5 Q. What is a trajectory?

6 A. A trajectory is an analysis in this case of
7 firearms so that you can basically ascertain, what we
8 want to do is position, direction of travel and
9 basically we can recreate how that shot was created so
10 that we can make a better understanding for further
11 investigation purposes.

12 Q. So basically you can determine where the
13 shot was fired from?

14 A. Yes.

15 Q. And then which direction it traveled?

16 A. Yes.

17 Q. Using the trajectories?

18 A. Yes.

19 Q. Did you do that in this case?

20 A. Yes, we did.

21 Q. Did you have some sort of special training
22 that enabled you to do that?

23 A. Yes.

24 Q. You indicated that there were six bullet
25 holes?

1 A. Yes.

2 Q. How many bullets did you actually determine
3 had been fired?

4 A. Okay. We know that there were two shots
5 fired from the victim towards the suspect. So that
6 would account for one of the bullet holes would be
7 consistent with coming from the victim. The other two
8 bullet holes are consistent from coming from someone
9 else and so we labeled them and did directionality. So,
10 for example, there was a bullet hole that we labeled A
11 and that's going to account for three holes though
12 because the direction was through a wall, out of a wall,
13 into another wall. So that would be A-1, 2, 3.

14 Q. And with regards to bullet hole A, where
15 did you determine that bullet was fired from?

16 A. That bullet originated from the front entry
17 area doorway.

18 Q. Was that consistent with the flash you
19 observed in the video?

20 A. I would say that was consistent with the
21 flash I observed as the third suspect exited.

22 Q. With regard to the second bullet hole, did
23 you label that bullet hole B?

24 A. Yes, B.

25 Q. Were you able to determine what direction

1 that was fired from?

2 A. That bullet would have originated from the
3 master bedroom downward, down the stairs, because it was
4 in the corner as you go up the stairs, it's just like a
5 corner, and there's no other way for that bullet hole to
6 have gotten there unless it was fired from above.

7 Q. And when you say it was a corner, is it
8 kind of a landing area?

9 A. Yeah. The stairs go up, there's a landing
10 and the stairs go up again towards the master bedroom.
11 This bullet hole was just above the top of the first
12 stair landing above, but in a corner, so it couldn't
13 originate anywhere else, and when we did directional
14 rods, it came in that direction.

15 Q. You indicated that when you first arrived
16 on scene you were given a brief description of what had
17 transpired; correct?

18 A. Yes.

19 Q. Was the trajectory of bullet hole B
20 consistent with the victim firing from the upstairs
21 downward?

22 A. Yes.

23 Q. With regard to the third bullet hole, did
24 you label that bullet hole C?

25 A. Yes.

1 Q. Were you able to determine the trajectory
2 for that bullet?

3 A. Yes, we did.

4 Q. Were you able to determine where that
5 bullet was fired from?

6 A. Yeah, that bullet would have been fired
7 from the landing area up towards the master bedroom. So
8 the first bullet hole goes into the door frame just
9 above the door, it exits into the bedroom, into the
10 ceiling, and then we recovered a bullet in the attic
11 above the master bedroom area.

12 Q. Okay. So would bullet hole C, would that
13 have been fired in the direction where the suspect was
14 firing from on the landing area?

15 A. Yes.

16 Q. Did you also recover some casings?

17 A. Yes, I did.

18 Q. And what are casings?

19 A. Cartridge cases, so in other words when you
20 have the full ammunition that's in a weapon, we call
21 that a cartridge. That cartridge means it has the
22 bullet, the primer, gun powder, all that's into the
23 actual cartridge. Once that is fired and the bullet
24 leaves the cartridge case, then the cartridge case is
25 what we recover. And that's consistent with

1 semi-automatic weapons.

2 Q. Okay. Thank you.

3 A. In this case. When we find them at scenes.

4 Q. When you say consistent with semi-automatic
5 weapons, would that be inconsistent with a revolver?

6 A. If we find cartridge cases at a scene in
7 general it's going to be consistent with semi-automatic
8 weapons. If they were revolvers and they did not eject
9 those, revolvers don't eject the cartridge cases.

10 Q. So they retain the cartridge casing inside
11 the firearm?

12 A. So in this case it was consistent with the
13 victim's semi-automatic weapon.

14 Q. And these cartridge casings were
15 .40 caliber?

16 A. Yes, they were .40 caliber and they were
17 recovered from within the master bedroom area.

18 Q. Where the victim had been firing his gun?

19 A. Yes.

20 Q. How many cartridge cases did you actually
21 recover?

22 A. Two.

23 Q. Did you recover any casings downstairs?

24 A. There were no cartridge cases downstairs.

25 Q. Did you recover any casings from the

1 landing area?

2 A. None in the landing area.

3 Q. And that would be consistent with them
4 having fired a revolver?

5 A. I believe the possibility would have to
6 probably be a revolver.

7 Q. And going back to your ability to determine
8 the trajectory, you indicated you have undergone
9 training in order to make those determinations; correct?

10 A. Yes.

11 Q. What types of training?

12 A. We've had shooting incident reconstruction
13 training. We have the basic class and the advanced
14 class, I've been through both. We go out and we do
15 shooting ourselves during that training to recreate what
16 we're talking about. And in addition I fire a weapon
17 every quarter because I have to qualify with my own
18 weapon.

19 Q. And while on scene did you actually recover
20 the .40 caliber firearm that had been fired by the
21 victim?

22 A. Yes, we did.

23 Q. And you impounded that for evidence?

24 A. Yes, I did.

25 Q. Did you also collect the shell casings?

1 A. Yes, I did.

2 Q. And you impounded those as evidence?

3 A. Yes.

4 Q. And you also photographed the scene;
5 correct?

6 A. Yes, I did.

7 Q. Did you have any involvement at any other
8 locations?

9 A. I'm sorry?

10 Q. Did you have any involvement at other
11 locations regarding this incident?

12 A. No, I did not.

13 Q. Did you also photograph the individuals
14 that were present inside of the home?

15 A. Yes, I did.

16 Q. At the time of the robbery?

17 A. I'm sorry?

18 Q. You also photographed the individuals that
19 were in the home at the time of the robbery?

20 A. Yes.

21 MS. MERCER: I have no further questions
22 for this witness.

23 THE FOREPERSON: Okay Craig, go ahead.

24 BY A JUROR:

25 Q. Did I hear six rounds were fired and you

1 recovered three?

2 A. No. What I was saying, there were six
3 bullet holes and that's why I had to explain. A is
4 consistent of three holes, B as one hole, C is another
5 three holes. So there are at least four rounds fired,
6 two from the victim and two from the suspects.

7 Q. Okay.

8 THE FOREPERSON: Ronald, do you have a
9 question?

10 BY A JUROR:

11 Q. Yes. From your trajectory analysis, the
12 bullets that were fired by the perpetrators came from
13 two separate locations?

14 A. Yes. And what we do with the trajectory
15 rods -- I can try to create a visual. The entryway to
16 the residence, the stairs are right there. So you have
17 to basically go up an area of stairs and then go around
18 and then go up again. So the first bullet hole is on
19 the wall as you go up the first part of the stairs. As
20 you come around, there's a landing, you go to the second
21 level, the corresponding exit comes out the opposite
22 side which I would call the east wall of that landing
23 area and then it goes into the west wall of that area.
24 There is no other way for that bullet to have traveled
25 in that direction unless it originated from the front

1 entryway. Secondly, the other bullet hole from the
2 landing is because it goes up towards the master
3 bedroom, those areas are not visible to the lower level
4 floor area. You can't see that area from that landing
5 area. So you can see the master bedroom. Bullet hole
6 goes in top of the door, it comes out just above the
7 door and then goes into the ceiling. The only way that
8 could have originated was it had to come from that
9 second landing area because there's no other way to
10 access it any other way.

11 Q. So shots apparently originated from two
12 separate locations?

13 A. Yes.

14 Q. Were you able to determine the caliber of
15 the shots that were fired?

16 A. The caliber, I can't determine the caliber
17 exactly because, I can say this. In my experience and
18 training I know it's not a .22 by size and it wasn't as
19 big as a .45 by size because it's a revolver, more than
20 likely a revolver. It could be a number of things which
21 means it could be a .38, .357, .380, anything in that
22 classification, and 9 millimeter, because they have the
23 same diameter, it could be any one of those. Most
24 likely .38 or .380, that would be my guess.

25 Q. So you can't really say that there were two

1 different guns involved?

2 A. With the proper ballistic testing, yes we
3 can. But that wouldn't be something I can do right now.
4 It would go to our firearms analysis unit and they would
5 go ahead and test that. But based on the scenario and
6 the information that I have I believe there were two
7 different shots because when the two individuals exit, I
8 later found out that one of the suspects that had been
9 hit was one of the two people that had exited, that
10 third person was still in the residence and the two
11 people had already exited, then when he exits I see the
12 flash which would be his shot. That means the shot from
13 the second landing had already occurred prior to that
14 second shot.

15 THE FOREPERSON: Charles.

16 BY A JUROR:

17 Q. Hi. Good morning. Was it the second
18 landing area, was any blood or blood trail found?

19 A. No blood at all. Not at all. No blood on
20 the stairs, going down the stairs, out the door at all.
21 But that's not uncommon if you have one shot and you
22 quickly exit, it may not happen right away.

23 Q. Thank you.

24 MS. MERCER: And if I could just admonish
25 you all with regard to the question asked by the

1 gentleman in the blue shirt. The CSA's testimony
2 regarding what he was told is not being offered for the
3 truth of the matter asserted, it's only being offered to
4 explain how he arrived at the conclusions he arrived at
5 regarding evidence at the scene.

6 THE FOREPERSON: Okay. Sir, by law, these
7 proceedings are secret and you are prohibited from
8 disclosing to anyone anything that has transpired before
9 us, including evidence and statements presented to the
10 Grand Jury, any event occurring or statement made in the
11 presence of the Grand Jury, and information obtained by
12 the Grand Jury.

13 Failure to comply with this admonition is a
14 gross misdemeanor punishable by a year in the Clark
15 County Detention Center and a \$2,000 fine. In addition,
16 you may be held in contempt of court punishable by an
17 additional \$500 fine and 25 days in the Clark County
18 Detention Center.

19 Do you understand this admonition?

20 THE WITNESS: Yes, I do.

21 THE FOREPERSON: Okay. Thank you. You are
22 excused.

23 THE WITNESS: Okay. Thank you.

24 MS. MERCER: And the State's next witness
25 will be Kenneth Flenory.

1 THE FOREPERSON: Please raise your right
2 hand.

3 You do solemnly swear the testimony you are
4 about to give upon the investigation now pending before
5 this Grand Jury shall be the truth, the whole truth, and
6 nothing but the truth, so help you God?

7 THE WITNESS: I swear.

8 THE FOREPERSON: You are advised that you
9 are here today to give testimony in the investigation
10 pertaining to the offenses of conspiracy to commit
11 robbery, burglary while in possession of a firearm,
12 robbery with use of a deadly weapon, attempt murder with
13 use of a deadly weapon, assault with a deadly weapon,
14 and discharge of firearm within a structure, involving
15 Cory Hubbard and Willie Carter.

16 Do you understand this advisement?

17 THE WITNESS: Yes, your Honor.

18 THE FOREPERSON: Please state your first
19 and last name and spell both for the record.

20 THE WITNESS: Kenneth Flenory.
21 K-E-N-N-E-T-H, F-L-E-N-O-R-Y.

22 KENNETH FLENORY,
23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth,
25 and nothing but the truth, testified as follows:

EXAMINATION

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BY MS. RHOADES:

Q. Hi Kenneth. Good morning. How old are you?

A. I'm 19.

Q. And you just referred to the foreperson as your Honor. You understand this is a Grand Jury and there is no judge here?

A. Thank you for informing me.

Q. I'm going to direct your attention to August 22nd of 2013, were you at 657 Shirehampton Drive?

A. Yes.

Q. And were you there the evening around 8:45 p.m.?

A. Yes.

Q. What were you doing at that residence?

A. I was at my sister Darny's house and I was -- did you ask what I was doing when the situation occurred? Is that the question?

Q. Yes. What were you guys doing at the residence?

A. On the day we were visiting my sister's house, my sister Darny's house, and we usually go there frequently from time to time and we were just hanging

1 out with the family, family night, movies, doughnuts,
2 just hanging out.

3 Q. And this is Darny Van?

4 A. Darny Van.

5 Q. Were you upstairs or downstairs in that
6 house?

7 A. I was downstairs.

8 Q. And who else was downstairs with you around
9 8:45 that night?

10 A. My brother Matt, my sister Asia, Anthony,
11 and my auntie Thavin and her daughter Trinity.

12 Q. And is Thavin T-H-A-V-I-N?

13 A. Correct.

14 Q. And then Anthony, is that Anthony Roberts?

15 A. Correct.

16 Q. Do you guys call him Tiger?

17 A. Yes.

18 Q. And what happened around 8:50 that night?

19 A. Well, there was a knock on the door, I was
20 on my iPhone right next to the door, right next to the
21 stairs, and there was a knock on the door. My sister
22 Darny, she opens the door, there's a guy at the door,
23 he's asking for a Darnell, trying to hint of a David,
24 her boyfriend.

25 Q. Did you hear the person at the door ask for

1 Darnell?

2 A. No, I didn't hear that. That was, that was
3 what happened after my sister Darny said what happened
4 after the situation.

5 Q. Okay. And I'm just going to ask you what
6 you heard and what you saw and what you saw the other,
7 what you saw happening that night?

8 A. Okay. Well then there was a knock on the
9 door, my sister Darny, she yelled somebody has a gun,
10 after she yells that I run to the left, to the left
11 which is right by the hall and then I try to make a run
12 towards the door. I see two guys with guns just
13 following and running through the house and as I almost
14 open the door to leave they stop me with the gun, they
15 told me to get on the floor, I'm right next to the door,
16 they take my iPhone, I hear two shots upstairs. I hear,
17 there was one, there was one from the other guy, I think
18 his name is Willie Carter.

19 Q. I'm going to stop you right there and we're
20 going to clear up some things.

21 I'm just going to ask the Grand Jury to
22 disregard what this witness testified to somebody
23 saying, the suspect saying at the door as he didn't hear
24 it and then go back to Darny's statement.

25 Darny's the one that opened the door; is

1 that right?

2 A. Right.

3 Q. And she screamed. Did you hear her scream?

4 A. Yes.

5 Q. What did she scream when she screamed?

6 A. She yelled "they have a gun."

7 Q. And did you see the suspects come through
8 the door at that time?

9 A. No, I didn't.

10 Q. How many suspects did you see?

11 A. I seen two.

12 Q. And can you describe what the suspects
13 looked like?

14 A. One was about 6 feet, over 6 feet, light
15 skin complexion, skinny. The other one was like a dark
16 skinned complexion and he was of a thicker weight,
17 probably around like 180.

18 Q. Were they both black males?

19 A. Yes, they were both black males. Yeah.

20 Q. Did you fill out a voluntary written
21 statement in this case?

22 A. Yes, I did.

23 Q. I'm going to show you your voluntary
24 written statement. In that statement did you say that
25 you saw three black suspects, black male suspects?

1 A. Oh, I thought you said who was like at the
2 door. Was that the question asked?

3 Q. How many suspects in total?

4 A. In total? In totality?

5 Q. Yes.

6 A. There were three. And the other one was,
7 he was obscured, I couldn't really see the other guy. I
8 recall he was, he was more, more, he was of dark
9 complexion and he was skinny. He was short, probably
10 around 5'8", 5'7".

11 Q. So when you noticed all three suspects,
12 they were already inside the house and the door was
13 shut?

14 A. Can you repeat that?

15 Q. When you noticed all three suspects, they
16 were already inside the house and the door was shut?
17 You said you didn't see them come through the door.

18 A. No, I didn't see them come through the
19 door. I only saw them as I made a run for the door and
20 they were already in the house.

21 Q. And the one that was obscured, what was he
22 doing during this time?

23 A. He, he made a run for upstairs. He went
24 upstairs and he was the one that shot.

25 Q. Did you see --

1 A. In which -- no, I didn't see it. I was
2 right by the door and the hallway, the way the blueprint
3 of the house is set up I can't see upstairs so I wasn't
4 able to see, I just, I heard David yell out "I got one.
5 I shot him." And I think -- not I think -- one of them,
6 the one, the thicker one, he yelled out "go upstairs,
7 he's upstairs." So after that I couldn't see.

8 Q. So you didn't see who went up the stairs?

9 A. Huh-uh. No.

10 Q. When you were downstairs you headed for the
11 door. Did you make it out the door?

12 A. No, I didn't make it out the door.

13 Q. What happened?

14 A. By the time I made it to the door the
15 thicker one, he tried to tackle me on the floor, which
16 he failed at. So I, the other one of light skin
17 complexion, the taller one over like 6 feet, he put the
18 gun to my face and he's telling me to get on the floor.
19 I get on the floor, I'm right by the door, and he takes
20 my iPhone out of my hand. I'm right next to Anthony --
21 Tiger -- and we're both on the floor.

22 Q. How many firearms in total did you see do
23 you remember?

24 A. I seen one from the light skinned one. He
25 fired one last one, he fired one out of anger. That was

1 like the last bullet shot. I was the one who saw that
2 vividly. He shot one and he just fled out the house.
3 So I only saw one.

4 Q. And when you saw this person fire a shot,
5 where was he standing when he fired the shot?

6 A. He was standing right by the door.

7 Q. And in what direction did he fire that
8 shot?

9 A. It was, I'm going to say, if he's right
10 here and we're in the same area, it's I would say north.
11 So it's like that way. So we're right in the same
12 parallel distance and he shoots like that.

13 Q. And it was directly ahead of him; is that
14 right?

15 A. Yeah. It was more to the, to the right.
16 It was to the right. The door's right here where I'm
17 connected to you at and it was to the right.

18 Q. Was it pointed up the stairs?

19 A. No. No. I don't know if his intentions
20 were to shoot upstairs because the bullet hit the stairs
21 but halfway up the stairs so I don't know if his
22 intentions were to shoot up he didn't shoot up it wasn't
23 like this the trajectory of the gun was more, more
24 straight.

25 Q. And you're just testifying as the way you

1 saw his arm pointing the firearm?

2 A. Yes.

3 Q. Which suspect was that that did that?

4 A. That was the light skinned black male.

5 Q. And was he the last suspect out of the
6 residence?

7 A. Yes. Yes, he was.

8 Q. Going back to when you were on the floor.
9 Somebody took your cell phone. Was a gun, did you see a
10 gun also pointed at Anthony Roberts?

11 A. Yes, I did. There was a gun also pointed
12 at him. We were both right by each other when we were
13 on the floor next to the door, so yes.

14 Q. What were the suspects doing to all the
15 individuals that were downstairs at that time?

16 A. Well, my aunt Thavin, she was in the living
17 room which we weren't able to see, it was blocked off.
18 So me and Anthony, we were next to each other, so I
19 didn't get to see anybody else, it was just us two.

20 Q. Did you ever get your cell phone back?

21 A. No, I didn't.

22 Q. About how long did this last for?

23 A. I'd say it was like a ten-minute duration.

24 Q. And you said that the light skinned black
25 male was the last one to leave?

1 A. Correct.

2 Q. Did you see the other two suspects leave
3 the residence?

4 A. No, I didn't.

5 Q. Did the police shortly arrive at the
6 residence after those suspects left?

7 A. They arrived about five minutes later.

8 Q. How were you feeling at this time?

9 A. I was, a lot of fear emanating from me.
10 And I just, just confusion.

11 Q. And you gave a handwritten voluntary
12 statement to the officers; is that right?

13 A. Yes.

14 Q. Did you also go to a separate location with
15 a detective and do a show up to identify a suspect?

16 A. Yes.

17 Q. And was this with Detective Scilimenti?

18 A. I'm not sure. I'm not sure.

19 Q. Do you remember where you guys went to do
20 the show up? Was it at Shirehampton and Kew Gardens?

21 A. Yes, on the corner of Shirehampton and Kew
22 Gardens.

23 Q. How close is that to 657 Shirehampton?

24 A. Like a block away.

25 Q. Did you read the show up instructions that

1 told you the fact that the person was detained should
2 not cause you to believe or guess that they are guilty
3 and that you didn't have to identify anybody?

4 A. Correct.

5 Q. Did you recognize the suspect that officers
6 had in custody?

7 A. Yes, I did.

8 Q. Who did you recognize this person to be?

9 A. It was Cory, he was the light skinned black
10 male.

11 MS. RHOADES: I'm going to ---

12 BY MS. MERCER:

13 Q. Did you have personal knowledge of his name
14 at the time?

15 A. No, I didn't.

16 MS. MERCER: Okay then, grand jurors please
17 disregard the statement regarding the name.

18 BY MS. RHOADES:

19 Q. Going back inside the residence. Did you
20 recognize any of the three suspects that you saw?

21 A. I recognized the one that they pointed out
22 to me which was the light skinned black male.

23 Q. Had you seen any of these three suspects
24 before August 22nd?

25 A. No.

1 Q. And the suspect that they had in custody --
2 how many did they have in custody?

3 A. Just one.

4 Q. And who was this person as far as the three
5 suspects that were inside the house?

6 A. The tall light skinned black male.

7 Q. Is that the one that had the firearm?

8 A. Correct, that was the one who shot the last
9 bullet and was the last one to leave, run out the house.

10 Q. Is that the same one that took your phone
11 from you?

12 A. Yes.

13 MS. RHOADES: I have no further questions
14 for this witness. Do any of the grand jury members have
15 questions?

16 BY A JUROR:

17 Q. Sir, when you describe one of the men as
18 thick, what exactly does that mean? What are you
19 describing when you say thick?

20 A. Of a heavier weight. More -- I'm trying to
21 think have a word.

22 BY MS. MERCER:

23 Q. Was he more broad?

24 A. Broad, there we go. That's perfect.

25

1 BY A JUROR:

2 Q. Would there be an example of thick in this
3 room?

4 A. I would hate to have an example. I would
5 just let that question go. Everyone is pretty beautiful
6 in here.

7 THE FOREPERSON: Brian, go ahead.

8 BY A JUROR:

9 Q. Asia earlier testified that she was hiding
10 in the closet. Are you familiar with where that closet
11 is?

12 A. The closet is in the downstairs room where
13 the computer's at. It's to the left once you enter the
14 house. She was with my sister Darny Van in the closet.

15 Q. Now the shot you observed being fired, the
16 second shot, was it in the direction of that room or
17 away from it?

18 A. It wasn't the second shot, it was the last
19 shot.

20 Q. The last shot.

21 A. You said was it in the direction of the
22 room? No, it was not in the direction of the room.

23 Q. Okay. Thank you.

24 THE FOREPERSON: Craig, go ahead.

25

1 BY A JUROR:

2 Q. Yes. The one individual was shot by your
3 sister's boyfriend.

4 A. Correct.

5 Q. Was that the light skinned gentleman?

6 A. No, that wasn't the light skinned.

7 Q. Okay. Somebody else then.

8 BY MS. MERCER:

9 Q. How do you know which individual was shot?

10 A. I didn't see the individual that was shot
11 in the house. I just heard the gunshots so I wasn't
12 able to, I wouldn't be able to identify when he was
13 shot. No, I'm able to identify when he was shot but I
14 don't --

15 Q. Let me rephrase the question. When you
16 viewed the suspect in custody with the detective, did
17 you notice any injuries on him?

18 A. No, I didn't.

19 Q. Thank you.

20 THE FOREPERSON: Okay. Mr. Flenory, by
21 law, these proceedings are secret and you are prohibited
22 from disclosing to anyone anything that has transpired
23 before us, including evidence and statements presented
24 to the Grand Jury, any event occurring or statement made
25 in the presence of the Grand Jury, and information

1 obtained by the Grand Jury.

2 Failure to comply with this admonition is a
3 gross misdemeanor punishable by a year in the Clark
4 County Detention Center and a \$2,000 fine. In addition,
5 you may be held in contempt of court punishable by an
6 additional \$500 fine and 25 days in the Clark County
7 Detention Center.

8 Do you understand this admonition?

9 THE WITNESS: Yes.

10 THE FOREPERSON: Okay. Thank you. You are
11 excused.

12 THE WITNESS: Sorry about the whole honor
13 thing.

14 MS. RHOADES: You're good. Thank you.

15 THE WITNESS: Thank you.

16 A JUROR: Mr. Foreman, let's take a ten
17 minute break please.

18 THE FOREPERSON: Okay. We'll take a ten
19 minute break. Be back at 10 o'clock.

20 (Recess.)

21 MS. RHOADES: Detective Bruno is the
22 State's next witness.

23 THE WITNESS: Good morning.

24 THE FOREPERSON: Good morning.

25 THE WITNESS: Bernard Bruno.

1 THE FOREPERSON: You do solemnly swear the
2 testimony you are about to give upon the investigation
3 now pending before this Grand Jury shall be the truth,
4 the whole truth, and nothing but the truth, so help you
5 God?

6 THE WITNESS: I do.

7 THE FOREPERSON: Please be seated.

8 You are advised that you are here today to
9 give testimony in the investigation pertaining to the
10 offenses of conspiracy to commit robbery, burglary while
11 in possession of a firearm, robbery with use of a deadly
12 weapon, attempt murder with use of a deadly weapon,
13 assault with a deadly weapon, and discharge of firearm
14 within a structure, involving Cory Hubbard and Willie
15 Carter.

16 Do you understand this advisement?

17 THE WITNESS: I do.

18 THE FOREPERSON: Please state your first
19 and last name and spell both for the record.

20 THE WITNESS: Bernard Bruno.

21 B-E-R-N-A-R-D, B-R-U-N-O.

22 BERNARD BRUNO,

23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth,
25 and nothing but the truth, testified as follows:

EXAMINATION

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BY MS. RHOADES:

Q. Sir, how are you employed?

A. I work for Las Vegas Metropolitan Police
Department in the robbery division.

Q. And are you a detective in that division?

A. I am.

Q. How long have you been a robbery detective?

A. For three years now.

Q. In what capacity -- did you work for Metro
before that three years?

A. I did.

Q. And in what capacity did you work before?

A. I was in property crimes for five years,
PSU for a year, patrol for one year.

Q. And in your capacity as a robbery
detective, do you typically work with other robbery
detectives on cases?

A. I do.

Q. Can you kind of explain how you guys divide
up things to do when someone is assigned to a case?

A. Sure. When a call comes out we have a
pager system, it comes directly to robbery detectives,
and that pager system it explains the event number,

1 very, very brief explanation as to what the call is. In
2 robbery we respond to robberies, sometimes strong arm,
3 sometime weapon, convenience store robberies, extortion,
4 kidnaps, home invasions. Dependent upon venue as far as
5 where it's located in the city is how that's assigned to
6 a detective. Detectives are assigned to each sector
7 beat or each section of the city. Whoever that
8 detective is automatically becomes the lead detective
9 for that area. The lead detective then kind of acts as
10 a coach or distributes assignments to the other
11 detectives. We all become assistant to that individual.
12 Lead detective dictates who goes where, who does what
13 and ultimately takes care of the arrest documents and/or
14 paperwork associated with the case and puts the case
15 file together for prosecution for the DA's office.

16 Q. All right. Sir, I'm going to direct your
17 attention to August 22nd of 2013. Were you assigned to
18 investigate a robbery that occurred at 657 Shirehampton
19 Drive here in Las Vegas?

20 A. I was, yes.

21 Q. And were you assigned lead detective on
22 that case?

23 A. I was not the lead detective. Detective
24 Jeff Abell took the lead on that case.

25 Q. Can you spell Jeff Abell's name for the

1 record please?

2 A. First name Jeff, J-E-F-F, last name Abell,
3 A-B-E-L-L.

4 Q. And what are event numbers?

5 A. Pardon me?

6 Q. What are event numbers?

7 A. Event numbers are incidents that occur
8 throughout the day. It's a CAD record through dispatch.
9 When a call is generated it's generated a number to
10 coincide with it. So an event number would start with
11 the year, the month, the day of that month, and then the
12 last four digits is the actual event associated to a
13 call that's generated by the public or the number would
14 be generated for a follow-up investigation for an
15 officer or detective. So the last four digits are
16 unique to each event.

17 Q. And is the event number that was assigned
18 to this robbery that occurred at 657 Shirehampton event
19 number 130822-4087?

20 A. I believe so.

21 Q. Did Detective Abell give you an assignment
22 to do in this case?

23 A. Yes.

24 Q. And what were you assigned to do?

25 A. When we all met at the original location,

1 we generally get a brief. A brief is an officer, first
2 responding officer will kind of describe the scene and
3 the setting of what happened and try to give as much
4 detail as possible. Unfortunately detail was limited
5 while we were in our brief with the other detectives and
6 Detective Abell. During this brief we had another page
7 that came of an individual being transported to UMC
8 Hospital with a gunshot wound. Part of the -- I'm
9 sorry.

10 Q. No, go ahead.

11 A. Part of the brief that we obtained was that
12 the homeowner or one of the occupants of the home
13 engaged a person and possibly shot him in the chest
14 area.

15 MS. MERCER: And just to admonish the Grand
16 Jury, this information that's being offered for the
17 effect that it had on the listener to explain why they
18 proceeded. It's not being offered for the truth of the
19 matter asserted.

20 BY MS. RHOADES:

21 Q. Please continue, Detective.

22 A. Thank you.

23 With the information we have, again we
24 spoke amongst ourselves, the detectives, and Jeff Abell
25 assigned me to go to the hospital. Linda Turner was

1 assigned to go to the, I believe it was the convenience
2 store where a call came in and the individual was
3 transported from. Now it's just as important to free
4 innocent persons from suspicion as it is to go after
5 those who are guilty of a crime. So we, as detectives
6 we have to go out, we have to investigate, we have to do
7 interviews, and it's not interrogative interviewing,
8 it's interviews to find out what happened, how it
9 happened and what happened. I was assigned to the
10 hospital, that's where I responded to and that's where I
11 came in contact with Cory Hubbard.

12 Q. Was this on the night of August 22nd, the
13 same night as the robbery?

14 A. Yes, it was.

15 Q. What hospital did you respond to?

16 A. UMC, University Medical Center. Right off
17 of Shadow and Charleston.

18 Q. And Detective, I'm going to show you Grand
19 Jury Exhibit Number 4 up on the screen here.

20 Do you recognize that person?

21 A. I do.

22 Q. And who is that?

23 A. That would be Cory Hubbard who I spoke with
24 that night at the UMC Hospital.

25 Q. What was his status when you arrived at the

1 hospital?

2 A. He was in the emergency section of the
3 hospital, trauma center, he was on a trauma center bed,
4 he was in a hospital robe type, he was laying down.

5 Q. Was he in custody at this time?

6 A. No.

7 Q. Was he awake?

8 A. Kind of, yes he was, and then he would doze
9 off.

10 Q. Did you learn of any wounds that he had?

11 A. I learned that he received a wound to the
12 trap area just between the shoulder and the neck, the
13 trap muscle.

14 Q. And was this a gunshot wound?

15 A. It was.

16 Q. Was this on the left side or the right side
17 of his body?

18 A. I believe it was the right trap. I'm not
19 100 percent sure right now.

20 Q. But it was to his upper body?

21 A. Yes.

22 Q. Did he just have one gunshot wound?

23 A. He did.

24 Q. And did you read -- you said you
25 interviewed him?

1 A. I did.

2 Q. What if anything did he tell you?

3 A. Well, it was very difficult in getting
4 anything out of him. My questions were geared more
5 towards where he was at when he was shot, does he know
6 who shot him, was he with anybody else, did he know
7 where he was currently at while I was speaking with him.
8 He was very evasive with his answers claiming that he
9 was just walking down a street, he didn't know what
10 street he was on or what direction he was traveling, he
11 didn't know where he was coming from or going to, he
12 claimed he didn't know who his friends were, he claimed
13 he never saw his assailant and also stated that he
14 didn't want to talk to me.

15 Q. Did he tell you that he was in a
16 residential area when he was shot?

17 A. He said he was on a street. That's what I
18 was trying to get to is where he was coming from or
19 going to. He didn't know a street name, he didn't know
20 his direction, and again he didn't, he never saw his
21 assailant and he didn't know how he got to where he was
22 at prior to being shot.

23 BY MS. MERCER:

24 Q. And Detective, at the time you were doing
25 the interview you did not know whether he was a victim

1 or a suspect; correct?

2 A. I did not know.

3 Q. And you were still in the early stages of
4 your investigation?

5 A. Very early.

6 Q. And that's why he was not under arrest?

7 A. That's correct.

8 BY MS. RHOADES:

9 Q. With regard to where the injury was located
10 on Mr. Hubbard, would it refresh your recollection if I
11 showed you the report that indicated where the injury
12 was?

13 A. Yes.

14 Q. Whether it was on his left or his right
15 shoulder?

16 A. Yes.

17 I stand corrected. The injury was to the
18 left trap between the shoulder and the neck.

19 Q. And also, Detective Bruno, would it refresh
20 your recollection if I just showed you what Mr. Hubbard
21 said -- I'm sorry, let me go back.

22 With regard to the interview, was it
23 recorded?

24 A. I did record it, yes.

25 Q. Was it later transcribed?

1 A. It was.

2 Q. With regard to him stating that he was on a
3 residential street, would it refresh your recollection
4 if I showed you the transcript of his interview?

5 A. Sure.

6 Q. Okay. I'll just have you look at those
7 bottom lines.

8 And then tell me what if anything did he
9 say about being on a residential street?

10 A. He did say that he was, like a residential
11 street and there was just some shots. Next thing he
12 knew he was hit.

13 Q. And he didn't give you any other
14 information about who shot him or where the shots came
15 from?

16 A. No.

17 Q. During your investigation did you
18 eventually learn that Mr. Hubbard was transported from a
19 convenience store?

20 A. I did.

21 Q. And he was transported from that
22 convenience store to UMC?

23 A. Yes.

24 Q. And are you aware of how he was transported
25 from the convenience store to UMC?

1 A. By ambulance.

2 Q. And I'm going to publish Grand Jury Exhibit
3 Number 5.

4 (Tape being played.)

5 BY MS. RHOADES:

6 Q. And for the record those 911 calls, it is a
7 certified copy of the 911 calls and there is an
8 affidavit attached to Grand Jury Exhibit Number 5 and
9 those statements within that call are admitted pursuant
10 to the fact that they're presence sense impressions and
11 excited utterances.

12 Now Detective, in listening to that call,
13 was that made at 8:58 p.m.?

14 A. Yes, it was.

15 Q. And the call from the male caller was made
16 at 8:56 p.m.?

17 A. Is that the one you could understand or the
18 earlier one?

19 Q. That's the one, the male that you could
20 understand?

21 A. Yes.

22 MS. RHOADES: All right. I have no further
23 questions for this witness. Do any members of the Grand
24 Jury have any questions for this witness?

25 THE FOREPERSON: Charles.

1 BY A JUROR:

2 Q. Detective Bruno, I need you to help me with
3 something. I want to layout just a very quick scenario
4 and you comment upon it if you can. Is it routine that
5 when you're investigating a case where there's a, the
6 victim says that they may have shot someone, is it
7 routine that then when you hear a call that someone has
8 been found with a gunshot in the area of that unit
9 you've been assigned to go and interview that person?

10 A. It is routine. And the reason being is
11 like I explained earlier, when it's in close proximity
12 in time to the event that we originally respond to, it's
13 just as important to free innocent persons from
14 suspicion. Now if you have an individual who is either
15 transported or walks into a hospital that's been shot
16 and it's in close proximity of the time factors and
17 statements that are made by witnesses and/or victims of
18 a body part that may have been shot, then it's important
19 to be able to find truth in all of that and either
20 exclude that from your investigation and move on with
21 the original investigation or include that in it. It's
22 important to get to the bottom of it. Regardless
23 somebody has been shot, it still has to be investigated,
24 you still have to ask the questions as to the hows and
25 the whys and those types of things. If it was a random

1 shooting it's absolutely necessary not to walk away, but
2 walk away from it being suspicious in nature, and then
3 violent crimes would take over that investigation, if we
4 find that it's not related to. Does that answer the
5 question?

6 Q. Sure. And I have a follow-up.
7 Approximately how close is the Shirehampton Drive
8 address to the Chevron, the 657, do you know?

9 A. I don't right offhand.

10 Q. The last question then was then based upon
11 what you've told me, that when you then interviewed
12 Mr. Hubbard, while he was not a suspect, he probably was
13 a person of interest; is that correct?

14 A. Absolutely.

15 Q. Because of the gun shot, the proximity to
16 where he was shot, the time?

17 A. Of course, yes.

18 Q. Okay. Thank you.

19 BY MS. MERCER:

20 Q. Just one follow-up. You did not have
21 probable cause to arrest him at that time; correct?

22 A. Absolutely not.

23 THE FOREPERSON: Ronald, go ahead.

24 BY A JUROR:

25 Q. When you interviewed him at the hospital

1 had he already been treated for his gunshot wound?

2 A. He was treated.

3 Q. And you said that he appeared kind of
4 groggy and was kind of falling asleep and then waking
5 up?

6 A. Mostly because, I took it based on, his
7 statement was that he had been drinking.

8 BY MS. RHOADES:

9 Q. And just to follow-up on that. He told you
10 that he was drinking?

11 A. Yes.

12 Q. Did he tell you that's why he couldn't tell
13 you any other information about where or who shot him?

14 A. His statement was that he had been
15 drinking. He was more irritated that I was even asking
16 him questions. He'd rather that I didn't ask him the
17 questions. I kept repeating his first name, because he
18 would turn his head away and close his eyes, and I told
19 him how important it was that I got the information from
20 him. He was, he was not a cooperating victim if you
21 will.

22 Q. Did he smell of alcohol at all?

23 A. He did, yes.

24 THE FOREPERSON: Sharon, go ahead.
25

1 BY A JUROR:

2 Q. When he was transported was there anyone
3 with him or was he by himself at that point?

4 A. I was told that an officer rode in the
5 ambulance with him. I did not confirm that.

6 Q. But no friend or anyone --

7 A. No, there were no friends available.

8 MS. RHOADES: And I'll just ask that you
9 disregard that because this detective doesn't have
10 personal knowledge of who went with him to the hospital.

11 A JUROR: Okay.

12 THE FOREPERSON: Anna, do you have a
13 question?

14 BY A JUROR:

15 Q. Yeah. When you witnessed or doing the
16 investigation, do you take a breathalyzer if he tells
17 you he had been drinking where your interview with him,
18 I mean he wouldn't be logically giving you responses if
19 he was sober versus whether he was drunk.

20 A. He's not a suspect of anything because
21 we're still trying to figure out what really happened.
22 He's a victim of being shot. I don't have any
23 reasonable suspicion or probable cause to give him a
24 breathalyzer if he didn't break any laws. He wasn't
25 driving a vehicle or anything like that so legally no I

1 can't take, I can't get a breathalyzer on him and
2 legally I can't do a warrant for a blood draw.

3 BY MS. RHOADES:

4 Q. And I'm just going to follow-up on that.
5 Was Mr. Hubbard coherent when you were talking to him
6 for the most part?

7 A. He was coherent.

8 Q. Could he understand what you were saying
9 and was he responding?

10 A. He was responding.

11 BY A JUROR:

12 Q. Just a quick follow-up. So subsequent to
13 all the questions we've asked you, at what point was he
14 placed under arrest? Can you tell us that? I mean was
15 he placed under arrest by you as you acquired more data
16 and information?

17 A. No, I didn't arrest him at all. As the
18 interview went and then concluded, I made a call to
19 Detective Abell, told him what little information I had.
20 I then spoke with one of the doctors, the attending
21 nurse, and asked about the removal of the round, the
22 bullet. I was told that they were not going to remove
23 the bullet and that it was, it would cause more damage
24 to take it out than it was actually worth and it wasn't
25 resting in an area that was detrimental to his

1 functioning normally in life. Just prior to my leaving
2 the attending nurse told me that the trap area started
3 to swell a little bit so they were going to, they
4 decided to keep him overnight for observation. I shared
5 that with Detective Abell as well. At what point he was
6 actually placed into custody I don't have that answer
7 for you.

8 Q. Thank you.

9 BY MS. MERCER:

10 Q. Detective, you all were on scene for
11 approximately five hours completing your investigation
12 that night; correct?

13 A. Yes.

14 Q. And when you made contact with him, that
15 was early into the investigation; correct?

16 A. Very early, yes.

17 Q. Interviews hadn't been done?

18 A. I'm sorry?

19 Q. Interviews hadn't been done and completed;
20 correct?

21 A. No, no, they had not been completed.

22 THE FOREPERSON: Detective, by law, these
23 proceedings are secret and you are prohibited from
24 disclosing to anyone anything that has transpired before
25 us, including evidence and statements presented to the

1 Grand Jury, any event occurring or statement made in the
2 presence of the Grand Jury, and information obtained by
3 the Grand Jury.

4 Failure to comply with this admonition is a
5 gross misdemeanor punishable by a year in the Clark
6 County Detention Center and a \$2,000 fine. In addition,
7 you may be held in contempt of court punishable by an
8 additional \$500 fine and 25 days in the Clark County
9 Detention Center.

10 Do you understand this admonition?.

11 THE WITNESS: I do.

12 THE FOREPERSON: Thank you. You are
13 excused.

14 THE WITNESS: Thank you.

15 MS. RHOADES: The State's next witness is
16 Anthony Roberts.

17 THE FOREPERSON: Please raise your right
18 hand.

19 You do solemnly swear the testimony you are
20 about to give upon the investigation now pending before
21 this Grand Jury shall be the truth, the whole truth, and
22 nothing but the truth, so help you God?

23 THE WITNESS: Yes, sir, I do.

24 THE FOREPERSON: You are advised that you
25 are here today to give testimony in the investigation

1 pertaining to the offenses of conspiracy to commit
2 robbery, burglary while in possession of a firearm,
3 robbery with use of a deadly weapon, attempt murder with
4 use of a deadly weapon, assault with a deadly weapon,
5 and discharge of firearm within a structure, involving
6 Cory Hubbard and Willie Carter.

7 Do you understand this advisement?

8 THE WITNESS: Yes, sir.

9 THE FOREPERSON: Please state your first
10 and last name and spell both for the record.

11 THE WITNESS: First name Anthony, last name
12 Roberts. A-N-T-H-O-N-Y, Roberts, R-O-B-E-R-T-S.

13 THE FOREPERSON: Thank you.

14 ANTHONY ROBERTS,
15 having been first duly sworn by the Foreperson of the
16 Grand Jury to testify to the truth, the whole truth,
17 and nothing but the truth, testified as follows:

18

19 EXAMINATION

20

21 BY MS. MERCER:

22 Q. Sir, do you also by the name Tiger?

23 A. Yes.

24 Q. How is it that you know Darny Van and David
25 Powers and that whole crew?

1 A. I mainly know David. He's an aspiring
2 performer, recording artist. I'm a music producer. I
3 met him he used to be signed to a fighter, Floyd
4 Mayweather's record label, and that's how I met him.

5 Q. How long have you known him?

6 A. I would say 15 years.

7 Q. On August 22nd of 2013 did you have
8 occasion to be at his girlfriend's home?

9 A. Yes.

10 Q. And that was at 657 Shirehampton?

11 A. Yes.

12 Q. And what were you doing there that evening?

13 A. I was working on some music for him.

14 Q. Does he have equipment at the house?

15 A. Yes.

16 Q. And where is that equipment?

17 A. It's in the downstairs area. It's a
18 bedroom that's made into what they call a music room.

19 Q. And in relation to the front door, where is
20 that room?

21 A. Well, I don't know direction wise as far as
22 north, south, east or west, but if you come in the front
23 door it's straight ahead.

24 Q. At about 8:50 that evening did you hear
25 someone at the door?

1 A. I heard the doorbell ring.

2 Q. And what happened shortly after that?

3 A. Well, I was listening to see who it was
4 because I hadn't heard a lot of people come by and I
5 just heard something that sounded different in Darny's
6 tone, the person who answered the door.

7 Q. When you say it sounded different, what do
8 you mean?

9 A. I really couldn't make out what she said.

10 Q. What was it about her tone of voice that --

11 A. It just sounded like, the tone of voice was
12 like under duress, extra anxious, it just didn't sound
13 any kind of way normal, the way I would expect to hear
14 her talk after answering the door.

15 Q. You said you couldn't make out what she
16 said?

17 A. Not quite.

18 Q. When you heard that what did you do?

19 A. I was in a roll-away chair, something like
20 this one, I rolled back to get a view out of the door to
21 see.

22 Q. So the door to the room was open?

23 A. Yes, the door to the room I was in was
24 open.

25 Q. When you rolled back to look out, what did

1 you see?

2 A. I saw some guys, I still wasn't sure
3 exactly what was going on, but one of the guys saw me at
4 the same time that I rolled back.

5 Q. Let me stop you there. When you say that
6 you saw some guys, how many did you see?

7 A. It was real quick. I know I saw three. I
8 was thinking at the time three to four. I'm sure three
9 at least.

10 Q. You're positive you saw at least three
11 people?

12 A. At least three people. I was thinking more
13 like four.

14 Q. You said that when you looked out there and
15 saw them, one of them looked back at you?

16 A. He saw me at the same time that I rolled
17 back.

18 Q. What did that individual look like?

19 A. The best description I can give of him is
20 he was like my complexion, my color complexion, he had a
21 cap on, a baseball cap. Other than that I, that's the
22 best description I can give you. He had short hair,
23 short haircut.

24 Q. Then what happens?

25 A. He instantly pointed the gun at me,

1 proceeds to walk in the room, grab me and pull me out of
2 the music room and brought me to the front door and told
3 me to lay down.

4 Q. What were the other two people doing?

5 A. I don't know. It was real chaotic at the
6 time.

7 Q. You said that he pointed the gun at you?

8 A. Yes.

9 Q. Did you immediately notice the gun when you
10 peeked out of the room?

11 A. No.

12 Q. At what point was it that you realized he
13 had a gun?

14 A. When he lifted it up and pointed it in my
15 direction.

16 Q. Okay. And when you say that he made you go
17 towards the front door, how did he do that?

18 A. Well, he walked into the music room where I
19 was at with the gun still at me and kind of grabbed me
20 on the shoulder by whatever I was wearing and kind of
21 pulled me up and led me to the front door and said get
22 down.

23 Q. Okay. And did you actually get down?

24 A. Yes.

25 Q. Did you get down on your stomach or your

1 back?

2 A. On my stomach.

3 Q. And when you were on the floor what
4 happened?

5 A. Well, when I was on the floor I kept
6 looking that way toward the floor-ish. He started to --
7 well when he first laid me there, he got up for a
8 second, I mean he was somewhere else, I wasn't looking
9 back though. Then he came back to me and he started
10 going in my pockets. I'm not sure the reason he didn't
11 continue was because, I don't know why he didn't
12 continue, but he stopped going through my pockets. Then
13 I heard a shot, some shots.

14 Q. Did he take anything from your pockets?

15 A. No.

16 Q. You said that you -- was it while he was
17 going through your pockets that you heard the shots or
18 shortly after? If you recall.

19 A. I don't. It was -- I don't. I'm not sure.

20 Q. How many gunshots do you think you heard?

21 A. Several.

22 Q. Do you recall giving a taped statement to
23 detectives on that night?

24 A. Audio tape I believe, I'm sure, yes.

25 Q. Did you describe the individual that

1 pointed the gun at you as a light skinned black male?

2 A. Yes.

3 Q. After you heard the two to three shots, or
4 at the time you heard the two to three shots, were you
5 still on the ground on your stomach by the front door?

6 A. Yes.

7 Q. And approximately how far from the actual
8 door were you while you were lying down?

9 A. Well, if this would be the front door, I
10 was about right here laying out this way with my head
11 towards this way and feet out that way.

12 Q. Okay. And you've just, for the record
13 you've just pointed at the door to the Grand Jury room
14 and approximately a foot and a half into the table?

15 A. Yes, ma'am.

16 Q. So a distance of probably 10 feet, 8 to
17 10 feet?

18 A. Well, about -- I don't know the distance,
19 but I would say, if that's the front door I was about
20 right here-ish.

21 Q. So about 8 feet. So they could open the
22 door and get out?

23 A. Yes.

24 Q. After you heard the gunshots what happened?

25 A. Well, I didn't know who was shooting, if

1 anybody was getting shot, I didn't know. I kind of put
2 my head, I stayed down. I didn't want to get up and
3 just get struck by a stray bullet. I just kind of
4 stayed down for a minute. I just heard shooting, I
5 heard commotion, people screaming, the women in the
6 house screaming, the one lady for sure. And then the
7 front door opened and I, at the time I didn't know it
8 but I guess they were running out.

9 Q. Okay. And prior to them exiting did you
10 hear one of them fire a gun from that front entrance
11 area?

12 A. No, not before the door opened. After the
13 door had opened I heard that.

14 Q. After the door opened?

15 A. Yes.

16 Q. And did you see who fired that?

17 A. It was the light skinned black guy that had
18 the gun on me.

19 Q. The one that had the gun on you?

20 A. I'm pretty sure.

21 Q. Okay. And you were shown a suspect that
22 night; correct?

23 A. Yes.

24 Q. But you were unable to determine whether
25 that was him or not?

1 A. I was unable to determine, yes.

2 Q. And you were also shown a photographic
3 line-up and you were unable to make an identification;
4 correct?

5 A. Correct.

6 MS. MERCER: I have no further questions
7 for this witness.

8 THE FOREPERSON: Mr. Roberts, by law, these
9 proceedings are secret and you are prohibited from
10 disclosing to anyone anything that has transpired before
11 us, including evidence and statements presented to the
12 Grand Jury, any event occurring or statement made in the
13 presence of the Grand Jury, and information obtained by
14 the Grand Jury.

15 Failure to comply with this admonition is a
16 gross misdemeanor punishable by a year in the Clark
17 County Detention Center and a \$2,000 fine. In addition,
18 you may be held in contempt of court punishable by an
19 additional \$500 fine and 25 days in the Clark County
20 Detention Center.

21 Do you understand this admonition?

22 THE WITNESS: Yes, sir.

23 THE FOREPERSON: Thank you. You are
24 excused.

25 THE WITNESS: Okay. Thank you.

1 MS. RHOADES: And the State's next witness
2 is Officer Boddie, B-O-D-D-I-E.

3 THE FOREPERSON: Please raise your right
4 hand.

5 You do solemnly swear the testimony you are
6 about to give upon the investigation now pending before
7 this Grand Jury shall be the truth, the whole truth, and
8 nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE FOREPERSON: Please be seated.

11 You are advised that you are here today to
12 give testimony in the investigation pertaining to the
13 offenses of conspiracy to commit robbery, burglary while
14 in possession of a firearm, robbery with use of a deadly
15 weapon, attempt murder with use of a deadly weapon,
16 assault with a deadly weapon, and discharge of firearm
17 within a structure, involving Cory Hubbard and Willie
18 Carter.

19 Do you understand this advisement?

20 THE WITNESS: Yes.

21 THE FOREPERSON: Please state your first
22 and last name and spell both for the record.

23 THE WITNESS: First name is Christopher,
24 last name is Boddie. C-H-R-I-S-T-O-P-H-E-R, last name
25 is B-O-D-D-I-E.

1 THE FOREPERSON: Thank you.

2 CHRISTOPHER BODDIE,

3 having been first duly sworn by the Foreperson of the
4 Grand Jury to testify to the truth, the whole truth,
5 and nothing but the truth, testified as follows:

6

7 EXAMINATION

8

9 BY MS. MERCER:

10 Q. Sir, where were you currently employed?

11 A. With the Las Vegas Metropolitan Police
12 Department.

13 Q. And are you currently employed as a patrol
14 officer?

15 A. Yes.

16 Q. How long have you been assigned to patrol?

17 A. Eight years.

18 Q. And which area command are you currently
19 assigned to?

20 A. Enterprise.

21 Q. Were you assigned to that area command on
22 August 22nd of 2013?

23 A. Yes.

24 Q. On that date what shift were you working?

25 A. Swing shift.

1 Q. What would those hours be?

2 A. 2:30 in the afternoon until 12:30 in the
3 morning.

4 Q. At approximately 8:51 p.m. were you
5 dispatched to an incident that occurred at 657
6 Shirehampton Road?

7 A. Yes.

8 Q. And that's here in Clark County; correct?

9 A. Yes.

10 Q. It was originally broadcast as a possible
11 shooting or home invasion; is that accurate?

12 A. Correct, yes.

13 Q. And it was assigned at priority zero level?

14 A. Yes.

15 Q. What does that signify to you?

16 A. It's usually a crime in progress, either
17 whatever crime is still occurring or there are still
18 suspects on scene.

19 Q. And priority zero is the highest priority
20 level?

21 A. Correct.

22 Q. And that priority level gets assigned by
23 the dispatchers; correct?

24 A. Correct.

25 Q. Did you in fact arrive at the 657

1 Shirehampton address?

2 A. I arrived in the area, not specifically at
3 that address.

4 Q. And what area did you respond to?

5 A. The name of the street was Kew Gardens. I
6 think it's K-E-W Gardens. It's connected to
7 Shirehampton on the, I believe it was the east end of
8 that street.

9 Q. Approximately how far from the 657
10 Shirehampton address would that be?

11 A. Maybe a hundred yards.

12 Q. And when you responded to that location,
13 what was the purpose of you responding to that location?

14 A. While we were enroute to the Shirehampton
15 call, we received information from dispatch that there
16 was a residence on Kew Gardens that had called in saying
17 somebody was jumping through their backyard. Since it
18 was in close proximity to the Shirehampton address we
19 thought it might be a suspect from that call.

20 Q. Okay. And when you responded to that
21 location how did you proceed?

22 A. Another officer and myself, once we kind of
23 figured out where we were from the actual call, we began
24 walking I believe it was west trying to basically help
25 set up a perimeter around the neighborhood where the

1 call had happened. Since we were told that there were
2 suspects jumping through yards we wanted to set up a
3 perimeter around that area to try to keep anybody
4 contained.

5 Q. So that ultimately he could be caught?

6 A. Correct.

7 Q. What other officer were you working with?

8 A. Officer Basner.

9 Q. Is that B-A-S-N-E-R?

10 A. Yes.

11 Q. Did you in fact begin searching in that
12 area for a potential suspect?

13 A. We did.

14 Q. At some point did you locate a suspect?

15 A. Yes.

16 Q. Where were you when you located that
17 suspect?

18 A. Approximately three blocks west of the
19 Shirehampton address.

20 Q. And would that have been near 740 Secret
21 London?

22 A. Yes.

23 Q. How was it that you located that suspect?

24 A. I was standing on the corner of Secret
25 London and Kew Gardens when I heard sort of a banging

1 sound coming from my right. As I turned to my right I
2 saw a subject coming over the side yard fence toward me.

3 Q. And what happened at that point?

4 A. We, I gave him orders, basically proned him
5 out on the ground and then myself and Officer Basner
6 took him into custody.

7 Q. What does it mean to prone someone out on
8 the ground?

9 A. In this situation, because of the type of
10 call, it was a violent crime with a firearm, our
11 standard practice is to make the person lay on the
12 ground. In this case we had him lay down face down with
13 his arms out to his side and just cross his ankles, that
14 way we're able to control his actions so they can't jump
15 back up or produce a weapon, something like that. We
16 leave them in that position until we get another officer
17 there and then we approach him and place him in
18 handcuffs.

19 Q. So he was placed into handcuffs?

20 A. Correct.

21 Q. By the two of you?

22 A. Yes.

23 Q. And you stayed with him until other
24 detectives arrived?

25 A. I didn't stay with him that long. Officer

1 Basner did. I wound up being pulled from that location
2 to another location.

3 Q. Okay. I have no further questions.

4 Oh, wait. I'm sorry.

5 I'm showing you what has been marked as
6 Grand Jury Exhibit Number 3. Is this the individual
7 that you came into contact with near that 740 Secret
8 London address?

9 A. Yes, it is.

10 Q. And this the individual that you placed
11 into custody?

12 A. Yes.

13 Q. Was he identified as Willie Carter?

14 A. Yes.

15 MS. MERCER: No further questions.

16 THE FOREPERSON: Ronald, you have a
17 question. Go ahead.

18 BY A JUROR:

19 Q. At the time he was placed in custody did
20 the defendant have a weapon on him?

21 A. No, he did not.

22 MS. MERCER: If you know.

23 THE WITNESS: Not that I remember.

24 BY MS. MERCER:

25 Q. One follow-up. When you respond to calls

1 like that, is it uncommon for suspects to abandon
2 weapons that have been involved in a crime?

3 A. It's not. In this case we could actually
4 tell, we could see approximately two or three other
5 backyards that he had been through and that's why we
6 requested our K-9 unit to try to come and do an article
7 search for us.

8 MS. MERCER: Okay. No further questions.

9 THE FOREPERSON: Officer, by law, these
10 proceedings are secret and you are prohibited from
11 disclosing to anyone anything that has transpired before
12 us, including evidence and statements presented to the
13 Grand Jury, any event occurring or statement made in the
14 presence of the Grand Jury, and information obtained by
15 the Grand Jury.

16 Failure to comply with this admonition is a
17 gross misdemeanor punishable by a year in the Clark
18 County Detention Center and a \$2,000 fine. In addition,
19 you may be held in contempt of court punishable by an
20 additional \$500 fine and 25 days in the Clark County
21 Detention Center.

22 Do you understand this admonition?

23 THE WITNESS: Yes.

24 THE FOREPERSON: Thank you. You are
25 excused.

1 THE WITNESS: Thank you.

2 MS. RHOADES: And the State's next witness
3 is Officer Basner, B-A-S-N-E-R.

4 THE FOREPERSON: Please raise your right
5 hand.

6 You do solemnly swear the testimony you are
7 about to give upon the investigation now pending before
8 this Grand Jury shall be the truth, the whole truth, and
9 nothing but the truth, so help you God?

10 THE WITNESS: Yes, sir.

11 THE FOREPERSON: Please be seated.

12 You are advised that you are here today to
13 give testimony in the investigation pertaining to the
14 offenses of conspiracy to commit robbery, burglary while
15 in possession of a firearm, robbery with use of a deadly
16 weapon, attempt murder with use of a deadly weapon,
17 assault with a deadly weapon, and discharge of firearm
18 within a structure, involving Cory Hubbard and Willie
19 Carter.

20 Do you understand this advisement?

21 THE WITNESS: Yes, sir.

22 THE FOREPERSON: Please state your first
23 and last name and spell both for the record.

24 THE WITNESS: Spencer Basner.

25 S-P-E-N-C-E-R, B-A-S-N-E-R.

1 THE FOREPERSON: Thank you.

2 SPENCER BASNER,

3 having been first duly sworn by the Foreperson of the
4 Grand Jury to testify to the truth, the whole truth,
5 and nothing but the truth, testified as follows:

6

7 EXAMINATION

8

9 BY MS. MERCER:

10 Q. Sir, where are you currently employed?

11 A. Las Vegas Metropolitan Police Department.

12 Q. Are you patrol?

13 A. Yes, ma'am.

14 Q. What area command are you assigned to?

15 A. Enterprise Area Command.

16 Q. What are the boundaries for Enterprise Area
17 Command?

18 A. Everything south of Charleston and
19 everything west of the I-15.

20 Q. Okay. Were you working on August 22nd of
21 2013?

22 A. Yes, ma'am.

23 Q. Were you assigned to Enterprise Area
24 Command on that date?

25 A. Yes.

1 Q. Swing shift?

2 A. Yes.

3 Q. Were you working with another officer?

4 A. Yes, ma'am.

5 Q. And who would that be?

6 A. Officer Chris Boddie.

7 Q. And did you all respond to a call at 657
8 Shirehampton?

9 A. Yes.

10 Q. Did you assist him in locating a suspect?

11 A. Yes, I did.

12 Q. Was that suspect Willie Carter?

13 A. Yes, ma'am.

14 Q. And is that the individual depicted in
15 Grand Jury Exhibit Number 3?

16 A. It is.

17 Q. And approximately how far from the
18 Shirehampton address was he located?

19 A. I would say three blocks, maybe 150 yards
20 or so.

21 Q. And can you name the major cross streets
22 for this neighborhood for me?

23 A. It's at Fort Apache and Huntington Cove.

24 Q. The address 8096 South Durango, that's in
25 your area command; correct?

1 A. Yes, ma'am.

2 Q. Approximately how far from 657 Shirehampton
3 address is that location?

4 A. Approximately four miles.

5 MS. MERCER: Okay. No further questions.

6 THE FOREPERSON: Officer, by law, these
7 proceedings are secret and you are prohibited from
8 disclosing to anyone anything that has transpired before
9 us, including evidence and statements presented to the
10 Grand Jury, any event occurring or statement made in the
11 presence of the Grand Jury, and information obtained by
12 the Grand Jury.

13 Failure to comply with this admonition is a
14 gross misdemeanor punishable by a year in the Clark
15 County Detention Center and a \$2,000 fine. In addition,
16 you may be held in contempt of court punishable by an
17 additional \$500 fine and 25 days in the Clark County
18 Detention Center.

19 Do you understand this admonition?

20 THE WITNESS: Yes.

21 THE FOREPERSON: Okay. Thank you.

22 THE WITNESS: Thank you.

23 THE FOREPERSON: You are excused.

24 MS. MERCER: And the State's next witness
25 is Detective Scilimenti.

1 THE FOREPERSON: Please raise your right
2 hand.

3 You do solemnly swear the testimony you are
4 about to give upon the investigation now pending before
5 this Grand Jury shall be the truth, the whole truth, and
6 nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE FOREPERSON: Please be seated.

9 You are advised that you are here today to
10 give testimony in the investigation pertaining to the
11 offenses of conspiracy to commit robbery, burglary while
12 in possession of a firearm, robbery with use of a deadly
13 weapon, attempt murder with use of a deadly weapon,
14 assault with a deadly weapon, and discharge of firearm
15 within a structure, involving Cory Hubbard and Willie
16 Carter.

17 Do you understand this advisement?

18 THE WITNESS: Yes, I do.

19 THE FOREPERSON: Please state your first
20 and last name and spell both for the record.

21 THE WITNESS: Michael Scilimenti.

22 M-I-C-H-A-E-L, Scilimenti, S-C-L-I-M-E-N-T-I.

23 THE FOREPERSON: Thank you.

24 ///

25 ///

1 MICHAEL SCLIMENTI,
2 having been first duly sworn by the Foreperson of the
3 Grand Jury to testify to the truth, the whole truth,
4 and nothing but the truth, testified as follows:

5
6 EXAMINATION

7
8 BY MS. RHOADES:

9 Q. Sir, how are you employed?

10 A. With the Las Vegas Metropolitan Police
11 Department.

12 Q. And in what capacity do you work?

13 A. I'm assigned as a detective to the robbery
14 section.

15 Q. And how long have you been worked in that
16 capacity?

17 A. Four years.

18 Q. Were you working as a robbery detective on
19 August 22nd of this year?

20 A. Yes, I was.

21 Q. And on that date were you assigned to
22 investigate a robbery that occurred at 657 Shirehampton
23 Drive?

24 A. Yes, I was.

25 Q. And were you the lead detective on this

1 robbery?

2 A. No, I was not.

3 Q. And can you kind of explain who was the
4 lead detective and how that works in your robbery unit?

5 A. Basically the lead detective was Detective
6 Jeff Abell. All the detectives respond to the scene and
7 we conduct a formal briefing by patrol officers and
8 other arriving patrol officers and then amongst the
9 detectives and during the briefing the case agent
10 usually delegates tasks and duties to the other
11 detectives to conduct.

12 Q. What was your duty in this case?

13 A. My duty was to conduct show ups and also
14 conduct, take custody of one of the suspects and conduct
15 an interview with him.

16 Q. And did you respond to a location where one
17 of the suspects was detained?

18 A. Yes, I did.

19 Q. Was this at Shirehampton and Kew Gardens?

20 A. Yes, it was on Shirehampton just north of
21 Kew Gardens.

22 Q. About how far away was the suspect detained
23 from 657 Shirehampton?

24 A. Just around the corner.

25 Q. Do you recognize Grand Jury Exhibit

1 Number 3, that photograph?

2 A. Yes, I do.

3 Q. Who is that?

4 A. That's Willie Carter.

5 Q. Is that the subject that was detained at
6 Shirehampton and Kew Gardens?

7 A. Yes, it was.

8 Q. When you do show ups with witnesses, do you
9 typically read them instruction?

10 A. Yes, I do.

11 Q. Just for the record, do you read them from,
12 just from the show up instruction sheet or do you read
13 them from memory?

14 A. It just depends. Usually we conduct,
15 usually we have these show up witness instruction forms,
16 what we've been using since they've been incorporated
17 within the department, but I usually try to just tell
18 them even before I read the instruction forms to not
19 form an opinion just based on this person being detained
20 by the police.

21 Q. And for the record I'm showing you a show
22 up witness instruction sheet. Can you read for the
23 record the instructions that are given per that sheet?

24 A. Yes, I can. So it says: In a moment I'm
25 going to show you a person who is being detained. This

1 person may or may not be a person who committed the
2 crime now being investigated. The fact that this person
3 is detained should not cause you to believe or guess
4 that he or she is guilty. You do not have to identify
5 anyone. It is just as important to free innocent
6 persons from suspicions as it is to identify those who
7 are guilty. Please keep in mind that clothing can be
8 easily changed. Please do not talk to anyone other than
9 police officers while viewing this person. You must
10 make-up your own mind and not be influenced by other
11 witnesses, if any. When you've viewed the person please
12 tell me whether or not you can make an identification.
13 If you can, tell me in your own words how sure you are
14 of your identification. Please do not indicate in any
15 way to other witnesses that you have or have not made
16 identification. Thank you.

17 Q. Thank you. Did you conduct show ups with
18 three victims in this case?

19 A. Yes, I did.

20 Q. With regard to the show up that you
21 conducted with Kenneth Flenory, how did that take place?

22 A. I walked Kenneth Flenory from the location
23 where he was standing. A patrol officer had the
24 witnesses, you know, were watching over the victims and
25 the witness. I took Kenneth Flenory and walked him over

1 to the location where the patrol officer had Willie
2 Carter being detained or arrested.

3 Q. Was Kenneth Flenory able to positively
4 identify Willie Carter as one of the suspects in the
5 robbery?

6 A. Yes, he was.

7 Q. And did you read Kenneth Flenory the
8 instructions that you just read into the record to us
9 regarding show ups?

10 A. Yes, I did.

11 Q. Did you also conduct a show up with Asia
12 Hood?

13 A. Yes, I did.

14 Q. Did you also read her the show up
15 instructions that you just read into the record?

16 A. Yes, I did.

17 Q. Was she able to positively identify Willie
18 Carter as one of the suspects in the robbery?

19 A. Yes.

20 Q. Did she tell you that she was 60 percent
21 sure that he was the suspect?

22 A. She said that, not 60 percent, she said six
23 out of ten. She said this person that, you know I'd
24 have to read the form. But she mentioned that it's the
25 person that had the gun and I'm six out of ten sure this

1 is the person.

2 Q. Did you also conduct a show up with Darny
3 Van?

4 A. Yes.

5 Q. Did you also read her the instructions that
6 you read into the record that you read to the first two
7 victims?

8 A. Yes, I did.

9 Q. Was Darny Van able to positively identify
10 Willie Carter as one of the suspects in the robbery?

11 A. Yes, she said it looks like the person that
12 was involved in the robbery, yes.

13 Q. Did she say that he looks like the guy with
14 the gun?

15 A. Yes.

16 Q. Did she also tell you that she had never
17 saw him before today?

18 A. Yes.

19 Q. What else did you do as part of your
20 investigation in this robbery?

21 A. We, I had patrol officers transport Willie
22 Carter back to the Las Vegas Metropolitan Police
23 Department headquarters and my partner Detective Flynn
24 and I conducted an interview with Willie Carter.

25 Q. Was Willie Carter in custody at that time?

1 A. Yes, he was.

2 Q. And just to clarify, when you were doing
3 the show ups, was Willie Carter in custody?

4 A. Yes, he was.

5 Q. Was he in custody for this case or for an
6 unrelated case when you were doing the show ups?

7 A. He was in custody for an unrelated case.

8 Q. At the time he was transported to Metro
9 headquarters --

10 MS. MERCER: And I'm going to admonish you
11 all to disregard that last statement by the detective.
12 It should not be considered by you as any evidence in
13 this case as to the defendant's guilt..

14 BY MS. RHOADES:

15 Q. When he was taken to Metro headquarters,
16 was he in custody for this case?

17 A. Yes.

18 Q. Did you read him his rights under Miranda?

19 A. Yes, I did.

20 Q. And after being read those rights did he
21 speak with you and Detective Flynn?

22 A. Yes, he did.

23 Q. What if anything did he tell you about what
24 happened at 657 Shirehampton that night?

25 A. Willie said that he met a person by the

1 name of E about three days prior to that night. He said
2 this person E gave him his address and told him that it
3 was, you know, come over the house, he didn't give him a
4 specific date. Willie said on that night in question he
5 took a bus to the southwest portion of town and then
6 ended up walking to the address of 657 Shirehampton
7 Court by himself. He said he knocked on the door, a
8 female answered, he went inside, and then 30 seconds
9 later the owner of the house or somebody there started
10 firing shots. I confronted him with the fact that a
11 neighbor across the street had video surveillance which
12 captured a vehicle, or captured a vehicle arriving in
13 front of the house, him along with two other subjects
14 exiting the vehicle and going into, or knocking on the
15 door, a struggle ensued and then everybody started
16 running. He then said that he didn't remember a lot of
17 what took place, that he had been drinking earlier. He
18 did say that he was hanging out inside there for about
19 30 seconds, he did not know who he came with, did not
20 know their names, he did not know where his personal
21 belongings were. He said that he just didn't really
22 remember.

23 Q. He admitted to you that he was at 657
24 Shirehampton?

25 A. Yeah, he did admit that he was inside the

1 house. He said that he did not have a gun and he was
2 not involved in it.

3 Q. But he admitted he was there when the
4 gunshots went off?

5 A. Yes, he did.

6 Q. Did Defendant Carter smell of alcohol when
7 you were interviewing him?

8 A. No, he did not. He didn't smell of alcohol
9 or didn't appear to be under the influence of any type
10 of drugs.

11 MS. RHOADES: I have no further questions
12 for this witness. Do any of the members of the Grand
13 Jury have any questions for this witness?

14 BY THE FOREPERSON:

15 Q. Detective, when you took Kenneth Flenory to
16 the show-up, did he positively identify Willie Carter?

17 A. Yes, he did.

18 Q. Okay. I wasn't clear on that.

19 Detective, by law, these proceedings are
20 secret and you are prohibited from disclosing to anyone
21 anything that has transpired before us, including
22 evidence and statements presented to the Grand Jury, any
23 event occurring or statement made in the presence of the
24 Grand Jury, and information obtained by the Grand Jury.

25 Failure to comply with this admonition is a

1 gross misdemeanor punishable by a year in the Clark
2 County Detention Center and a \$2,000 fine. In addition,
3 you may be held in contempt of court punishable by an
4 additional \$500 fine and 25 days in the Clark County
5 Detention Center.

6 Do you understand this admonition?

7 THE WITNESS: Yes, I do.

8 THE FOREPERSON: Thank you. You are
9 excused.

10 THE WITNESS: Thank you.

11 MS. MERCER: Ladies and gentlemen, that was
12 our last witness. I just need to make a record. With
13 regards to the 911 calls that were published for the
14 Grand Jury, that have been marked as Grand Jury Exhibit
15 Number 5. They are accompanied by an affidavit of the
16 custodian of records for the Las Vegas Metropolitan
17 Police Department dispatch unit establishing the
18 authenticity of the calls, as well as the fact that
19 they're maintained in the ordinary course of business
20 and that they relate to the event number listed in the
21 affidavit.

22 In addition we need to correct spellings
23 for some of the listed victims' names. With regards to
24 the word Darmy at line 12 on page 2, it should be
25 D-A-R-N-Y, not D-A-R-M-Y. And with regards to line 14

1 where it says Thadin, it should be Darny Van and
2 T-H-A-V-I-N.

3 A JUROR: V as in --

4 MS. MERCER: V as in Victor. With regards
5 to Darny again at line 19, it should once again read
6 D-A-R, N as in Nancy, rather than M as in Mary.

7 On page 6 at line, 7 where it says Thadin,
8 it should once again say Thavin, T-H-A-V-I-N. And the
9 same thing at line 8 where it says Thadin.

10 I believe that is it.

11 I would once again ask that you read the
12 instructions on the law which have been marked as Grand
13 Jury Exhibit Number 2 and if you have any questions
14 regarding those instructions please grab myself or
15 Miss Rhoades. We'll leave the 911 call in the computer
16 in case any of you wish to replay it.

17 (At this time, all persons, other than
18 members of the Grand Jury, exit the room at 11:07 a.m.
19 and return at 11:29 a.m.)

20 THE FOREPERSON: Madame District Attorneys
21 Mercer and Rhoades, by 12 or more grand jurors a true
22 bill has been returned against defendants Cory Hubbard
23 and Willie Carter charging the crimes of conspiracy to
24 commit robbery, burglary while in possession of a
25 firearm, robbery with use of a deadly weapon, attempt

1 murder with use of a deadly weapon, assault with a
2 deadly weapon, and discharge of firearm within a
3 structure, in Grand Jury Case Number 13AGJ050AB. We
4 instruct you to prepare an Indictment in conformance
5 with the proposed Indictment previously submitted to us.

6 MS. MERCER: Thank you very much. We
7 appreciate it.

8 MS. RHOADES: Thank you.

9 (Proceedings concluded.)

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STATE OF NEVADA)
 : Ss
COUNTY OF CLARK)

I, Danette L. Antonacci, C.C.R. 222, do hereby certify that I took down in Shorthand (Stenotype) all of the proceedings had in the before-entitled matter at the time and place indicated and thereafter said shorthand notes were transcribed at and under my direction and supervision and that the foregoing transcript constitutes a full, true, and accurate record of the proceedings had.

Dated at Las Vegas, Nevada,
September 11, 2013

/s/ Danette L. Antonacci

Danette L. Antonacci, C.C.R. 222

OK'D TO GO S/W NOTED
MAY 17 1999
FORM DSL 290.1

**ABSTRACT OF JUDGMENT - PRISON COMMITMENT
SINGLE OR CONCURRENT COUNT FORM**

(Not to be used for Multiple Count Convictions nor Consecutive Sentences)

☒ SUPERIOR
☐ MUNICIPAL
☐ JUSTICE

COURT OF CALIFORNIA, COUNTY OF **LOS ANGELES**

ENTERED

COUNT (I.D.)
190.00.1

BRANCH OR JUDICIAL DISTRICT:

CENTRAL - CRIMINAL

ORIGINAL FILED

PEOPLE OF THE STATE OF CALIFORNIA versus
DEFENDANT: **HUBBARD, CORY**
AKA:

☒ PRESENT
☐ NOT PRESENT

LA031708

MAY 11 1999

**LOS ANGELES
SUPERIOR COURT**

**COMMITMENT TO STATE PRISON
ABSTRACT OF JUDGMENT**

**AMENDED
ABSTRACT** ☐

DATE OF HEARING (MO) (DAY) (YR)
05-07-99

DEPT. NO
103

JUDGE
CURTIS B RAPPE

CLERK
R RAMSEYER

REPORTER

C DUARTE

COUNSEL FOR PEOPLE

G ROSENSTOCK

COUNSEL FOR DEFENDANT

A EISNER

PROBATION NO. OR PROBATION OFFICER

X1723808

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONY (OR ALTERNATE FELONY/MISDEMEANOR):

COUNT	CODE	SECTION NUMBER	CRIME	YEAR COMMITTED	DATE OF CONVICTION			CONVICTED BY			TIME IMPOSED	
					MO	DAY	YEAR	JURY TRIAL	GUARD TRIAL	PLEA	YEARS	MONTHS
14	PC	211**	ROBBERY 2ND	98	04	15	99			X U	5	

2. ENHANCEMENTS charged and found true **TIED TO SPECIFIC COUNTS** (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, RAIL STATUS, ETC.:
For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385.
Add up time for enhancements on each line and enter the total in right-hand column.

Count	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Total

3. ENHANCEMENTS charged and found true **FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS** (mainly § 667-series) and OTHER.

List all enhancements based on prior convictions or prior prison terms charged and found true, if 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667.5(b) list § 667.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Total

4. OTHER ORDERS:

PAY RESTITUTION FINE \$200.00 SECTION 1202.4(B) PENAL CODE.

5. TIME STAYED § 1170.1(a) (DOUBLE BASE LIMIT):

6. TOTAL TERM IMPOSED:

7. ☐ THIS SENTENCE IS TO RUN CONCURRENT WITH ANY PRIOR UNCOMPLETED SENTENCE(S):

8. EXECUTION OF SENTENCE IMPOSED:

A. ☒ AT INITIAL SENTENCING HEARING

B. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEAL

C. ☐ AFTER REVOCATION OF PROBATION

D. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170.06)

E. ☐ OTHER

9. DATE OF SENTENCE PRONOUNCED (MO) (DAY) (YR)
05-07-99

CREDIT FOR TIME SPENT IN CUSTODY
337

INCLUDING:

ACTUAL LOCAL TIME
225

LOCAL CONDUCT CREDITS
112

STATE INSTITUTIONS
☐ DMH ☐ CDC

10. DEFENDANT IS REMAIND TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

☒ FORTHWITH

☐ AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS

INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION GUIDANCE CENTER LOCATED AT:

☐ CALIF. INSTITUTION FOR WOMEN - FRONTERA

☐ CALIF. MEDICAL FACILITY - VACAVILLE

☒ CALIF. INSTITUTION FOR MEN - CHINO

☐ DEUEL VOC. INST.

☐ OTHER (SPECIFY):

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

D.H. HERNANDEZ

DATE

MAY 11, 1999

This form is prescribed under Penal Code § 1213.5 to satisfy the requirements of § 1213 for determinate sentences under Penal Code § 1170. Attachments may be used but must be filed with this form.

**ABSTRACT OF JUDGMENT - COMMITMENT
SINGLE OR CONCURRENT COUNT FORM**

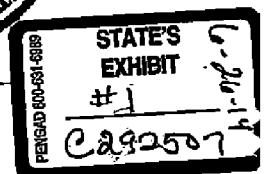
(Not to be used for Multiple Count Convictions nor Consecutive Sentences)
FORM DSL 290.1

Form Adopted by the
Judicial Council of California
Effective April 1, 1992

DISTRIBUTION:

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I certify that this is a true and correct copy
of the original documents contained within
our records.

[Handwritten Signature]

This date **SEP 30 2013**

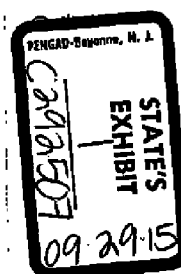
QUICKPASS

August 2, 2015 - September 2, 2015; Found 144 records.; Reported as of: 9/2/2015 at 13:10:35.; Address: 64 Honors Course Drive;

SEARCH FOR VISITORS BY RESIDENCE

9/2/2015

Date	Time	Visitor	Visiting	Method	Status
08/02/2015	02:35	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/02/2015	22:00	Carlton Callaway	Yingxuan Li	ADMIT LIST	ACCEPTED
08/03/2015	22:06	Felicia	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/06/2015	09:38	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/06/2015	16:07	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/06/2015	23:00	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/06/2015	23:03 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/07/2015	04:23 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/07/2015	13:28	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	REFUSED
08/07/2015	13:38	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/07/2015	15:15	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/07/2015	15:27	Carlton Callaway	Stilman Joseph	ADMIT LIST	ACCEPTED
08/07/2015	23:15	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/08/2015	04:41	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/08/2015	09:35	Cherron Austin	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/08/2015	12:04	Jessica Bach	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/08/2015	15:07	Carlton Callaway	Yingxuan Li	ADMIT LIST	ACCEPTED
08/08/2015	21:29	Carlton Callaway	Stilman Joseph	ADMIT LIST	ACCEPTED
08/09/2015	03:46	Cherron Austin	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/09/2015	05:00	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/09/2015	15:42	Dong, Michelle Hua	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/09/2015	21:27	Carlton Callaway	Stilman Joseph	ADMIT LIST	ACCEPTED
08/09/2015	22:15	Carlton Callaway	Stilman Joseph	ADMIT LIST	ACCEPTED
08/10/2015	00:33	Carl Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/10/2015	02:36	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	04:04	Carl Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	14:01	Carl Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	16:09	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	20:05	Carl Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	22:05 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	22:07 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	23:01	Carl Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/11/2015	04:36	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/11/2015	11:14	David Tyrece	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/11/2015	12:19	Jessica Bach	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/11/2015	13:31	Jessica Bach	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/11/2015	16:01	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/11/2015	16:54	Jessica Bach	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/11/2015	18:14	Kelsey Lloyd	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/11/2015	21:21	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/11/2015	22:37	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/12/2015	04:59	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/12/2015	10:37	Jessica Bach/Acosta Ann Driver	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/12/2015	17:01	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/12/2015	18:24	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/12/2015	19:44	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/12/2015	21:05	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/13/2015	04:37 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/13/2015	06:14	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/13/2015	16:44	Carlton Callaway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/13/2015	18:32	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/13/2015	21:59 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/14/2015	05:42	Jessica Bach	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/14/2015	20:26	Jessica Bach	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/14/2015	22:44	Donta Batiste	Michelle Hua Dong	ADMIT LIST	ACCEPTED



IFICATION



QUICKPASS

SEARCH FOR VISITORS BY RESIDENCE

9/2/2015

August 2, 2015 - September 2, 2015; Found 144 records.; Reported as of: 9/2/2015 at 13:10:35.; Address: 64 Honors Course Drive;

Date	Time	Visitor	Visiting	Method	Status
08/15/2015	09:28	Carlton Calloway	Stilman Joseph	GUARD CALLED	ACCEPTED
08/15/2015	17:25	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/15/2015	20:44	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/16/2015	01:01	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/16/2015	04:07	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/16/2015	21:18	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/17/2015	05:39	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/17/2015	06:40 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/17/2015	12:11	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/17/2015	13:03	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/17/2015	15:26	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/17/2015	17:15	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/19/2015	14:11	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/19/2015	18:06	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/19/2015	19:10	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/19/2015	19:38	Felicia	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/19/2015	20:40	Carlton Calloway	Stilman Joseph	GUARD CALLED	ACCEPTED
08/19/2015	22:51	Carlton Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/20/2015	02:42	Carlton Calloway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/20/2015	11:04	Carlton Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/20/2015	16:46	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/20/2015	19:20	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/21/2015	09:04	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/21/2015	15:08	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/21/2015	16:35	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/21/2015	20:43	Joseph, Stilman	Yingxuan Li	ADMIT LIST	ACCEPTED
08/22/2015	13:46	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/23/2015	00:37 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/23/2015	02:17	Carlton Calloway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/23/2015	21:10	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/24/2015	00:16	Carlton Calloway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/24/2015	03:29	Carlton Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/24/2015	18:37	Joseph, Stilman	Yingxuan Li	ADMIT LIST	ACCEPTED
08/24/2015	23:19 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/25/2015	12:52	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/25/2015	13:40	Clemons Orlando	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/25/2015	14:11	Briana Clark	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/25/2015	14:27	Briana Clark	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/25/2015	16:51	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/25/2015	17:49	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/25/2015	18:07	Eric Oakley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/25/2015	20:55	Bryant Young	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/25/2015	20:55	Riley Anderson	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/26/2015	00:02	Bryant Young	Michelle Hua Dong	GUARD CALLED	REFUSED
08/26/2015	00:03	Bryant Young	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/26/2015	12:23	Kenisha Bradley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/26/2015	15:05	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/26/2015	15:44	Eric Oakley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/26/2015	18:47	Bryant Young	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/26/2015	19:37	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/26/2015	20:26	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/26/2015	23:11 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/27/2015	11:58	Torice Riley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/27/2015	13:19	U S F /Lorenzo Abila	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/27/2015	14:38	Kenisha Bradley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/27/2015	15:28	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED

QUICKPASS

SEARCH FOR VISITORS BY RESIDENCE

9/2/2015

August 2, 2015 - September 2, 2015; Found 144 records.; Reported as of: 9/2/2015 at 13:10:35.; Address: 64 Honors Course Drive;

Date	Time	Visitor	Visiting	Method	Status
08/27/2015	20:06	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/27/2015	21:32	Kenisha Bradley	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/27/2015	21:51	Donta Batiste	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/27/2015	23:24	Bryant Young	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/28/2015	07:15	Toylice Riley	Stilman Joseph	GUARD CALLED	ACCEPTED
08/28/2015	13:31	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/28/2015	13:38	Eric Oakley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/28/2015	15:59	Keneisha Brasley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/28/2015	16:17	Bryant Young	Stilman Joseph	GUARD CALLED	ACCEPTED
08/28/2015	16:18	Toylice Riley	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/28/2015	17:10	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/28/2015	17:25	Keneisha Brasley	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/28/2015	17:53	Bryant Young	Yingxuan Li	ADMIT LIST	ACCEPTED
08/28/2015	17:53	Toylice Riley	Stilman Joseph	ADMIT LIST	ACCEPTED
08/28/2015	20:54	Keneisha Brasley	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/28/2015	22:03	Bryant Young	Stilman Joseph	ADMIT LIST	ACCEPTED
08/29/2015	04:40	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/29/2015	14:03	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/29/2015	16:32	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/29/2015	20:59	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/29/2015	21:01	Jenshia Brija Bradley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/30/2015	00:00 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/30/2015	11:47	Eric Oakley	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/30/2015	16:45	Carlton Callaway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/30/2015	16:48	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/30/2015	18:36	Jessica	Yingxuan Li	ADMIT LIST	ACCEPTED
08/31/2015	18:08	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
08/31/2015	19:05	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/31/2015	21:21	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
09/01/2015	08:57	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
09/01/2015	12:54	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED
09/01/2015	19:55	Joseph, Stilman	Stilman Joseph	ADMIT LIST	ACCEPTED
09/02/2015	00:11 ✓	Joseph, Stilman	Michelle Hua Dong	ADMIT LIST	ACCEPTED



STATE'S PROPOSED EXHIBIT

120
CASE NO. C292507

FILED

2013 JAN -3 PM 3:12

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



CERTIFIED
COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

THE STATE OF WASHINGTON,

No. 12-1-01798-5

Plaintiff,

JUDGMENT AND SENTENCE

v.

☒ Prison

HUBBARD, CORY DELAVONE

☐ Jail One Year or Less

☐ First Time Offender

☐ Special Drug Offender Sentencing Alternative

Defendant.

☒ Clerk's action required, firearm rights

revoked, ¶ 5.5

SID: WA26794101

☒ Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3

If no SID, use DOB:

☐ Clerk's action required, ¶ 5.6 (use of motor vehicle)

☐ Restitution Hearing set, ¶ 4.3

I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

- 2.1 CURRENT OFFENSE(S). The defendant was found guilty on December 11, 2012 by jury-verdict of:

COUNT	CRIME	RCW	CLASS	INCIDENT #	DATE OF CRIME
1	Residential Burglary	9A.52.025	B	MAR 1204967	7/27/12

as charged in the Information.

The jury returned a special verdict or the court made a special finding with regard to the following:

- ☐ See ¶ 4.1 regarding findings in relation to Drug Offender or Parenting Sentencing Alternative.
- ☐ The defendant used a firearm in the commission of the offense(s) in Count(s) RCW 9.94A.602, 9.41.010, 9.94A.533.
- ☐ The defendant used a deadly weapon other than a firearm in the commission of the offense(s) in Count(s) RCW 9.94A.602, 9.94A.533.
- ☐ The defendant committed the offense in Count(s) with sexual motivation. RCW 9.94A.835.

- ☐ Count(s) Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter, or in or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

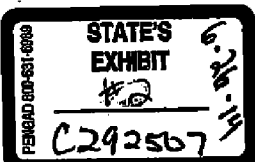
Judgment and Sentence (Felony) Over One Year Page 1 of 10
State v. HUBBARD, CORY DELAVONE
PA #12F03322 Updated 9/22/09

Snohomish County Prosecuting Attorney
Document4
NVL/WRL/mab

ORIGINAL

faxed SCSO #3692

Date 1/3/13 Clerk CC Jail 2 DPA Stacy N
CC PA 8 CC SCSO 0



43

12

- [] The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count(s) _____. RCW 9.94A.605, 69.50.401, 69.50.440.
- [] Count(s) _____ is (are) a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- [] Count(s) _____ is (are) the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A. ____.
- [] The defendant committed vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- [] Count(s) _____ involve(s) attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- [] Count(s) _____ is (are) a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- [] The defendant has a chemical dependency that has contributed to the offense(s) in Count(s) _____. RCW 9.94A.607.
- [] For the crime charged in Count(s) _____, domestic violence was pled and proved. RCW 10.99.020.
- [] The offense in Count(s) _____ was (were) committed in a county jail or state correctional facility. RCW 9.94A.533(5).
- [] Count(s) _____ involve(s) kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [] Count(s) _____ and _____ merge. (See ¶ 3.2 for dismissal of specific count.)
- [] Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY. Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	A or J (Adult or Juvenile)	TYPE OF CRIME
1	Take Motor Vehicle w/o Permission	10/25/01	Los Angeles Co, CA	A	C
2	Felon in Possession of Firearm	5/25/05	Los Angeles Co, CA	A	C

- [] The defendant committed Count(s) _____ while on community custody (adds one point to score). RCW 9.94A.525.
- [] The court finds the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):
- [] The following prior convictions are not counted as points but as enhancements pursuant to RCW 48.61.520:

2.3 SENTENCING DATA.

COUNT NO.	OFFENDER SCORE	SRA LEVEL	STANDARD RANGE (not including enhancements)	*PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	● O	IV	3-9 months 3-9		3-9 months 3-9	10 years \$20,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang Involving Minor, (AE) Endangerment While Attempting to Elude.

- 2.4 ☐ **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence ☐ above ☐ below the standard range for Count(s) _____ or ☐ within the standard range for Count(s) _____ but served consecutively to Count(s) _____.
- ☐ The defendant and State stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purpose of the Sentencing Reform Act.
- ☒ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☒ found by jury by special interrogatory. ☐ Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ The jury's interrogatory is attached. The prosecuting attorney ☒ did ☐ did not recommend a similar sentence.

- 2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant is an adult and is not disabled and therefore the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

- ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

- ☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

- 2.6 **PROSECUTOR'S RECOMMENDATION.** The prosecutor's recommendation was as follows:

18 months on Count I _____ months on Count IV
 _____ months on Count II _____ months on Count V
 _____ months on Count III _____ months on Count VI

Terms on each count to run:

- ☐ concurrently with or ☐ consecutively to each other
☐ concurrently with or ☐ consecutively to the terms imposed in Cause No(s). _____

III. JUDGMENT

- 3.1 The defendant is **GUILTY** of the counts and charges listed in Paragraph 2.1.
- 3.2 ☐ The court **DISMISSES** Count(s) _____.
- 3.3 ☐ The defendant was found **NOT GUILTY** of Count(s) _____.

IV. SENTENCE AND ORDER

IT IS ORDERED:

- 4.1 **CONFINEMENT OVER ONE YEAR.** The court sentences the defendant to total confinement as follows:

CONFINEMENT. RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

<u>14</u> months on Count I	_____ months on Count IV
_____ months on Count II	_____ months on Count V
_____ months on Count III	_____ months on Count VI

☐ The confinement time on Count(s) _____ includes _____ months as enhancement for ☐ Firearm ☐ Deadly Weapon ☐ VUCSA in a Protected Zone ☐ Manufacture of Methamphetamine with Juvenile Present ☐ other _____.

Actual term of total confinement ordered is _____ months.

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at ¶ 2.3, and the following counts which shall be served consecutively:

The sentence herein shall run consecutively to the sentence in cause number(s) _____

and consecutive to any sentence which was imposed before the date of violation for the offenses in this cause number. The sentence shall run concurrently to the sentence in cause numbers _____, RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

CREDIT FOR TIME SERVED. The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505(8). The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

☐ **WORK ETHIC PROGRAM.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in ¶ 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement.

- 4.2 ☐ **COMMUNITY CUSTODY.** RCW 9.94A.701. The defendant shall serve the following term of community custody (12 months for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate; 18 months for violent offenses; and 36 months for serious violent offenses):

Count I for a period of _____ months	Count IV for a period of _____ months
Count II for a period of _____ months	Count V for a period of _____ months
Count III for a period of _____ months	Count VI for a period of _____ months

and the conditions ordered are set forth below. The combined term of community custody and confinement shall not exceed the statutory maximum.

The defendant shall report to DOC, 8625 Evergreen Way, Suite 100, Everett, Washington 98208 not later than 72 hours after release from custody.

While on community custody, the defendant shall (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) notify DOC of any change in the defendant's address or employment; (4) not consume or possess controlled substances except pursuant to lawfully issued prescriptions; (5) not own, use, or possess firearms or ammunition; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with orders of the court as required by DOC; and (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The residence location and living arrangements are subject to the prior approval of DOC while on community custody.

- ☐ The defendant shall not consume any alcohol.
- ☐ The defendant shall have no contact with _____. ☐ See ¶ 4.5.
- ☐ The defendant shall remain ☐ within ☐ outside of a specific geographical boundary, to wit:

- ☐ The defendant shall participate in the following crime-related treatment or counseling services:

- ☐ The defendant shall participate in the following: ☐ State certified domestic violence treatment program ☐ chemical dependency evaluation ☐ mental health evaluation ☐ anger management program, and fully comply with all recommended treatment.
- ☐ The defendant shall comply with the following crime-related prohibitions: _____

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the clerk of the court:

PVC	☒ \$500	Victim assessment	RCW 7.68.035
CRC	\$ <u> </u> ☒ waived	Court costs, including	RCW 9.94A.030, .050; 10.01.160
		Criminal filing fee	\$ <u> </u> FRC
		Witness costs	\$ <u> </u> WFR
		Sheriff service fees	\$ <u> </u> SFR/SFS/SFW/SRF
		Jury demand fee	\$ <u> </u> JFR
		Other	\$ <u> </u> RCW 10.46.190
PUB	☐ \$962 ☒ waived	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ <u> </u>	Court appointed defense expert and other costs	RCW 9.94A.760
FCM	☐ \$1,000 ☐ \$2,000	Fine RCW 9A.20.021; ☐ VUCSA additional fine	RCW 68.50.430
		deferred due to indigency	
CDP/LDW	\$ <u> </u>	Drug enforcement fund of \$ <u> </u>	RCW 9.94A.760
FCO/NTF/SAD/SDI	\$ <u> </u>	Crime lab fee ☐ suspended due to indigency	RCW 43.43.690
CLF	☐ \$100	Extradition costs	RCW 9.94A.505
EXT	\$ <u> </u>	Emergency response costs (Vehicular Assault,	
RTNRJN	\$ <u> </u>	Vehicular Homicide, DUI only, \$2,500 maximum)	RCW 38.52.430
	☒ \$100	Biological Sample Fee	RCW 43.43.7541
		(for offenses committed after 07-01-2002)	
PDV	☐ \$100	Domestic Violence Penalty (for offenses committed	RCW 10.99.080
	\$ <u> </u>	after 06-04-2004 -- maximum \$100)	
	\$ <u> </u>	Other costs for: <u> </u>	
	\$ <u>600</u>	TOTAL	RCW 9.94A.760

☒ **RESTITUTION.** The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.

☐ A restitution hearing shall be set for
☒ Defendant waives any right to be present at any restitution hearing (sign initials):
☐ Defendant waives any right to a restitution hearing within 6 months. RCW 9.94A.750.

☐ A separate Restitution Order is being entered contemporaneously with this Judgment and Sentence.

☐ The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here of not less than:

\$ 20 per month commencing 120 days after release. RCW 9.94A.760.

All payments shall be made within 36 months of ☒ release of confinement;
☐ entry of judgment; ☐ other

The defendant shall report to the clerk of the court or as directed by the clerk to provide financial and other information requested. RCW 9.94A.760(7)(b).

☐ In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$100.00 per day (not to exceed \$100 per day) unless another rate is specified here . RCW 9.94A.760(2).

☒ The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 38.18.190.

☒ The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

- 4.4 ☒ **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.
- ☐ **HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 106, Everett, Washington 98201 within one (1) business day of entry of this order to arrange for the test. RCW 70.24.340.
- 4.5 **NO CONTACT.**
- ☒ The defendant shall not have contact with Kimberly Davis (DOB: 7/5/94)
or Barbara Terwisscha (DOB: 4/1/56) (name, DOB)
including, but not limited to, personal, verbal, telephonic, written or contact through a third party until 12/19/2022 (date) (not to exceed the maximum statutory sentence). **EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.**
- ☐ A separate post conviction Domestic Violence No Contact Order, Anti-Harassment Order, or Sexual Assault Protection Order ☐ was filed at the time of entry of the plea of guilty/guilty verdict ☐ is filed contemporaneously with this Judgment and Sentence. *(Entry of a separate order makes a violation of this no contact sentencing provision also punishable as a criminal offense, and the order will be entered into the law enforcement database.)*
- ☐ The pre-trial Domestic Violence No Contact Order, Anti-Harassment Order, or Sexual Assault Protection Order entered on _____ is hereby terminated.
- 4.6 **OTHER.** _____

- 4.7 **OFF-LIMITS ORDER.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

- 4.8 Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

V. NOTICES AND SIGNATURES

- 5.1 COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5).
- 5.3 NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 VIOLATION OF JUDGMENT AND SENTENCE/COMMUNITY CUSTODY VIOLATION.**
(a) Any violation of a condition or requirement of sentence is punishable by up to 60 days confinement for each violation. RCW 9.94A.633.
(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.
- 5.5 FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. *(The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.)* RCW 9.41.040, 9.41.047.
(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.)
The defendant is ordered to forfeit any firearm he/she owns or possesses no later than _____ to _____ *(name of law enforcement agency).* RCW 9.41.098
- 5.6 MOTOR VEHICLE.** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.7 CERTIFICATE OF DISCHARGE.**
(a) If you are under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received notice from Department of Corrections and clerk's office that you have completed all requirements of the sentence and satisfied all legal financial obligations. RCW 9.94A.637.
(b) If you are not under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received verification from you that you have completed all sentence conditions other than payment of legal financial obligations and the clerk's office that you have satisfied all legal financial obligations.

5.8 RIGHT TO APPEAL. If you plead not guilty, you have a right to appeal this conviction. If the sentence imposed was outside of the standard sentencing range, you also have a right to appeal the sentence. You may also have the right to appeal in other circumstances.

This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

5.9 VOTING RIGHTS STATEMENT. I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

5.10 OTHER. _____

DONE In Open Court and in the presence of the defendant this date: 12/2/11

JUDGE ELLEN J. FAIR
Print name:

Bob Langbehn
BOB LANGBEHN
WSBA 37508
Deputy Prosecuting Attorney

Jason M. Schwarz
JASON M. SCHWARZ
WSBA 38062
Attorney for Defendant

Cory Delavone Hubbard
CORY DELAVONE HUBBARD
Defendant

Interpreter signature/Print name: _____

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language. Cause No. of this case: 12-1-01798-5.

I, Sonya Kreski, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID Number: WA28794101
(If no SID, take fingerprint card for State Patrol)

Date of Birth: 09/10/1962

FBI Number: 120275FB7

Local ID Number: _____

PCN Number: _____

DOC Number: _____

Alias name, SSN, DOB: JOHN D MOON May 15 1987

Race: Black

Ethnicity:

Sex: M

☐ Hispanic

☐ Non-Hispanic

Height: 511

Weight: 190

Hair: Black

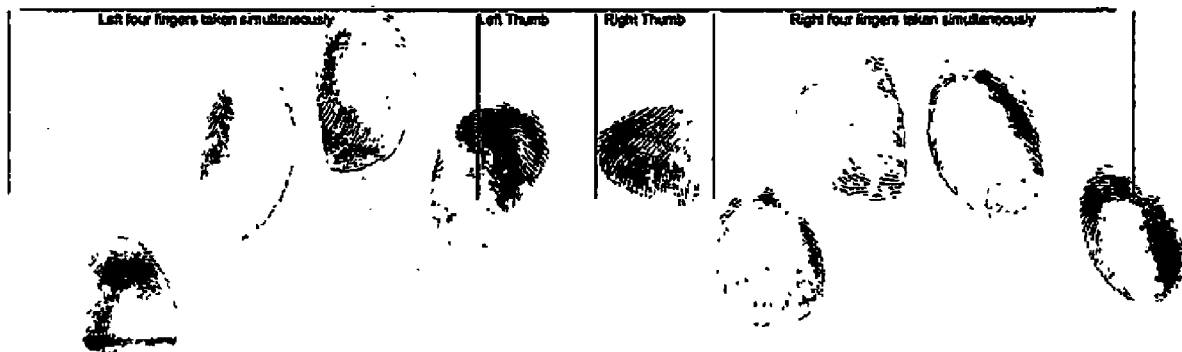
Eyes: Brown

FINGERPRINTS: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: K VAWISKI, Deputy Clerk.

Dated: 12-19-12

DEFENDANT'S SIGNATURE: *[Signature]*

ADDRESS: 1853 W 58th Pl, Los Angeles CA 90044



**PLEADING
CONTINUES
IN NEXT
VOLUME**