

# 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  
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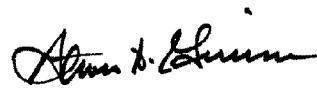
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CLERK OF THE COURT

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 7<sup>th</sup> 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 15<sup>th</sup> 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,

CASE NO: C-13-292507-2

10 -vs-

DEPT NO: XXIV

11 WILLIE CARTER,  
12 #5181937

ORDER FOR TRANSCRIPT

13 Defendant.

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 17<sup>th</sup> day of March, 2014.

21  
22   
23 DISTRICT JUDGE

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

27 BY 

28 LIZ MERCER  
Chief Deputy District Attorney  
Nevada Bar #010681

mmw/GCU



1 TRAN

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

Electronically Filed  
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5  
6 THE STATE OF NEVADA, )

7 Plaintiff, )

8 vs. )

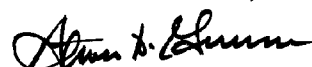
9 WILLIE CARTER, )

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

abetted

defendant

<p style="text-align: center;"><b>A</b></p> <p>abetted {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}</p>	<p>{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 {13:17}  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 {9:15}  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}</p>
<p style="text-align: center;"><b>B</b></p> <p>basically {7:25}  because {2:14} {13:17} (18:13)  been {3:3} (20:4)  before {1:13} (6:24) (20:16) (21:10)  behalf {8:7}  being {2:19} (16:18)  bixler {1:13} (21:10)  both {11:6}  bottom {2:6} (2:15) (12:19) (13:2) (13:13)  briones {16:24}  but {2:12} (2:18) (3:21) (3:24) (9:10) (11:7)</p>	<p style="text-align: center;"><b>D</b></p> <p>darny {15:6}  dated {21:12}  david {15:13} (18:25) {19:1}  day {18:23} (21:13)  days {20:7}  deadly {4:16} (6:8) (9:9) (9:17) (9:20) (10:1) (10:6)  {10:11} (11:3) (12:6) (15:17) (18:11) (19:25) (20:2)  deal {13:3}  defendant {1:10} (1:21) (2:7) (2:11) (2:14) (2:19) (2:22)  {3:2} {3:8} (3:11) {3:14} (3:16) (3:19) (4:1) (4:4) (4:7)  {4:11} (4:23) (5:6) (5:15) (5:20) (5:22) (5:25) (6:5) (6:13)  {6:17} (6:22) (6:25) (7:3) (7:6) (7:9) (7:13) (7:17) (7:20)  {7:23} (8:3) (8:15) (8:20) (9:1) (9:6) (9:14) (9:23) (10:4)</p>
<p style="text-align: center;"><b>C</b></p> <p>can {10:10} (14:10) (20:18)  cangemi {1:25} {21:6} (21:16)  cap {12:25} (13:12) (13:22)  carter {1:9} (2:6) (2:7) (2:20) (3:1) (3:7)  case {1:8} (2:9) (3:4) (16:16)  cases {17:10}  category {4:16} (4:17) (6:8) (6:9) (19:24) (20:3)  ccr {1:25} (21:6) (21:16)  cell {15:5} (15:7) (15:9) (15:12) (16:9) (16:18) (16:20)</p>	

dept

moving

<p>(13:7) (10:14) (10:20) (11:5) (11:11) (11:15) (11:20) (11:25) (12:9) (12:21) (14:3) (14:9) (14:15) (16:4) (16:6) (16:12) (17:8) (17:19) (18:16) (18:21) (19:5) (19:8) (19:13) (19:19)</p> <p><b>dept</b> (1:9)</p> <p><b>deputy</b> (1:20)</p> <p><b>did</b> (4:2) (5:21) (6:15) (7:5) (7:7) (7:10) (7:14) (7:18) (15:3) (16:16) (17:3) (18:10) (18:23) (18:25)</p> <p><b>different</b> (17:10) (17:11) (17:21)</p> <p><b>directly</b> (15:20) (17:4)</p> <p><b>discuss</b> (5:23)</p> <p><b>discussed</b> (6:18) (6:23) (7:21)</p> <p><b>dismissing</b> (4:21)</p> <p><b>district</b> (1:3) (1:20) (21:11)</p> <p><b>doing</b> (12:14) (12:18) (13:16)</p> <p><b>don't</b> (8:11)</p> <p><b>down</b> (14:1) (20:6) (20:12)</p>	<p><b>H</b></p> <p><b>habeas</b> (20:19)</p> <p><b>habitual</b> (9:3)</p> <p><b>had</b> (3:12) (16:10)</p> <p><b>happened</b> (17:18)</p> <p><b>has</b> (3:3) (9:2) (9:18) (10:1) (10:8) (10:21)</p> <p><b>have</b> (2:9) (2:24) (3:12) (5:12) (6:18) (8:17) (10:12) (18:9)</p> <p><b>having</b> (7:25) (20:4)</p> <p><b>hereby</b> (21:6)</p> <p><b>him</b> (4:24)</p> <p><b>hon</b> (21:10)</p> <p><b>honor</b> (2:12) (3:8) (3:11) (4:4) (4:23) (4:24) (5:6) (5:15) (6:13) (7:13) (7:23) (8:15) (8:20) (9:1) (9:6) (9:14) (10:4) (11:25) (12:21) (13:11) (13:23) (14:9) (14:15) (14:23) (16:4) (16:6) (16:12) (17:8) (17:12) (17:19) (17:21) (18:1) (18:16) (18:21) (19:5) (19:13) (19:19)</p> <p><b>honorable</b> (1:13)</p> <p><b>hood</b> (15:8)</p> <p><b>house</b> (18:1)</p> <p><b>how</b> (3:20) (6:11)</p> <p><b>however</b> (11:12)</p>
<p><b>E</b></p> <p><b>each</b> (8:23) (10:10) (10:25) (15:3) (18:4) (18:5) (18:11)</p> <p><b>effected</b> (2:21)</p> <p><b>eighth</b> (1:3)</p> <p><b>either</b> (15:20) (15:22) (17:1) (17:3) (17:4)</p> <p><b>elizabeth</b> (1:19)</p> <p><b>else</b> (19:20)</p> <p><b>end</b> (12:16) (12:18) (12:19) (13:2)</p> <p><b>english</b> (3:10)</p> <p><b>enhancement</b> (9:19) (9:25) (10:6) (10:11) (10:24)</p> <p><b>entered</b> (20:5)</p> <p><b>entering</b> (14:5) (19:9) (19:16)</p> <p><b>entirely</b> (13:19)</p> <p><b>entitled</b> (7:15) (18:12)</p> <p><b>esq</b> (1:19) (1:21)</p> <p><b>even</b> (10:8)</p> <p><b>event</b> (13:7) (17:20)</p> <p><b>expect</b> (20:9)</p> <p><b>explained</b> (8:13)</p> <p><b>explaining</b> (13:16)</p>	<p><b>I</b></p> <p><b>impose</b> (9:16) (10:17) (11:14) (12:2) (13:21) (14:7) (14:12) (20:16)</p> <p><b>imposed</b> (13:18) (13:19)</p> <p><b>indictment</b> (2:14) (2:24) (3:4) (3:13) (3:25) (5:3) (5:12) (14:17) (14:19) (14:24) (15:1) (18:4)</p> <p><b>information</b> (20:14)</p> <p><b>intentionally</b> (15:4) (16:17) (18:24)</p> <p><b>into</b> (18:8)</p> <p><b>investigative</b> (20:11)</p> <p><b>involves</b> (2:18)</p> <p><b>involving</b> (2:20)</p> <p><b>ipad</b> (15:5) (15:7) (15:9) (15:12) (16:18) (16:20)</p> <p><b>ipads</b> (16:9) (16:22) (18:19)</p>
<p><b>F</b></p> <p><b>fact</b> (14:18) (18:17)</p> <p><b>factual</b> (16:2)</p> <p><b>fear</b> (15:15) (17:7)</p> <p><b>felonies</b> (6:8)</p> <p><b>felony</b> (4:16) (4:18) (6:9) (19:24) (20:3)</p> <p><b>few</b> (20:10)</p> <p><b>file</b> (4:25) (5:8)</p> <p><b>filed</b> (2:14) (20:19)</p> <p><b>firearm</b> (15:17) (17:14) (17:17)</p> <p><b>fired</b> (19:6)</p> <p><b>first</b> (3:6) (17:23)</p> <p><b>flenory</b> (15:11)</p> <p><b>folks</b> (16:25) (17:9) (17:17)</p> <p><b>for</b> (1:19) (1:21) (2:10) (2:24) (9:19) (9:27) (9:25) (10:6) (10:15) (10:17) (10:24) (10:25) (11:2) (11:3) (11:14) (11:17) (12:4) (12:5) (12:24) (13:1) (13:4) (13:6) (13:12) (13:18) (13:25) (14:21) (18:7) (20:6) (20:17)</p> <p><b>force</b> (15:15) (15:16) (17:1) (17:2)</p> <p><b>foregoing</b> (21:7)</p> <p><b>forgot</b> (17:13)</p> <p><b>freely</b> (19:10) (20:4)</p> <p><b>from</b> (14:17) (15:6) (15:8) (15:10) (15:13) (15:14) (16:17) (16:19) (16:21) (16:23) (16:25) (17:16) (19:15) (20:8)</p> <p><b>further</b> (9:2)</p>	<p><b>J</b></p> <p><b>james</b> (1:13) (21:10)</p> <p><b>january</b> (20:17)</p> <p><b>judge</b> (2:11)</p> <p><b>judicial</b> (1:3)</p> <p><b>just</b> (2:21) (13:11) (16:3) (17:21) (18:2)</p>
<p><b>G</b></p> <p><b>get</b> (4:24) (7:8) (7:11) (13:24)</p> <p><b>give</b> (13:5)</p> <p><b>going</b> (4:12) (4:14) (5:4) (5:8) (6:2) (6:11) (12:22) (12:23) (13:14) (13:21) (14:12) (14:16) (14:18) (16:8) (20:8)</p> <p><b>goldstein</b> (1:21) (2:10) (2:18) (5:10) (11:16) (12:25) (13:11) (14:23) (17:20) (18:5) (20:13) (20:18)</p> <p><b>guilty</b> (2:9) (4:13) (4:14) (4:20) (4:25) (5:4) (5:17) (6:1) (6:3) (6:13) (6:15) (6:19) (6:24) (7:2) (7:5) (7:8) (7:11) (7:12) (7:15) (8:18) (8:21) (8:24) (19:10) (19:16) (19:23)</p> <p><b>gun</b> (16:10) (18:18) (19:7)</p> <p><b>guys</b> (16:7) (16:10) (17:16) (18:17)</p>	<p><b>K</b></p> <p><b>kenneth</b> (15:10)</p> <p><b>kill</b> (18:25)</p> <p><b>kind</b> (13:13) (13:20) (14:11)</p> <p><b>knew</b> (16:7)</p> <p><b>knowingly</b> (16:16)</p>
	<p><b>L</b></p> <p><b>las</b> (1:22) (2:1) (21:12) (21:18)</p> <p><b>law</b> (9:25)</p> <p><b>lawful</b> (18:23)</p> <p><b>let's</b> (12:1)</p> <p><b>liable</b> (15:19)</p> <p><b>listed</b> (17:21)</p>
	<p><b>M</b></p> <p><b>machine</b> (21:9)</p> <p><b>make</b> (18:2) (20:13)</p> <p><b>malice</b> (18:25)</p> <p><b>many</b> (3:20)</p> <p><b>march</b> (21:13)</p> <p><b>max</b> (10:23) (13:6)</p> <p><b>maxed</b> (11:1) (12:10) (12:13) (12:17) (13:5)</p> <p><b>maximum</b> (10:15) (10:16) (11:8) (11:17) (12:2) (12:24) (13:8) (13:17) (14:6)</p> <p><b>may</b> (19:15)</p> <p><b>means</b> (9:13) (15:15)</p> <p><b>mercier</b> (1:19) (2:16) (2:25) (3:23) (4:24) (13:1) (15:24) (17:11) (17:25) (19:2) (19:21)</p> <p><b>merely</b> (2:21)</p> <p><b>more</b> (13:2) (13:4)</p> <p><b>moving</b> (5:7)</p>

murder

that

<b>murder</b> (4:17) (6:10) (9:11) (11:14) (11:18) (12:11) (20:4)	<b>reached</b> (5:12) (5:17)
<b>N</b>	<b>read</b> (3:9) (4:8) (5:21) (6:14) (6:23) (7:14) (14:16) (14:18) (16:3)
<b>name</b> (3:6)	<b>reading</b> (4:9) (6:16)
<b>named</b> (3:20) (3:21) (3:24) (4:22) (5:3) (18:4)	<b>reason</b> (18:9)
<b>need</b> (20:12)	<b>recommend</b> (13:14)
<b>needs</b> (2:13) (2:16) (20:15)	<b>reflected</b> (5:17) (21:8)
<b>negotiated</b> (18:13)	<b>regards</b> (7:25) (17:13)
<b>negotiation</b> (18:7)	<b>report</b> (20:12)
<b>nevada</b> (1:3) (1:6) (1:22) (2:1) (21:2) (21:12) (21:18)	<b>reported</b> (1:25) (21:7)
<b>next</b> (2:5) (5:8) (20:10)	<b>reporter</b> (21:17)
<b>not</b> (4:25) (5:4) (6:3) (7:5) (7:11) (8:17) (9:3) (9:8) (13:1) (13:6) (13:13) (13:25) (14:20) (20:15)	<b>reporter's</b> (1:15)
<b>notes</b> (21:9)	<b>resolved</b> (2:12)
<b>now</b> (4:12) (5:7) (20:6)	<b>rest</b> (4:21)
<b>O</b>	<b>result</b> (19:15)
<b>october</b> (1:14) (2:1)	<b>retain</b> (8:22)
<b>offense</b> (17:4) (17:6) (20:4)	<b>retains</b> (9:10) (11:21)
<b>once</b> (14:10) (16:15) (19:9)	<b>right</b> (5:14) (7:21) (7:22) (8:4) (8:6) (8:8) (8:10) (8:12) (8:22) (9:10) (11:21) (13:15) (19:22)
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<b>oppose</b> (9:8)	<b>robberies</b> (12:5)
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<b>out</b> (4:19) (10:23) (11:1) (12:10) (12:13) (12:17) (13:5)	<b>roberts</b> (16:19)
<b>own</b> (8:6)	<b>run</b> (9:9) (9:12) (10:10) (11:7)
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<b>part</b> (13:3)	<b>says</b> (15:2) (15:19) (16:14) (16:15) (18:22)
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## Y

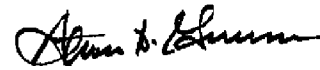
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COSCC



CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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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

1 Willie Terry Carter #1114323  
 2 Southern Desert Correctional Center  
 3 23010 Cold Creek Rd.  
 4 PO Box 206  
 5 Indian Springs, NV 89070

FILED

DEC 16 2019

*John L. Sullivan*  
 CLERK OF COURT

District Court  
 Clark County, Nevada

8 Willie Terry Carter #1114323  
 9 Petitioner / Plaintiff

C-13-292507-2  
 Dept. XVIII

10 = VS =

12 The State of Nevada  
 13 Respondant / Defendant

January 7, 2020  
 9:00 AM

15 Motion To Correct Illegal Sentence

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

RECEIVED  
 DEC 16 2019  
 CLERK OF COURT

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

# 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 7<sup>th</sup> 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.

16 //

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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 //

19 //

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.

25 //

26 //

27 //

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1  
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 13<sup>th</sup> 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

2

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

10

11 Clark County DA's office

12 200 Lewis Ave

13 Las Vegas, NV 89115

14

15 Clerk of the Court

16 200 Lewis Ave.

17 Las Vegas, NV 89115

18

19 CC:File

20

21 Dated this 13<sup>th</sup> day of December 2019

22

23

Willie Carter

24

Willie Terry Carter #1114323

25

Plaintiff / In Propria Personam

26

Post Office Box 208 (SDCC)

27

Indian Springs, NV 89170

28

IN FORMA PAUPERIS

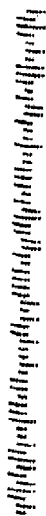
29

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:

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  
20 1 along with seven other individuals, including minor children  
21 (DOB 07-23-2000 and 05-05-2010), where [sic] inside the home  
22 at the time of the robbery. Minutes later, officers learned that a  
23 male subject was located at a local store, had been shot, and was  
24 bleeding. The male subject was identified as Cory Hubbard and he  
25 was transported to UMC for his injuries.

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

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

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

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

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

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

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

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

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

#### 19 **AUTHORITY**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

9 NRS 193.165(4) provides:

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

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

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

21 5. The court shall not grant probation to or suspend the sentence  
22 of any person who is convicted of using a firearm, other deadly  
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:

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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  
9 stated that Mr. Carter, "...left after taking his cell phone. He let  
10 off a round and then fled the scene."

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

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

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



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

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

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

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

#### 19 **AUTHORITY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 NRS 193.165(4) provides:

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

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

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

21 5. The court shall not grant probation to or suspend the sentence  
22 of any person who is convicted of using a firearm, other deadly  
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.

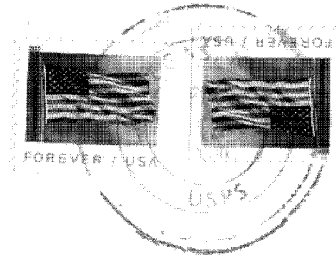
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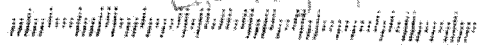
29

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



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

6910186300 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 GJ050 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.

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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.

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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.

26 ///

27 ///

28 ///

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  
10 BY

LIZ MERCER  
11 Chief Deputy District Attorney  
Nevada Bar #010681

12 ENDORSEMENT: A True Bill

13  
14 \_\_\_\_\_  
Foreperson, Clark County Grand Jury

Names of witnesses testifying before the Grand Jury:

BASNER, SPENCER, LVMPD# 8784  
BODDIE, CHRISTOPHER, LVMPD# 8914  
BRUNO, BERNARD, LVMPD# 7912  
FLENORY, KENNETH, 5419 VALLEY WELLS WY, LV NV 89113  
HOOD, ASIA, 657 SHIREHAMPTON DR, LV NV 89178  
POWERS, DAVID, 657 SHIREHAMPTON RD, LV NV 89178  
ROBERTS, ANTHONY, 657 SHIREHAMPTON DR, LV NV 89178  
ROBERTS, VINCENT, LVMPD# 5714  
SCLIMENTI, MICHAEL, LVMPD# 6239

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

ABELL, JEFFERY, LVMPD# 8744  
BOOZE, RUSSELL, LVMPD# 6394  
BRIONES, TRINITY, c/o CCDA, 200 Lewis Ave, LV, NV  
CORNELL, LAURA, LVMPD# 13576  
CUSTODIAN OF RECORDS, AMR  
CUSTODIAN OF RECORDS, CCDC  
CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS  
CUSTODIAN OF RECORDS, LVMPD RECORDS  
FLYNN, PATRICK, LVMPD# 6463  
HUTCHINGS, DANIEL, LVMPD# 8535  
HUTH, DENISE, LVMPD# 8543  
JOHNSTON, JEFFERY, LVMPD# 6640  
LEE, DONALD, LVMPD# 10062  
OBRIEN, CHRISTOPHER, LVMPD# 6801  
TURNER, LINDA, LVMPD# 6015  
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

7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 CORY DEALVONE HUBBARD,  
#5994122

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

13 Defendants.

14

15

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  
28

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.  
7

8 **Deadly Weapon**

9 You are instructed that a firearm is a deadly weapon.  
10

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.

9

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 EVENT #: 130822-4087  
ADDRESS: 657 SHIREHAMPTON LWN 89178 INTERVIEWED BY: J. ABELL  
PHONE NUMBER: (702) 305-0628 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:

~~31209~~ 31209 I Picked number <sup>8:15</sup> 4  
he stood as one of the guys  
I saw the night of crime  
I no that Face has jumpin off  
the page At me

SIGNED: *[Signature]*

DATE & TIME: 10-10-13

OFFICER'S NAME & P#:

J. ABELL P#8744  
LINEUP # 31209

8:21

Grand Jury Case # 13AG-J050A-C

Exhibit # 9

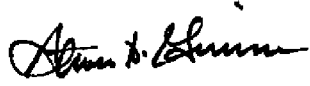
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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CLERK OF THE COURT

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

1	<u>INDEX OF WITNESSES</u>	
2		<u>Examined</u>
3		
4	ASIA HOOD	7
5	DAVID POWERS	21
6	VINCENT ROBERTS	34
7	KENNETH FLENORY	52
8	BERNARD BRUNO	67
9	ANTHONY ROBERTS	85
10	CHRISTOPHER BODDIE	95
11	SPENCER BASNER	103
12	MICHAEL SCLIMENTI	107
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INDEX OF EXHIBITS

<u>Grand Jury Exhibits</u>	<u>Identified</u>
1 - PROPOSED INDICTMENT	5
2 - INSTRUCTIONS	5
3 - PHOTOGRAPH	100
4 - PHOTOGRAPH	72
5 - TAPE OF 911 CALL	77

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    complexioned, 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 Darny 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.)

10 --oo0oo--

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1                                    **REPORTER'S CERTIFICATE**

2  
3    **STATE OF NEVADA**            )  
                                      :    Ss  
4    **COUNTY OF CLARK**        )

5  
6                            I, Danette L. Antonacci, C.C.R. 222, do  
7    hereby certify that I took down in Shorthand (Stenotype)  
8    all of the proceedings had in the before-entitled matter  
9    at the time and place indicated and thereafter said  
10   shorthand notes were transcribed at and under my  
11   direction and supervision and that the foregoing  
12   transcript constitutes a full, true, and accurate record  
13   of the proceedings had.

14                           Dated at Las Vegas, Nevada,  
15   September 11, 2013

16  
17                           /s/ Danette L. Antonacci

18                           \_\_\_\_\_  
19                           Danette L. Antonacci, C.C.R. 222  
20  
21  
22  
23  
24  
25

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	CRIM. 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

TOTAL DAYS

**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

☐ SAN QUENTIN

☒ 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**

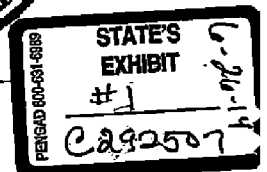
(Not to be used for Multiple Count Convictions nor Consecutive Sentences)  
FORM DSL 290.1

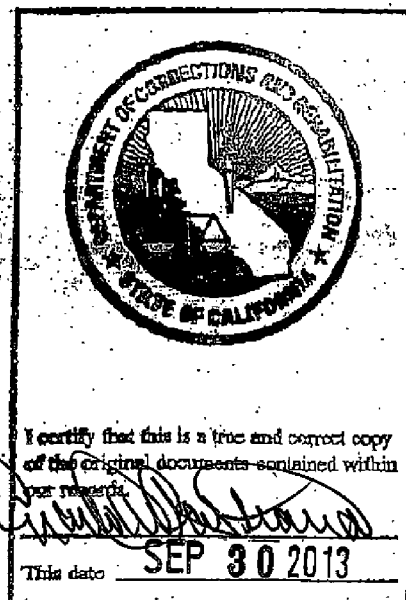
Form Adopted by the  
Judicial Council of California  
Effective April 1, 1992

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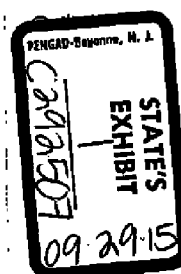
# QUICKPASS

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 Calloway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/06/2015	16:07	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/06/2015	23:00	Carlton Calloway	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 Calloway	Michelle Hua Dong	GUARD CALLED	REFUSED
08/07/2015	13:38	Carlton Calloway	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 Calloway	Stilman Joseph	ADMIT LIST	ACCEPTED
08/07/2015	23:15	Carlton Calloway	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	Charron 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 Calloway	Michelle Hua Dong	GUARD CALLED	ACCEPTED
08/10/2015	02:36	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	04:04	Carl Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	14:01	Carl Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	16:09	Jessica	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/10/2015	20:05	Carl Calloway	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 Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/11/2015	04:36	Carlton Calloway	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 Calloway	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 Calloway	Michelle Hua Dong	ADMIT LIST	ACCEPTED
08/11/2015	22:37	Carlton Calloway	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  
☐ Jail One Year or Less  
☐ First Time Offender  
☐ Special Drug Offender Sentencing Alternative  
☒ Clerk's action required, firearm rights  
revoked, ¶ 5.5  
☒ Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3  
☐ Clerk's action required, ¶ 5.6 (use of motor vehicle)  
☐ Restitution Hearing set, ¶ 4.3

HUBBARD, CORY DELAVONE

Defendant.

SID: WA26794101  
If no SID, use DOB:

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:

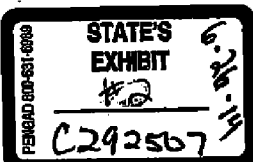
- ☐ See ¶ 4.1 regarding findings in relation to Drug Offender or Parenting Sentencing Alternative.  
☐ The defendant used a firearm in the commission of the offense(s) in Count(s) RCW 9.94A.602, 9.41.010, 9.94A.533.  
☐ The defendant used a deadly weapon other than a firearm in the commission of the 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.

ORIGINAL

faxed SCSO #3692

Date 1/3/13 Clerk 5/1 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):

	<u>CRIME</u>	<u>DATE OF SENTENCE</u>	<u>SENTENCING COURT (County &amp; State)</u>	<u>A or J (Adult or Juvenile)</u>	<u>TYPE OF CRIME</u>
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	<del>3-9</del> months 3-9		<del>3-9</del> 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.



- 4.4 ☒ **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  
WSBA 37508  
Deputy Prosecuting Attorney

JASON M. SCHWARZ  
WSBA 38062  
Attorney for Defendant

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

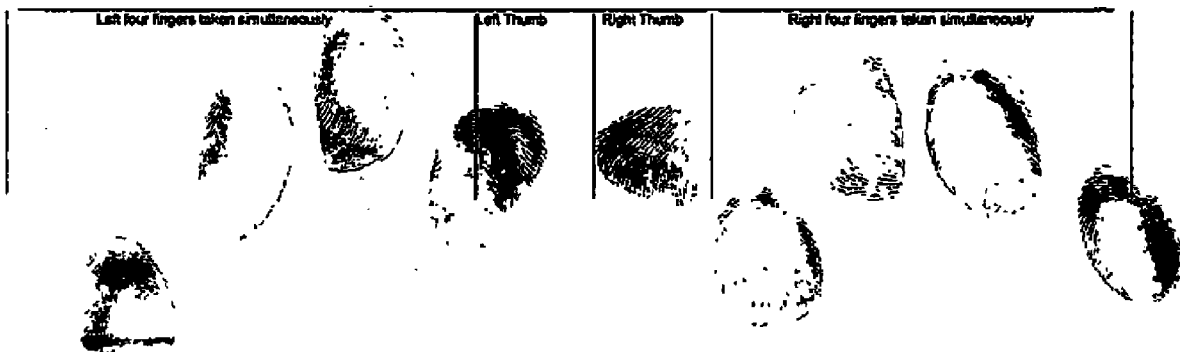
Eyes: Brown

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 58<sup>th</sup> Pl, Los Angeles CA 90044



**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**