

NOA
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Attorney for Defendant
Kevin Sunseri

Electronically Filed
Jul 30 2020 11:30 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

State of Nevada,)	Case No.: C-18-334808-1
Plaintiff)	Dept. No: XVII
)	
vs.)	NOTICE OF APPEAL
)	
Kevin Sunseri,)	
Defendant)	
)	

NOTICE IS HEREBY GIVEN that Defendant/Appellant, KEVIN SUNSERI, hereby appeals to the Supreme Court of Nevada from the Judgment of Conviction in the above-referenced case entered on or about July 1, 2020.

DATED this 26 day of July, 2020.

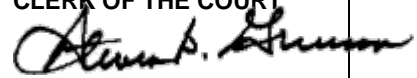
By:
NEVADA DEFENSE GROUP

By: /s/ Damian Sheets
Damian Sheets, Esq.
Nevada Bar No. 10755
714 S. Fourth Street
Las Vegas, Nevada 89101

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Clark County District Attorney's Office
200 Lewis Ave., 3rd Floor
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Attorney for Defendant
Kevin Sunseri

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

THE STATE OF NEVADA,)	Case No.: C-18-334808-1
)	Dept. No: XVII
Plaintiff/Respondent,)	
)	
vs.)	
)	
KEVIN SUNSERI,)	
)	
Defendant/Appellant.)	
)	

CASE APPEAL STATEMENT

1. Name of Appellant filing this case appeal statement: Kevin Sunseri
2. Identify the judge issuing the decision, judgment or order appealed from: Judge Michael Villani, Eighth Judicial District Court, Department 17.
3. Identify each appellant and the name and address of counsel for each appellant:
Appellant: Kevin Sunseri
Appellant's Counsel: Damian Sheets
Nevada Defense Group
714 S. Fourth Street
Las Vegas, NV 89101
(702) 988-2600
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent:
Respondent: State of Nevada

Respondent's Counsel: Steve Wolfson
Clark County District Attorney's Office
200 Lewis Ave.,
Las Vegas, NV 89101
(702) 671-2500

5. Indicate whether any attorney identified above is not licensed to practice law in Nevada: None
6. Indicate whether appellant was represented by appointed or retained counsel in the District Court: Retained counsel.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Retained counsel.
8. Indicate whether appellant was granted leave to proceed in forma pauperis: No.
9. Indicate the date the proceedings commenced in the District Court:
Information: September 14, 2018
Guilty Plea Agreement: September 21, 2018
Sentencing: June 30, 2020
Judgment of Conviction: July 1, 2020
10. Provide a brief description of the nature of the action and the result in district court:
Appellant pled guilty to Robbery (1 count) and Ownership or Possession of Firearm by Prohibited Person (1 count). Appellant sought both to withdraw his plea and dismiss the case pursuant to *Doggett v. United States*. Both requests were denied. He was sentenced pursuant to the plea agreement to the following: Count 1, 66-180 months; Count 2, 24-60 months concurrent to Count 1, with 674 days credit for time served.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court: No.
12. Indicate whether this appeal involves child custody or visitation: No.

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13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: N/A

Dated this 26 day of July, 2020

/s/ Damian Sheets
Damian Sheets, Esq.
714 S. Fourth Street
Las Vegas, Nevada 89101
Telephone: (702) 988-2600

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-18-334808-1**

State of Nevada
vs
Kevin Sunseri

§
§
§
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§

Location: **Department 17**
 Judicial Officer: **Villani, Michael**
 Filed on: **09/12/2018**
 Cross-Reference Case Number: **C334808**
 Defendant's Scope ID #: **8266913**
 ITAG Booking Number: **1800045160**
 ITAG Case ID: **2068790**
 Lower Court Case # Root: **16F07251**
 Lower Court Case Number: **16F07251X**
 Metro Event Number: **1512110017**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. ROBBERY	200.380	F	12/10/2015	Case Status:	07/01/2020 Closed
PCN: 0029860874 ACN: 1512110017					
Arrest: 08/27/2018 MET - Metro					
2. OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON	202.360.1	F	12/10/2015		

Statistical Closures

07/01/2020 Guilty Plea with Sentence (before trial) (CR)






DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number	C-18-334808-1
Court	Department 17
Date Assigned	09/12/2018
Judicial Officer	Villani, Michael

PARTY INFORMATION

Defendant	Sunseri, Kevin	<i>Lead Attorneys</i> Sheets, Damian <i>Retained</i> 702-988-2600(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)


DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

09/12/2018	 Criminal Bindover Packet Las Vegas Justice Court
09/12/2018	 Criminal Bindover - Confidential
09/14/2018	 Information <i>Information</i>
09/21/2018	 Guilty Plea Agreement
10/23/2018	 PSI


CASE SUMMARY
CASE NO. C-18-334808-1


10/23/2018	 PSI - Victim Impact Statements
01/09/2019	 Order of Commitment Pursuant to NRS 178.425 Filed By: Plaintiff State of Nevada <i>Order of Commitment</i>
02/20/2019	 Order to Transport Defendant <i>Order to Transport Defendant From Lake's Crossing</i>
02/26/2019	 Findings of Competency Filed By: Plaintiff State of Nevada <i>Findings of Competency</i>
04/05/2019	 Motion to Set Bail Filed By: Defendant Sunseri, Kevin <i>motion to set bail</i>
04/06/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/03/2019	 Motion to Withdraw Plea Filed By: Defendant Sunseri, Kevin <i>Motion to Withdraw Plea</i>
07/10/2019	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Withdraw Guilty Plea</i>
08/29/2019	 Reporters Transcript <i>Reporter's Transcript of Proceedings August 29, 2019</i>
09/02/2019	 Transcript of Proceedings Party: Defendant Sunseri, Kevin <i>Transcript of Proceedings, Las Vegas Justice Court August 29, 2018</i>
09/02/2019	 Notice of Entry of Order <i>Notice of Entry of Order Granting Defendant's Request for Transcript of Proceedings</i>
01/09/2020	 Supplement <i>Supplement in Support of Motion to Withdraw Guilty Plea</i>
01/19/2020	 Supplement <i>Amended Supplement in Support of Motion to Withdraw Guilty Plea, and Motion to Dismiss</i>
01/27/2020	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Supplemental In Support of Defendant's Motion to Withdraw Guilty Plea</i>
02/26/2020	 Reply in Support Filed By: Defendant Sunseri, Kevin <i>Reply to Supplement in Support of Defendant's Motion to Withdraw Guilty Plea and Motion to Dismiss</i>


CASE SUMMARY
CASE NO. C-18-334808-1


03/25/2020  Motion to Dismiss
Filed By: Defendant Sunseri, Kevin
Defendant's Motion to Dismiss Pursuant to Doggett v. United States


03/25/2020  Clerk's Notice of Hearing
Notice of Hearing

04/01/2020  Finding of Fact and Conclusions of Law
Findings of Fact, Conclusions of Law and Order

04/03/2020  Opposition to Motion to Dismiss
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion to Dismiss

06/01/2020  Order Denying Motion
Order Denying Motion to Dismiss

07/01/2020  Judgment of Conviction
Judgment of Conviction (Plea of Guilty)

07/26/2020  Notice of Appeal (criminal)
Notice of Appeal

07/26/2020  Case Appeal Statement
Case Appeal Statement

DISPOSITIONS

09/21/2018 **Plea** (Judicial Officer: Villani, Michael)
1. ROBBERY
Guilty
PCN: 0029860874 Sequence:

2. OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON
Guilty
PCN: Sequence:

06/30/2020 **Disposition** (Judicial Officer: Villani, Michael)
1. ROBBERY
Guilty
PCN: 0029860874 Sequence:

2. OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON
Guilty
PCN: Sequence:

06/30/2020 **Adult Adjudication** (Judicial Officer: Villani, Michael)
1. ROBBERY
12/10/2015 (F) 200.380 (DC50137)
PCN: 0029860874 Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:66 Months, Maximum:180 Months

06/30/2020 **Adult Adjudication** (Judicial Officer: Villani, Michael)
2. OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

CASE SUMMARY

CASE NO. C-18-334808-1

12/10/2015 (F) 202.360.1 (DC51460)

PCN: Sequence:





Sentenced to Nevada Dept. of Corrections
Term: Minimum:24 Months, Maximum:60 Months
Concurrent: Charge 1
Credit for Time Served: 674 Days
Comments: 184 Program recommended

Fee Totals:

Administrative Assessment Fee	25.00
\$25	
Genetic Marker Analysis AA Fee	3.00
\$3	
Fee Totals \$	28.00
\$150 DNA Fee Waived	
Other Fees	

1. , \$2,600.00 payable to Dennis Redoutey

HEARINGS

- 09/14/2018  **Initial Arraignment** (10:00 AM) (Judicial Officer: De La Garza, Melisa)
Matter Continued;
Journal Entry Details:
Deputized Law Clerk, Andrea Orwoll appearing for the State. Information FILED IN OPEN COURT. At the request of Mr. Kang, COURT ORDERED, matter CONTINUED. CUSTODY (COC) 9/21/18 10:00 AM ARRAIGNMENT CONTINUED (LLA);
- 09/21/2018  **Arraignment Continued** (10:00 AM) (Judicial Officer: De La Garza, Melisa)
Plea Entered;
Journal Entry Details:
Deputized Law Clerk, Andrea Orwoll, appearing for the State. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. SUNSERI ARRAIGNED AND PLED GUILTY TO COUNT 1- ROBBERY (F) and COUNT 2- OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. CUSTODY (COC) 11/6/18 8:30 AM SENTENCING (DEPT. 17) ;
- 11/06/2018  **Sentencing** (8:30 AM) (Judicial Officer: Villani, Michael)
11/06/2018, 12/11/2018
Matter Continued;
Per 11/07/18 email from law clerk
Referred to Competency Court;
Journal Entry Details:
Mr. Kang requested a competency evaluation. COURT SO ORDERED, matter REFERRED to competency; Further Proceedings SET. CUSTODY (COC) 01/04/19 9:00 AM FURTHER PROCEEDINGS - COMPETENCY (DEPT 9);
Matter Continued;
Per 11/07/18 email from law clerk
Referred to Competency Court;
Journal Entry Details:
Court inquired as to the whereabouts of Mr. Kang. Defendant stated he was in communication with Mr. Kang yesterday. COURT ORDERED, matter CONTINUED for Mr. Kang's appearance. CUSTODY (COC) CONTINUED TO: 11/08/18 8:30 AM CLERK'S NOTE: Subsequent to Court, Mr. Kang appeared and was notified of the continued hearing by Court Clerk, Haly Pannullo. hvp/11/6/18;
- 01/04/2019  **Further Proceedings: Competency** (10:00 AM) (Judicial Officer: Bell, Linda Marie)
Referred to Lakes Crossing;
Journal Entry Details:
Also present: Glen O'Brien, Deputy District Attorney, Claudia Romney, Deputy Public Defender, and Kimberly Alexander of the Specialty Courts. Court NOTED Drs. Chambers and Colosimo indicate not competent; therefore, pursuant to the doctors' reports and the Dusky Standard, FINDS Defendant NOT COMPETENT as he/she is not capable of understanding the charges against him/her and is unable to assist counsel in his/her defense. Pursuant to

CASE SUMMARY

CASE NO. C-18-334808-1

NRS 178.425, COURT ORDERED, Defendant is REMANDED to the custody of the Administrator of the Division of Mental Health Development Services for the Department of Human Resources for detention and treatment at a secure facility operated by that Division. Once competency has been established, Defendant will be returned to this court for findings and referred back to the originating department for further proceedings. CUSTODY (L.C.) ;

02/15/2019



Further Proceedings: Competency-Return From Lakes Crossing (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

MINUTES

Continued;

Journal Entry Details:

Also present: Glen O Brien, Deputy District Attorney, Claudia Romney, Deputy Public Defender, and Denise Baker of the Specialty Courts. MATTER TRAILED for Mr. Kang. MATTER RECALLED. Court noted Mr. Kang cannot be reached and ORDERED matter CONTINUED. CUSTODY CONTINUED TO: 02/25/19 10:00 AM CLERK'S NOTE: A copy of this Minute Order was placed in the attorney folder for Mr. Kang, Esq. //ke 02/19/19;

SCHEDULED HEARINGS



Further Proceedings: Competency-Return From Lakes Crossing (02/25/2019 at 10:00 AM) (Judicial Officer: Bell, Linda Marie)

02/25/2019



Further Proceedings: Competency-Return From Lakes Crossing (10:00 AM) (Judicial Officer: Bell, Linda Marie)

Found Competent;

Journal Entry Details:

APPEARANCES CONTINUED: Denise Baker of the Specialty Courts also present. There being no challenge by Defense Counsel, COURT FINDS Defendant COMPETENT pursuant to the Dusky Standard as Defendant is capable of understanding the nature of the charges against him and is able to assist counsel in his defense and ORDERED, pursuant to 178.420, matter TRANSFERRED back to the originating court for further proceedings. CUSTODY 03/05/19 8:30 AM FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT (DEPT XVII) ;

03/05/2019



Further Proceedings: Return from Competency Court (8:30 AM) (Judicial Officer: Villani, Michael)

Matter Heard;

Journal Entry Details:

Deputy Public Defender, Erika Ballou present on behalf of Defendant. CONFERENCE AT BENCH. Pursuant to discussions at the bench, Court noted counsel was attempting to get Defendant accepted into the Mental Health program and getting records to submit the application. COURT ORDERED, Status Check SET for Defendant's mental health application. MATTER RECALLED. All parties present as before. Ms. Ballou now present. Mr. Kang requested to address Defendant's bail bond being reinstated. Colloquy regarding Defendant's custody status. Ms. Ballou noted Defendant had been taken from parole and booked into custody on this charge. Ms. Dunn requested the bail motion be in writing. COURT FURTHER ORDERED, Defendant's oral request DENIED; Mr. Kang was free to make a written request. CUSTODY 04/16/19 8:30 AM STATUS CHECK: MENTAL HEALTH APPLICATION;

03/06/2019

CANCELED Further Proceedings: Return from Competency Court (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
Vacated - On In Error

04/16/2019



Status Check (8:30 AM) (Judicial Officer: Barker, David)

04/16/2019, 05/30/2019

Status Check: Mental Health Application

Matter Continued;

Matter Heard;

Journal Entry Details:

Court noted Defendant was trying to get records from Florida. Upon Court's inquiry, Mr. Sheets advised he was substituting in as Counsel of Record. Mr. Sheets further advised he recently received the file from Mr. Kang and requested a thirty day status check to determine if Defendant had a valid bases to withdraw guilty plea. Mr. Sheets noted his upcoming motion practice. COURT ORDERED, Status Check SET. CUSTODY 06/25/19 8:30 AM STATUS CHECK: SENTENCING/MOTION TO WITHDRAW PLEA;

Matter Continued;

Matter Heard;

Journal Entry Details:


Mr. Kang requested a forty-five day status check as he was having some difficulty obtaining Defendant's records from Florida. There being no objection by the State, COURT ORDERED, Status Check SET. CONFERENCE AT BENCH. Pursuant to discussions at the bench, COURT FURTHER ORDERED, Defendant's bail RESET to \$90,000.00;


CASE SUMMARY

CASE NO. C-18-334808-1


Defendant's Motion to Set Bail ADVANCED and VACATED. CUSTODY 05/30/19 8:30 AM STATUS CHECK: MENTAL HEALTH APPLICATION;

04/23/2019 **CANCELED Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Vacated - per Judge
Defendant's Motion to Set Bail

06/25/2019  **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)
Status Check: Motion to Withdraw Plea/Sentencing
 Matter Heard;
 Journal Entry Details:
At the request of Mr. Sheets, COURT ORDERED, Motion to Withdraw Plea SET. CUSTODY 07/18/19 8:30 AM MOTION TO WITHDRAW PLEA;

07/18/2019  **Motion to Withdraw Plea** (8:30 AM) (Judicial Officer: Villani, Michael)
07/18/2019, 07/25/2019, 08/23/2019
 Matter Continued;
 Matter Continued;
 Off Calendar;
 Matter Continued;
 Matter Continued;
 Off Calendar;
 Journal Entry Details:
Arguments by counsel regarding the merits of the motion. COURT ORDERED, Evidentiary Hearing SET; Motion to Withdraw Plea CONTINUED. Court stated 10 days before the hearing date if Counsel was using documents or had witnesses they would be calling they needed to be turned over to each side. Court instructed Mr. Sheets to subpoena the witnesses he needed. CUSTODY 08/23/19 9:00 AM EVIDENTIARY HEARING...MOTION TO WITHDRAW;
 Matter Continued;
 Off Calendar;
 Journal Entry Details:
Mr. Sheets not present. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 07/25/19 8:30 AM CLERK'S NOTE: The above minute order has been distributed to Damian Sheets, Esq. at (dsheets@defendingnevada.com)/ob/07/18/19.;


08/23/2019 **Evidentiary Hearing** (10:00 AM) (Judicial Officer: Villani, Michael)
 Off Calendar;

08/23/2019  **All Pending Motions** (10:00 AM) (Judicial Officer: Villani, Michael)

MINUTES

Matter Heard;
 Journal Entry Details:
EVIDENTIARY HEARING...MOTION TO WITHDRAW PLEA Kelsy Bernstein, Esq. present for Defendant. Ms. Bernstein advised the hearing regarding the Evidentiary Hearing and Motion to Withdraw Plea would not go forward because her firm was unable to obtain records from the State. Ms. Bernstein indicated her firm served a subpoena on the State through the Las Vegas Metropolitan Police Department (Metro) and it was rejected. Argument by Ms. Bernstein that the State did not have a legitimate basis to avoid the subpoena and the Court should set an Order to Show Cause regarding State's failure to comply with Court orders. Ms. Cole indicated she reached out to Mr. Sheets numerous times and had not heard from him. Ms. Cole indicated she became aware of Defenses issues obtaining records yesterday. Colloquy regarding Defendant's sentence and plea. Ms. Bernstein argued Defense needed to review transcripts from the Justice Court hearing that took place in July of 2016 as well as documentation of what efforts, if any, were taken to inform Defendant of his outstanding arrest warrant while he was incarcerated. Ms. Bernstein argued Defendants cases should have been joined and Defendant should be allowed to withdraw his plea. Argument by Ms. Cole in opposition to Defendant withdrawing plea. Colloquy regarding Defenses efforts to obtain records through Metro. Ms. Bernstein provided a subpoena rejection letter from Metro for the Court to review. Court GRANTED Ms. Bernstein's request for Court Orders for Defense to obtain a Justice Court transcript and records from Metro. Ms. Bernstein to prepare the orders for the Court's signature. COURT ORDERED, Status Check SET. 9/3/19 8:30 AM STATUS CHECK;


SCHEDULED HEARINGS

 **Status Check: Status of Case** (09/03/2019 at 8:30 AM) (Judicial Officer: Bluth, Jacqueline M.)

CASE SUMMARY

CASE NO. C-18-334808-1

09/03/2019, 09/26/2019

09/03/2019  **Status Check: Status of Case** (8:30 AM) (Judicial Officer: Bluth, Jacqueline M.)

09/03/2019, 09/26/2019

Matter Continued;

Matter Heard;

Journal Entry Details:


Mr. Sheets advised he received a copy of the appropriate records. Upon Court's inquiry, Mr. Sheets requested an Evidentiary hearing SET. COURT SO ORDERED. CUSTODY 10/18/19 10:00 AM EVIDENTIARY HEARING;

Matter Continued;

Matter Heard;

Journal Entry Details:

Court noted at the previous hearing there was an issue with the Justice Court transcript and records from the Las Vegas Metropolitan Police Department (LVMPD). Mr. Sheets advised he received the transcript and the LVMPD was recently served with the subpoena. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 09/26/19 8:30 AM;

10/18/2019  **Evidentiary Hearing** (10:00 AM) (Judicial Officer: Villani, Michael)

10/18/2019, 11/20/2019

Evidentiary Hearing: Motion to Withdraw Plea

Matter Continued;

Denied;

Journal Entry Details:

Court noted that Senior Judge Barker presided at the last hearing. Arguments by counsel regarding the relevance of Doggett v. United States. Testimony presented (see worksheet). Further arguments by counsel regarding the delayed execution of the arrest warrant for Defendant and whether Defendant freely entered the Guilty Plea Agreement (GPA). COURT ORDERED, Evidentiary Hearing: Motion to Withdraw Plea UNDER ADVISEMENT. The Court would issue a minute order. CUSTODY ;

Matter Continued;

Denied;

Journal Entry Details:

Court noted Defendant is present without counsel. Further noted Court was informed that Mr. Sheets was in another department on an extended sentencing on a Felony DUI and would be there for a significant amount of time. Statement's by counsel. Colloquy. COURT ORDERED, matter CONTINUED. CONTINUED TO: 11/15/19 10:00 AM;

01/13/2020  **Minute Order** (11:35 AM) (Judicial Officer: Villani, Michael)


Minute Order Re: Deft's Motion to Withdraw Guilty Plea - Supplemental Briefing Requested

Minute Order - No Hearing Held; Minute Order Re: Deft's Motion to Withdraw Guilty Plea - Supplemental Briefing Requested

Journal Entry Details:

Defendant's Motion to Withdraw Guilty Plea came before this court on November 20, 2019, whereupon the Court took the matter under further advisement. After considering all pleadings and arguments, the Court renders its decision as follows: In light of a recent decision by the Supreme Court of Nevada, State v. Rigoberto Inzunza, No. 75662, the Court finds good cause to order supplemental briefing on Defendant's Motion. Specifically, the parties are to brief the Court on whether the totality of the circumstances amount to a fair and just reason sufficient to permit withdrawal of Defendant's guilty plea. See Stevenson v. State, 131 Nev. 598 (2015) (holding that this determination is not limited to whether plea was knowingly, voluntarily, and intelligently entered, abrogating Crawford v. State, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001)). Therefore, Court ORDERED, supplemental briefs due on January 27, 2020.

CLERK'S NOTE: The above minute order has been distributed to: Jacob Villani, Chief Deputy District Attorney, (jacob.villani@clarkcountynvda.com), Madilyn Cole, Deputy District Attorney, (madilyn.cole@clarkcountynvda.com) and Damien Sheets, Esq., (dsheets@defendingnevada.com). aw;

01/16/2020  **Status Check: Status of Case** (8:30 AM) (Judicial Officer: Villani, Michael)

Matter Heard;

Journal Entry Details:

Mr. Sheets advised he has filed a supplemental brief when Supreme Court order came out. Court noted supplemental briefing was to address new case and the Court will issue a written decision when all supplemental briefs are received. CUSTODY;

02/27/2020  **Minute Order** (3:00 AM) (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;


CASE SUMMARY

CASE NO. C-18-334808-1

Journal Entry Details:

Defendant's Motion to Withdraw Plea came before this court on January 27, 2020, whereupon took the matter under further advisement. After considering all pleadings and arguments, the Court renders its decision as follows: Defendant was originally charged with Conspiracy to Commit Robbery, Robbery with Use of a Deadly Weapon, and Kidnapping with use of a Deadly Weapon. These charges arise out of an alleged incident occurring on December 10, 2015. After subsequent investigation on January 23, 2016 it was learned that a vehicle involved in the crime was registered to the Defendant. Pre-Sentence Investigation Report, p. 12. On or about August 27, 2018 Defendant was arrested for the subject case and pled guilty to the amended charges of Robbery and Ownership or Possession of Firearm by Prohibited Person. As part of the Guilty Plea Agreement the State agreed to have no objection to concurrent time between the two counts and to not seek habitual treatment. The PSI identifies 24 prior separate felony cases which qualified Defendant for habitual criminal treatment under NRS 207.010(1)(b). Defendant seeks to withdraw his plea of guilty based upon a claim that there is a general likelihood that this case may be subject to dismissal pursuant to Doggett v. United States. Defendant's Motion to Withdraw Guilty Plea, p. 3. Defendant does not claim that he did not understand the terms of the Guilty Plea Agreement nor that his plea canvass was incomplete. Defendant claims that pursuant to Doggett and Stevenson v State, 354 P.3d 1277 (Nev. 2015), he should be allowed to withdraw his plea. Doggett dealt with a claim of pre-indictment delay, unlike the present case where the defendant accepted a negotiation and pled guilty to substantially reduced charges and avoided the possibility of being sentenced as a habitual felon. Subsequent to Defendant's filing his Motion to Withdraw Guilty Plea, the Nevada Supreme Court issued its opinion in State v Inzunza, 135 Nev. Adv. Op. 69 (2019). In light of that decision, this Court requested supplemental briefing as to what impact, if any, the Inzunza case has on the pending Motion. The Court notes that Inzunza does not deal with a motion to withdraw after entry of plea but an appeal of an order granting a motion to dismiss. The Stevenson court disavowed the exclusive focus on the validity of a plea analysis but directed the Court to analyze the totality of the circumstances. Stevenson, 354 P.3d at 1280-81. Defendant does not allege that information was withheld from him by his attorney, that he was coerced into entering his plea, or that he entered into the plea in a hasty fashion. Considering the totality of the circumstances here, Defendant's Motion is denied. The Court's decision should not be interpreted to preclude the Defendant from pursuing other avenues of relief. Therefore, Court ORDERED, Motion DENIED. State to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and to distribute a filed copy to all parties involved pursuant to EDCR 7.21. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve /SR 02/27/2020;

03/26/2020 **CANCELED Status Check: Status of Case (10:15 AM)** (Judicial Officer: Villani, Michael)
Vacated

04/01/2020  **Motion to Dismiss (3:00 AM)** (Judicial Officer: Villani, Michael)

Defendant's Motion to Dismiss Pursuant to Doggett v. United States

Denied;

Journal Entry Details:

Defendant's Motion to Dismiss was set for 4/7/2020. Pursuant to AO 20-06 this matter will be decided on the pleadings. State is to prepare a written opposition before 4/6/2020. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve /SR 04/01/2020;

05/26/2020  **Minute Order (3:00 AM)** (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

Defendant's Motion to Dismiss Pursuant to Doggett v. United States was set for hearing before this court on April 7, 2020. Pursuant to Administrative Order 20-01 et seq., the Court took the matter under advisement to be decided on the pleadings. After considering all pleadings, the Court renders its decision as follows: The Court adopts the State's procedural history. Defendant entered into a guilty plea on September 21, 2018. The Court notes that Defendant has previously moved the Court to permit his withdrawal from that plea, and the Court denied that motion after finding that Defendant failed to allege that information was withheld from him by his attorney, that he was coerced into entering his plea, or that he entered into the plea in a hasty fashion. See Minute Order filed February 27, 2020. The bases for the instant Motion are three cases: Doggett v. United States, 112 S. Ct. 2686 (1992); State v. Inzunza, 135 Nev. Adv. Op. 69 (Dec. 26, 2019); and Barker v. Wingo, 407 U.S. 514 (1972). The Court considered the first two of these cases in its denial of Defendant's Motion to Withdraw Plea. See Minute Order filed February 27, 2020. After considering these cases again, along with Barker, the Court finds Defendant's instant Motion is without merit. Defendant relies on all three cases to support the contention that his speedy trial rights were violated and the case should thus be dismissed. However, all three of those cases dealt with pre-trial motions to dismiss. Unlike the case at bar, none of the cases that Defendant relies on involved a Defendant who entered a valid guilty plea agreement. Here, by signing the guilty plea agreement, Defendant represented that he was aware of the plea agreement in this case and that he was not entering the plea under the influence of any promises made to him. See Guilty Plea Agreement filed September 21, 2018. Further, as previously determined by the Court, Defendant has not demonstrated that he did not understand the terms of the guilty plea agreement or that his plea canvass was incomplete. See Minute Order filed February 27, 2020. This Court finds that Defendant waived the right to a trial by jury when he entered into the guilty

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-18-334808-1

plea agreement. Accordingly, Dogget, Inzunza, and Barker are inapplicable. Defendant has failed to demonstrate any reason to undo the provisions of the valid guilty plea agreement, namely his waiver of right to a jury trial. Thus, the Motion to Dismiss is denied. Therefore, Court ORDERED, Motion DENIED. State to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and to distribute a filed copy to all parties involved pursuant to EDCR 7.21. COURT FURTHER ORDERED, status check set for regarding the filing of this proposed order. That date shall be vacated if the Court receives the order sooner. CUSTODY 06/11/2020 10:15 AM STATUS CHECK: ORDER CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve /SR 05/26/2020;

06/11/2020 **CANCELED Status Check: Status of Case (8:30 AM)** (Judicial Officer: Villani, Michael)
*Vacated - per Law Clerk
 Status Check: Order*

06/25/2020  **Sentencing (10:15 AM)** (Judicial Officer: Villani, Michael)

06/25/2020, 06/30/2020

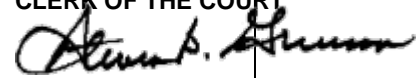
Matter Continued;
 Defendant Sentenced;
 Journal Entry Details:
DEFENDANT SUNSERI ADJUDGED GUILTY OF COUNT 1- ROBBERY (F) AND COUNT 2- OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F). Arguments by Counsel. Statement from Defendant. Pursuant to NRS 176.063, COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$3.00 DNA Collection fee, \$150.00 DNA Analysis fee is WAIVED as previously ordered, and restitution in the amount of \$2,600.00 payable to Dennis Redoutey, Defendant SENTENCED as to COUNT 1- to a MAXIMUM OF ONE HUNDRED EIGHTY (180) MONTHS AND A MINIMUM OF SIXTY-SIX (66) MONTHS in the Nevada Department of Corrections (NDC), and as to COUNT 2- to a MAXIMUM OF SIXTY (60) MONTHS AND A MINIMUM OF TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT WITH COUNT 1. Further arguments by Counsel regarding credit for time served. COURT ORDERED, Defendant to receive SIX HUNDRED SEVENTY-FOUR (674) DAYS credit for time served. Court RECOMMENDS the 184 program and/or life skills classes while incarcerated. BOND, if any, EXONERATED. NDC ;

Matter Continued;
 Defendant Sentenced;
 Journal Entry Details:
Ms. Cole requested to continue the matter, noting there was a victim impact speaker that wanted to be present for sentencing to provide a statement. Mr. Sheets requested to move forward with sentencing today. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 06/30/2020 10:15 AM;

DATE

FINANCIAL INFORMATION

Defendant Sunseri, Kevin	
Total Charges	28.00
Total Payments and Credits	0.00
Balance Due as of 7/27/2020	28.00



JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

KEVIN SUNSERI
#8266913

Defendant.

CASE NO. C-18-334808-1

DEPT. NO. XVII

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 (Category B Felony) in violation of NRS 200.380; and COUNT 2 – OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360; thereafter, on the 30th day of June, 2020, the Defendant was present in court for sentencing with counsel DAMIAN R. SHEETS, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee, \$2,600.00 Restitution payable to Dennis Redoutey and \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department

<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

1 of Corrections (NDC) as follows: COUNT 1 - a MAXIMUM of ONE HUNDRED EIGHTY
2 (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY-SIX (66) MONTHS; and
3 COUNT 2 – a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of
4 TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 1; with SIX HUNDRED
5 SEVENTY-FOUR (674) DAYS credit for time served. As the \$150.00 DNA Analysis Fee and
6 Genetic Testing have been previously imposed, the Fee and Testing in the current case are
7 WAIVED. COURT recommends Defendant for life skills classes and/or 184 Program while
8 incarcerated.
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11 DATED this 30 day of June, 2020

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14 MICHAEL VILLANI
15 DISTRICT COURT JUDGE
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 14, 2018

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

September 14, 2018 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Rubina Feda

REPORTER:

PARTIES

PRESENT: Kang, Dowon S. Attorney
 Sunseri, Kevin Defendant

JOURNAL ENTRIES

- Deputized Law Clerk, Andrea Orwoll appearing for the State.

Information FILED IN OPEN COURT. At the request of Mr. Kang, COURT ORDERED, matter CONTINUED.

CUSTODY (COC)

9/21/18 10:00 AM ARRAIGNMENT CONTINUED (LLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 21, 2018

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

September 21, 2018 10:00 AM Arraignment Continued

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Dara Yorke
Dauriana Simpson

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Kang, Dowon S. Attorney
 Sunseri, Kevin Defendant

JOURNAL ENTRIES

- Deputized Law Clerk, Andrea Orwoll, appearing for the State.

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. SUNSERI ARRAIGNED AND PLED GUILTY TO COUNT 1- ROBBERY (F) and COUNT 2- OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing.

CUSTODY (COC)

11/6/18 8:30 AM SENTENCING (DEPT. 17)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 06, 2018

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

November 06, 2018 8:30 AM Sentencing

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Haly Pannullo

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Court inquired as to the whereabouts of Mr. Kang. Defendant stated he was in communication with Mr. Kang yesterday. COURT ORDERED, matter CONTINUED for Mr. Kang's appearance.

CUSTODY (COC)

CONTINUED TO: 11/08/18 8:30 AM

CLERK'S NOTE: Subsequent to Court, Mr. Kang appeared and was notified of the continued hearing by Court Clerk, Haly Pannullo. hvp/11/6/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 11, 2018

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

December 11, 2018 8:30 AM Sentencing

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Haly Pannullo
 April Watkins

RECORDER: Cynthia Georgilas

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Mr. Kang requested a competency evaluation. COURT SO ORDERED, matter REFERRED to competency; Further Proceedings SET.

CUSTODY (COC)

01/04/19 9:00 AM FURTHER PROCEEDINGS - COMPETENCY (DEPT 9)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 04, 2019

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

January 04, 2019

10:00 AM

**Further Proceedings:
Competency**

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT: Sunseri, Kevin

Defendant

JOURNAL ENTRIES

- Also present: Glen O'Brien, Deputy District Attorney, Claudia Romney, Deputy Public Defender, and Kimberly Alexander of the Specialty Courts.

Court NOTED Drs. Chambers and Colosimo indicate not competent; therefore, pursuant to the doctors' reports and the Dusky Standard, FINDS Defendant NOT COMPETENT as he/she is not capable of understanding the charges against him/her and is unable to assist counsel in his/her defense. Pursuant to NRS 178.425, COURT ORDERED, Defendant is REMANDED to the custody of the Administrator of the Division of Mental Health Development Services for the Department of Human Resources for detention and treatment at a secure facility operated by that Division. Once competency has been established, Defendant will be returned to this court for findings and referred back to the originating department for further proceedings.

CUSTODY (L.C.)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 15, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

**February 15, 2019 10:00 AM Further Proceedings:
Competency-Return From
Lakes Crossing**

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Also present: Glen O'Brien, Deputy District Attorney, Claudia Romney, Deputy Public Defender, and Denise Baker of the Specialty Courts.

MATTER TRAILED for Mr. Kang.

MATTER RECALLED. Court noted Mr. Kang cannot be reached and ORDERED matter CONTINUED.

CUSTODY

CONTINUED TO: 02/25/19 10:00 AM

CLERK'S NOTE: A copy of this Minute Order was placed in the attorney folder for Mr. Kang, Esq. //ke 02/19/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 25, 2019

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

**February 25, 2019 10:00 AM Further Proceedings:
Competency-Return From
Lakes Crossing**

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 10D

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Kang, Dowon S.	Attorney
	O'Brien, Glen	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Denise Baker of the Specialty Courts also present.

There being no challenge by Defense Counsel, COURT FINDS Defendant COMPETENT pursuant to the Dusky Standard as Defendant is capable of understanding the nature of the charges against him and is able to assist counsel in his defense and ORDERED, pursuant to 178.420, matter TRANSFERRED back to the originating court for further proceedings.

CUSTODY

03/05/19 8:30 AM FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT (DEPT XVII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 05, 2019**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

**March 05, 2019 8:30 AM Further Proceedings:
Return from Competency
Court**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Olivia Black**RECORDER:** Cynthia Georgilas**REPORTER:****PARTIES**

PRESENT:	Dunn, Ann Marie	Attorney
	Kang, Dowon S.	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Deputy Public Defender, Erika Ballou present on behalf of Defendant.

CONFERENCE AT BENCH. Pursuant to discussions at the bench, Court noted counsel was attempting to get Defendant accepted into the Mental Health program and getting records to submit the application. COURT ORDERED, Status Check SET for Defendant's mental health application.

MATTER RECALLED. All parties present as before. Ms. Ballou now present. Mr. Kang requested to address Defendant's bail bond being reinstated. Colloquy regarding Defendant's custody status. Ms. Ballou noted Defendant had been taken from parole and booked into custody on this charge. Ms. Dunn requested the bail motion be in writing. COURT FURTHER ORDERED, Defendant's oral request DENIED; Mr. Kang was free to make a written request.

C-18-334808-1

CUSTODY

04/16/19 8:30 AM STATUS CHECK: MENTAL HEALTH APPLICATION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

April 16, 2019 8:30 AM Status Check

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Clowers, Shanon	Attorney
	Kang, Dowon S.	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Mr. Kang requested a forty-five day status check as he was having some difficulty obtaining Defendant's records from Florida. There being no objection by the State, COURT ORDERED, Status Check SET. CONFERENCE AT BENCH. Pursuant to discussions at the bench, COURT FURTHER ORDERED, Defendant's bail RESET to \$90,000.00; Defendant's Motion to Set Bail ADVANCED and VACATED.

CUSTODY

05/30/19 8:30 AM STATUS CHECK: MENTAL HEALTH APPLICATION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 30, 2019**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

May 30, 2019 8:30 AM Status Check

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Court noted Defendant was trying to get records from Florida. Upon Court's inquiry, Mr. Sheets advised he was substituting in as Counsel of Record. Mr. Sheets further advised he recently received the file from Mr. Kang and requested a thirty day status check to determine if Defendant had a valid bases to withdraw guilty plea. Mr. Sheets noted his upcoming motion practice. COURT ORDERED, Status Check SET.

CUSTODY

06/25/19 8:30 AM STATUS CHECK: SENTENCING/MOTION TO WITHDRAW PLEA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 25, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

June 25, 2019 8:30 AM Status Check

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Albright, Brandon B.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- At the request of Mr. Sheets, COURT ORDERED, Motion to Withdraw Plea SET.

CUSTODY

07/18/19 8:30 AM MOTION TO WITHDRAW PLEA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 18, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

July 18, 2019 8:30 AM Motion to Withdraw Plea

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M.	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Mr. Sheets not present. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 07/25/19 8:30 AM

CLERK'S NOTE: The above minute order has been distributed to Damian Sheets, Esq. at (dsheets@defendingnevada.com)//ob/07/18/19.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 25, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

July 25, 2019 8:30 AM Motion to Withdraw Plea

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of the motion. COURT ORDERED, Evidentiary Hearing SET; Motion to Withdraw Plea CONTINUED. Court stated 10 days before the hearing date if Counsel was using documents or had witnesses they would be calling they needed to be turned over to each side. Court instructed Mr. Sheets to subpoena the witnesses he needed.

CUSTODY

08/23/19 9:00 AM EVIDENTIARY HEARING...MOTION TO WITHDRAW

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 23, 2019**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

August 23, 2019 10:00 AM All Pending Motions

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Lauren Kidd

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M. State of Nevada Sunseri, Kevin	Attorney Plaintiff Defendant
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JOURNAL ENTRIES

- EVIDENTIARY HEARING...MOTION TO WITHDRAW PLEA

Kelsy Bernstein, Esq. present for Defendant.

Ms. Bernstein advised the hearing regarding the Evidentiary Hearing and Motion to Withdraw Plea would not go forward because her firm was unable to obtain records from the State. Ms. Bernstein indicated her firm served a subpoena on the State through the Las Vegas Metropolitan Police Department (Metro) and it was rejected. Argument by Ms. Bernstein that the State did not have a legitimate basis to avoid the subpoena and the Court should set an Order to Show Cause regarding State's failure to comply with Court orders. Ms. Cole indicated she reached out to Mr. Sheets numerous times and had not heard from him. Ms. Cole indicated she became aware of Defenses issues obtaining records yesterday. Colloquy regarding Defendant's sentence and plea. Ms. Bernstein argued Defense needed to review transcripts from the Justice Court hearing that took place in July of 2016 as well as documentation of what efforts, if any, were taken to inform Defendant of his outstanding arrest warrant while he was incarcerated. Ms. Bernstein argued Defendants cases should have been joined and Defendant should be allowed to withdraw his plea. Argument by Ms. Cole in

opposition to Defendant withdrawing plea. Colloquy regarding Defenses efforts to obtain records through Metro. Ms. Bernstein provided a subpoena rejection letter from Metro for the Court to review. Court GRANTED Ms. Bernstein's request for Court Orders for Defense to obtain a Justice Court transcript and records from Metro. Ms. Bernstein to prepare the orders for the Court's signature. COURT ORDERED, Status Check SET.

9/3/19 8:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 03, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

September 03, 2019 8:30 AM

**Status Check: Status of
Case**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Court noted at the previous hearing there was an issue with the Justice Court transcript and records from the Las Vegas Metropolitan Police Department (LVMPD). Mr. Sheets advised he received the transcript and the LVMPD was recently served with the subpoena. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 09/26/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 26, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

September 26, 2019 8:30 AM

**Status Check: Status of
Case**

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Getler, Stephanie M.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Mr. Sheets advised he received a copy of the appropriate records. Upon Court's inquiry, Mr. Sheets requested an Evidentiary hearing SET. COURT SO ORDERED.

CUSTODY

10/18/19 10:00 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 18, 2019

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

October 18, 2019 10:00 AM Evidentiary Hearing

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Nylasia Packer

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Cole, Madilyn M. Attorney
 State of Nevada Plaintiff
 Sunseri, Kevin Defendant
 Villani, Jacob J. Attorney

JOURNAL ENTRIES

- Court noted Defendant is present without counsel. Further noted Court was informed that Mr. Sheets was in another department on an extended sentencing on a Felony DUI and would be there for a significant amount of time. Statement's by counsel. Colloquy. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 11/15/19 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 20, 2019

C-18-334808-1	State of Nevada
	vs
	Kevin Sunseri

November 20, 2019 10:00 AM Evidentiary Hearing

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Olivia Black
Carolyn Jackson

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant
	Villani, Jacob J.	Attorney

JOURNAL ENTRIES

- Court noted that Senior Judge Barker presided at the last hearing. Arguments by counsel regarding the relevance of Doggett v. United States. Testimony presented (see worksheet). Further arguments by counsel regarding the delayed execution of the arrest warrant for Defendant and whether Defendant freely entered the Guilty Plea Agreement (GPA). COURT ORDERED, Evidentiary Hearing: Motion to Withdraw Plea UNDER ADVISEMENT. The Court would issue a minute order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 2020**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

January 13, 2020**11:35 AM****Minute Order**

**Minute Order Re:
Deft's Motion to
Withdraw Guilty
Plea - Supplemental
Briefing Requested**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** April Watkins**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant s Motion to Withdraw Guilty Plea came before this court on November 20, 2019, whereupon the Court took the matter under further advisement. After considering all pleadings and arguments, the Court renders its decision as follows:

In light of a recent decision by the Supreme Court of Nevada, State v. Rigoberto Inzunza, No. 75662, the Court finds good cause to order supplemental briefing on Defendant s Motion. Specifically, the parties are to brief the Court on whether the totality of the circumstances amount to a fair and just reason sufficient to permit withdrawal of Defendant s guilty plea. See Stevenson v. State, 131 Nev. 598 (2015) (holding that this determination is not limited to whether plea was knowingly, voluntarily, and intelligently entered, abrogating Crawford v. State, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001)).

Therefore, Court ORDERED, supplemental briefs due on January 27, 2020.

CLERK'S NOTE: The above minute order has been distributed to: Jacob Villani, Chief Deputy District Attorney, (jacob.villani@clarkcountyda.com), Madilyn Cole, Deputy District Attorney, (madilyn.cole@clarkcountyda.com) and Damien Sheets, Esq., (dsheets@defendingnevada.com). aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 16, 2020

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

**January 16, 2020 8:30 AM Status Check: Status of
Case**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: April Watkins

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Cole, Madilyn M.	Attorney
	Sheets, Damian	Attorney
	State of Nevada	Plaintiff
	Sunseri, Kevin	Defendant

JOURNAL ENTRIES

- Mr. Sheets advised he has filed a supplemental brief when Supreme Court order came out. Court noted supplemental briefing was to address new case and the Court will issue a written decision when all supplemental briefs are received.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 27, 2020**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

February 27, 2020**3:00 AM****Minute Order****HEARD BY:** Villani, Michael**COURTROOM:** Chambers**COURT CLERK:** Shannon Reid**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant's Motion to Withdraw Plea came before this court on January 27, 2020, whereupon took the matter under further advisement. After considering all pleadings and arguments, the Court renders its decision as follows:

Defendant was originally charged with Conspiracy to Commit Robbery, Robbery with Use of a Deadly Weapon, and Kidnapping with use of a Deadly Weapon. These charges arise out of an alleged incident occurring on December 10, 2015. After subsequent investigation on January 23, 2016 it was learned that a vehicle involved in the crime was registered to the Defendant. Pre-Sentence Investigation Report, p. 12. On or about August 27, 2018 Defendant was arrested for the subject case and pled guilty to the amended charges of Robbery and Ownership or Possession of Firearm by Prohibited Person. As part of the Guilty Plea Agreement the State agreed to have no objection to concurrent time between the two counts and to not seek habitual treatment. The PSI identifies 24 prior separate felony cases which qualified Defendant for habitual criminal treatment under NRS 207.010(1)(b).

Defendant seeks to withdraw his plea of guilty based upon a claim that there is a general likelihood that this case may be subject to dismissal pursuant to Doggett v. United States. Defendant's Motion to Withdraw Guilty Plea, p. 3. Defendant does not claim that he did not understand the terms of the

Guilty Plea Agreement nor that his plea canvass was incomplete.

Defendant claims that pursuant to Doggett and Stevenson v State, 354 P.3d 1277 (Nev. 2015), he should be allowed to withdraw his plea. Doggett dealt with a claim of pre-indictment delay, unlike the present case where the defendant accepted a negotiation and pled guilty to substantially reduced charges and avoided the possibility of being sentenced as a habitual felon. Subsequent to Defendant's filing his Motion to Withdraw Guilty Plea, the Nevada Supreme Court issued its opinion in State v Inzunza, 135 Nev. Adv. Op. 69 (2019). In light of that decision, this Court requested supplemental briefing as to what impact, if any, the Inzunza case has on the pending Motion. The Court notes that Inzunza does not deal with a motion to withdraw after entry of plea but an appeal of an order granting a motion to dismiss.

The Stevenson court disavowed the exclusive focus on the validity of a plea analysis but directed the Court to analyze the totality of the circumstances. Stevenson, 354 P.3d at 1280-81. Defendant does not allege that information was withheld from him by his attorney, that he was coerced into entering his plea, or that he entered into the plea in a hasty fashion. Considering the totality of the circumstances here, Defendant's Motion is denied. The Court's decision should not be interpreted to preclude the Defendant from pursuing other avenues of relief.

Therefore, Court ORDERED, Motion DENIED. State to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and to distribute a filed copy to all parties involved pursuant to EDCR 7.21.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve /SR 02/27/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 01, 2020

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

April 01, 2020 3:00 AM Motion to Dismiss

HEARD BY: Villani, Michael **COURTROOM:** Chambers

COURT CLERK: Shannon Reid

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant's Motion to Dismiss was set for 4/7/2020. Pursuant to AO 20-06 this matter will be decided on the pleadings. State is to prepare a written opposition before 4/6/2020.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve /SR 04/01/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 26, 2020**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

May 26, 2020**3:00 AM****Minute Order****HEARD BY:** Villani, Michael**COURTROOM:** Chambers**COURT CLERK:** Shannon Reid**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant's Motion to Dismiss Pursuant to Dogget v. United States was set for hearing before this court on April 7, 2020. Pursuant to Administrative Order 20-01 et seq., the Court took the matter under advisement to be decided on the pleadings. After considering all pleadings, the Court renders its decision as follows:

The Court adopts the State's procedural history.

Defendant entered into a guilty plea on September 21, 2018. The Court notes that Defendant has previously moved the Court to permit his withdrawal from that plea, and the Court denied that motion after finding that Defendant failed to allege that information was withheld from him by his attorney, that he was coerced into entering his plea, or that he entered into the plea in a hasty fashion. See Minute Order filed February 27, 2020. The bases for the instant Motion are three cases: Dogget v. United States, 112 S. Ct. 2686 (1992); State v. Inzunza, 135 Nev. Adv. Op. 69 (Dec. 26, 2019); and Barker v. Wingo, 407 U.S. 514 (1972). The Court considered the first two of these cases in its denial of Defendant's Motion to Withdraw Plea. See Minute Order filed February 27, 2020. After considering these cases again, along with Barker, the Court finds Defendant's instant Motion is without merit.

Defendant relies on all three cases to support the contention that his speedy trial rights were violated

and the case should thus be dismissed. However, all three of those cases dealt with pre-trial motions to dismiss. Unlike the case at bar, none of the cases that Defendant relies on involved a Defendant who entered a valid guilty plea agreement.

Here, by signing the guilty plea agreement, Defendant represented that he was aware of the plea agreement in this case and that he was not entering the plea under the influence of any promises made to him. See Guilty Plea Agreement filed September 21, 2018. Further, as previously determined by the Court, Defendant has not demonstrated that he did not understand the terms of the guilty plea agreement or that his plea canvass was incomplete. See Minute Order filed February 27, 2020. This Court finds that Defendant waived the right to a trial by jury when he entered into the guilty plea agreement. Accordingly, Dogget, Inzunza, and Barker are inapplicable. Defendant has failed to demonstrate any reason to undo the provisions of the valid guilty plea agreement, namely his waiver of right to a jury trial. Thus, the Motion to Dismiss is denied.

Therefore, Court ORDERED, Motion DENIED. State to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and to distribute a filed copy to all parties involved pursuant to EDCR 7.21. COURT FURTHER ORDERED, status check set for regarding the filing of this proposed order. That date shall be vacated if the Court receives the order sooner.

CUSTODY

06/11/2020 10:15 AM STATUS CHECK: ORDER

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve /SR 05/26/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 25, 2020

C-18-334808-1 State of Nevada
 vs
 Kevin Sunseri

June 25, 2020

10:15 AM

Sentencing

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Shannon Reid

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:

Cole, Madilyn M.
Sheets, Damian
State of Nevada
Sunseri, Kevin

Attorney
Attorney
Plaintiff
Defendant

JOURNAL ENTRIES

- Ms. Cole requested to continue the matter, noting there was a victim impact speaker that wanted to be present for sentencing to provide a statement. Mr. Sheets requested to move forward with sentencing today. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 06/30/2020 10:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 30, 2020**

C-18-334808-1 State of Nevada
vs
Kevin Sunseri

June 30, 2020**10:15 AM****Sentencing****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Shannon Reid**RECORDER:** Cynthia Georgilas**REPORTER:****PARTIES****PRESENT:**

Cole, Madilyn M.
Sheets, Damian
State of Nevada
Sunseri, Kevin

Attorney
Attorney
Plaintiff
Defendant

JOURNAL ENTRIES

- DEFENDANT SUNSERI ADJUDGED GUILTY OF COUNT 1- ROBBERY (F) AND COUNT 2- OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F). Arguments by Counsel. Statement from Defendant. Pursuant to NRS 176.063, COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$3.00 DNA Collection fee, \$150.00 DNA Analysis fee is WAIVED as previously ordered, and restitution in the amount of \$2,600.00 payable to Dennis Redoutey, Defendant SENTENCED as to COUNT 1- to a MAXIMUM OF ONE HUNDRED EIGHTY (180) MONTHS AND A MINIMUM OF SIXTY-SIX (66) MONTHS in the Nevada Department of Corrections (NDC), and as to COUNT 2- to a MAXIMUM OF SIXTY (60) MONTHS AND A MINIMUM OF TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT WITH COUNT 1. Further arguments by Counsel regarding credit for time served. COURT ORDERED, Defendant to receive SIX HUNDRED SEVENTY-FOUR (674) DAYS credit for time served. Court RECOMMENDS the 184 program and/or life skills classes while incarcerated.

BOND, if any, EXONERATED.

NDC

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; JUDGMENT OF CONVICTION (PLEA OF GUILTY); DISTRICT COURT
MINUTES

STATE OF NEVADA,

Plaintiff(s),

vs.

KEVIN SUNSERI,

Defendant(s).

Case No: C-18-334808-1

Dept No: XVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 27 day of July 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

