

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE APPLICATION OF BRECK WARDEN SMITH FOR A WRIT OF HABEAS CORPUS	)	No. 82696	Electronically Filed
	)		Aug 27 2021 03:25 p.m.
	)		Elizabeth A. Brown
	)		Clerk of Supreme Court
THE STATE OF NEVADA, <i>Appellant,</i>	)	Dist. Ct. No. C-19-337302-1	
	)		
Vs.	)		
	)		
BRECK WARDEN SMITH, <i>Respondent.</i>	)		
	)		
	)		
	)		
	)		

**RESPONDENT'S APPENDIX VOLUME I**

(Appeal from Judgment Granting Petition for Writ of Habeas Corpus  
Post-Conviction)

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## PRESENTENCE INVESTIGATION REPORT

The Honorable Kathleen E. Delaney  
Department XXV, Clark County  
Eighth Judicial District Court

Date Report Prepared: July 26, 2019

Prosecutor: Madilyn Cole, Chief DDA  
Defense Attorney: Thomas A. Ericsson, Retained

PSI: 576274

### I. CASE INFORMATION

Defendant: Breck Warden Smith  
Case: C-19-337302-1  
ID: 806628  
P&P Bin: 1000157132

PCN: 25742615  
Offense Date: 03-22-18  
Arrest Date: 03-22-18  
Plea Date: 06-24-19, Guilty per the  
Alford Decision  
Sentencing Date: 08-12-19

### II. CHARGE INFORMATION

Offense: Attempt Burglary (F)  
NRS: 205.060, 193.330  
NOC: 50442

Category: C

Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute.

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BRECK WARDEN SMITH  
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**III. DEFENDANT INFORMATION**

**Address:** 3068 Tarpon Drive #208  
**City/State/Zip:** Las Vegas, Nevada 89121  
**NV Resident:** Yes  
**SSN:** 530-92-1306  
**POB:** St. Louis, Missouri  
**Date of Birth:** 08-01-66  
**Age:** 52  
**Phone:** (702) 801-8049 (cell)  
**Driver's License:** 1602768912  
**State:** Nevada  
**Status:** Valid

**FBI:** 569572FA0  
**SID:** NV00521056  
**Aliases:** Ernest Lee Nichols, Breck Warren Smith, Breck Smith, Breck W. Smith, Brecky Smith, Mickey Juliano Smith, Speck Warden Smith, Ernest Lee Nicholas, Ernest Nichols, Ernest L. Nichols  
**Additional SSNs:** 530-90-1306, 530-88-2337  
**Additional DOBs:** 08-01-68, 04-15-65  
**Additional POB:** None  
**Alien Registration:** N/A  
**US Citizen:** Yes  
**Notification Required per NRS 630.307:** No

**Identifiers:**

**Sex:** M                      **Race:** W                      **Height:** 5'9"                      **Weight:** 180  
**Hair:** Black                      **Eyes:** Brown  
**Scars:** None reported  
**Tattoos (type and location):** Skulls and sun tribal on left arm; skulls and guitar on right arm; Chelsea on chest (all unverified).

**Social History:** The following social history is as related by the defendant on July 15, 2019 and is unverified unless otherwise noted:

**Childhood/Family:** The defendant was raised by his mother from the age of three after his parents divorced. He visited with his father during the summers in California. He had contact with extended family members. There was no drug or alcohol abuse in the home. Neither parent was incarcerated. He was not physically or sexually abused or neglected as a child.

**Marital Status:** Married

**Children:** (2) adults

**Custody Status of Children:** N/A

**Monthly Child Support Obligation:** N/A

**Employment Status:** The defendant has been unemployed since March 22, 2018. Prior employment was as a self-employed music teacher. He also worked as a food served at Paymons Mediterranean Café and Hookah Lounge from May 2017 to March 2018. He worked as a musician beginning in the 1980's and continued throughout his lifetime.

**Number of Months Employed Full Time in 12 months Prior to Commission of Instant Offense:** 10

**Age at first arrest:** 19 or younger ☐                      20- 23 ☒                      24 or older ☐

**Income:** None reported

**Other Sources:** Family Support

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**Assets: \$8,000 (car, music equipment)**

**Debts:** None reported

**Education:** The defendant graduated from high school in 2015 while incarcerated. He also obtained his GED in 1995. Mr. Smith enrolled in classes in UC Berklee for band camps and he took one semester in music theory and composition. He did not receive a degree.

**Military Service:** The defendant did not serve in the military.

**Health and Medical History:** Mr. Smith is in good health with no significant concerns.

**Mental Health History:** None reported.

**Gambling History:** None reported

**Substance Abuse History:** The defendant first used alcohol at the age of 13. He quit all use of controlled substances on March 1, 2007. He has never participated in a drug counseling or treatment program. He stated alcohol and drugs are not problematic and denied he was under the influence of any controlled substances at the time of the instant offense.

**Gang Activity/Affiliation:** None reported.

#### IV. CRIMINAL RECORD

As of July 22, 2019, records of the Las Vegas Metropolitan Police Department, the National Crime Information Center and the Federal Bureau of Investigation reflect the following information:

**CONVICTIONS- FEL: 17 GM: 0 MISD: 8**

**INCARCERATIONS- PRISON: 13 JAIL: 6**

**SUPERVISION HISTORY:**

**CURRENT- Probation Terms: 0 Parole Terms: 0**

**PRIOR TERMS:**

**Probation-      Revoked: 4                      Discharged:      Honorable: 0      Other: 0**

**Parole-      Revoked: 9                      Discharged:      Honorable: 3      Other: 2**

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**Adult:**

<b>Arrest Date:</b>	<b>Offense:</b>	<b>Disposition:</b>
09-09-93 Las Vegas, NV LVMPD	1. Automobile Burglary (F) 2. Carrying a Concealed Weapon (F) FTA: 12-01-93	<b>93C117136</b> 03-15-94: Convicted of Burglary (F), 3 years NDOC, suspended; probation not to exceed 3 years. 09-08-94: Probation violation. 10-27-94: Probation revoked, original sentence imposed, 86 days CTS. 03-05-96: Paroled. 07-11-96: Honorable Discharge
03-25-94 Las Vegas, NV LVMPD	1. Citation - Battery (M) 2. Petit Larceny (M) FTA: 06-01-94	<b>C231724A</b> 10-07-94: Convicted of Battery (M), CTS, and Petit Larceny (M), CTS.
09-01-94 Las Vegas, NV LVMPD	1. Possession of Stolen Property (F) 2. Possession of Stolen Credit Card (F) 3. Automobile Burglary (F)	<b>94C123260</b> 11-22-94: Convicted of Burglary (F), 3 years NDOC, concurrent with 93C117136 with zero CTS. 03-05-96: Paroled. 11-17-96: Honorable Discharge.
11-18-96 Los Angeles, CA Los Angeles SO	1. Petty Theft with Prior Jail: Spec. Offenses (F) 2. Burglary: Second Degree (F)	<b>VA040319</b> 12-20-96: Convicted of Burglary: 2 <sup>nd</sup> Degree (F), 16 months prison 02-07-97: CDC custody 07-29-98: Parole violation/revoked. 03-03-99: Parole violation /revoked 10-05-99: Parole violation. 10-16-01: Parole violation 07-06-02: Discharged from parole.
06-29-99 Lennox, CA Lennox SO	Burglary: First Degree (F)	<b>YA040685</b> 09-23-99: Convicted of Burglary: First Degree (F), 3 years prison, fine. 10-05-99: Parole violation /revoked.

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10-16-01  
Henderson, NV  
HPD

1. Possess Documents to Obtain False Identification (F) (5 counts)
2. Obtain/Use Identification of Other to Harm (F)
3. Ex-Felon Fail to Change Address (M)
- 02-07-02: Added Charges
4. Forgery (F) (5 Counts)
5. Conspiracy to Commit Forgery (GM)
- BW: 05-28-02

**02C183683-4**

08-13-02: Convicted of Forgery (F), 18 to 48 months NDOC, suspended, probation NTE 3 years, and Drug Court

11-05-02: Probation violation

12-12-02: Probation reinstated

02-16-03: Probation violation

05-08-03: Drug Court terminated due to defendant being sentenced to NDOC in case C184638 and C184653.

05-14-03: Probation revoked, underlying sentence imposed.

02-19-02  
Las Vegas, NV  
LVMPD

1. Possession of Controlled Substance (F)
2. Possession of Narcotic Paraphernalia (M)
3. Obtain/Possess Credit Card Without Consent (F), (5 Counts)
4. Possess Document to Obtain False Identification (F)
- FTA: 05-28-02

**02C184638-1**

08-21-02: Convicted of Possession of Credit Card Without Cardholder's Consent (F), 18 to 48 months NDOC, suspended, probation NTE 3 years.

11-05-02: Probation violation

02-16-03: Probation violation

04-30-03: Probation revoked, underlying sentence imposed, concurrent with other cases

11-22-04: Paroled

07-13-05: Honorable Discharge

02-20-02  
Las Vegas, NV  
LVMPD

1. Personate Another To Steal (F)
2. Burglary (F)
3. Forgery (F)
- RMD: 02-25-02
- FTA: 05-28-02, 10-29-02
- RMD: 03-26-03
4. Theft (F)

**02C184653**

08-19-02: Convicted of Theft (F), sentenced to 18 to 48 months NDOC, consecutive to C183683 placed on probation for 3 years and ordered to Drug Court.

11-05-02: Probation violated

04-23-03: Probation revoked, underlying sentence imposed with 85 days CTS, concurrent with C190967.

11-22-04: Paroled

07-16-05: Dishonorable Discharge.

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10-26-02  
Las Vegas, NV  
LVMPD

1. Burglary (F)
  2. Trespass (M)
  3. Theft (F)
- RMD: 05-01-03

**02F19483X**

10-31-02: Convicted of Count 1, Theft (M), 120 days jail concurrent with Count 2 and Convicted of Count 2, Trespass (M), 120 days jail concurrent with Count 1.

05-01-03: Amended to 90 days  
CCDC, counts concurrent.

02-15-03  
Las Vegas, NV  
LVMPD

1. Possession Stolen Vehicle (F)
2. Evade Police Officer (F)

**03C190967**

05-19-03: Convicted of Possession of Stolen Vehicle (F), 12 to 30 months in NDOC, concurrent to defendants other cases, with zero days CTS.

11-22-04: Released from prison to Federal custody.

03-29-04  
Las Vegas, NV  
USM

1. Conspiracy (F)
2. Aiding and Abetting (F)
3. Production of Counterfeit Security of an Organization (F) (2 Counts)
4. Identity Theft (F)
5. Produce 5 or more Identifications (F)

**2:04-CR-27-PMP-RJJ**

12-08-04: Convicted of Conspiracy (F); Identity Theft (F) (2 Counts); Production of Unauthorized Identification Document (F); Possession of Counterfeit Security of an Organization (F); 41 months federal prison with 3 years supervised released and restitution.

08-08-07: Parole revoked, 24 months federal prison, concurrent with four state court cases. No supervised release to follow.

02-14-07  
Las Vegas, NV  
LVMPD

1. Personate Another To Steal (F)
  2. Burglary (F)
  3. Possession of Forged Instrument
  4. Forgery (F)
  5. Uttering Forged Instruments
- BSR: 03-08-07  
RMD: 03-09-07

**07C232319**

07-15-08: Convicted of Burglary (F), Large Habitual Criminal, Life in NDOC with possibility of parole after 10 years served, concurrent with C232109, C232113 and C240508, with 517 days CTS.

03-07-17: Paroled

03-27-18: Parole violation

06-26-19: Parole revoked



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03-01-07 Las Vegas, NV LVMPD	1. Burglary (F) 2. Possession of Stolen Vehicle (F) 3. Obtain/Possess Credit Card Without Consent (F) (6 Counts)	<b>07C232113</b> 07-01-08: Convicted of Possession of Stolen Vehicle (F), Large Habitual Criminal, Life in NDOC with possibility of parole after 10 years served, concurrent with C232109, with 488 days CTS. 03-07-17: Paroled 03-27-18: Parole violation 06-26-19: Parole revoked
03-08-07 Las Vegas, NV LVMPD	1. Auto Burglary (F) 2. Grand Larceny Auto (F)	<b>07C232109</b> 07-01-08: Convicted of Grand Larceny Auto (F), Large Habitual Criminal, Life in NDOC with possibility of parole after 10 years served, with 481 days CTS. 03-07-17: Paroled 03-27-18: Parole violation 06-26-19: Parole revoked
09-05-07 Las Vegas, NV LVMPD	RMD: 1. Fraudulent Use of Credit Card (F) (2 Counts) 2. Theft (F)	<b>08C240508</b> 07-14-08: Convicted of Grand Larceny (F), Large Habitual Criminal, Life in NDOC with possibility of parole after 10 years served, with 501 days CTS. 03-07-17: Paroled 03-27-18: Parole violation 06-26-19: Parole revoked
01-24-07 Las Vegas, NV LVMPD	Battery/Domestic Violence (M)	<b>C0678056A</b> 11-02-15: Convicted of Battery Domestic Violence (M), 180 days CTS.
03-22-18 Las Vegas, NV LVMPD	1. Attempt Burglary (F) 2. Possession of Burglary Tools (GM)	<b>Instant Offense, C-19-337302-1</b>

**The defendant has also been convicted in Nevada of the following misdemeanor offenses:** Trespass (1990) jail; Use under the Influence of Controlled Substance (1998) jail; Obstruct Public Officer (2007) jail;

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**Institutional/Supervision Adjustment:** 93C117136: The defendant was convicted of Burglary (F) and granted a term of probation in not to exceed three years. During that time, he incurred a felony arrest in 94C123260. He was also arrested for Battery (M) and Petit Larceny (M). Mr. Smith did not report as required, nor did he list an address or seek employment. The defendant refused a G.E.D. vocational program and refused counseling. His probation was revoked on October 27, 1994. He was paroled and received an honorable discharge on July 11, 1996.

94C123260: The defendant was convicted of Burglary (F) and sentenced to prison. He was paroled and received an honorable discharge on November 17, 1996.

VA040319: The defendant was convicted of Burglary: 2<sup>nd</sup> Degree (F), and sentenced to the California Department of Corrections. He was paroled; however, he violated parole and was returned to prison twice. On July 6, 2002, he was discharged from parole.

YA040685: The defendant was convicted of Burglary: First Degree (F), and sentenced to prison. He was parole but it was later revoked and he returned to prison on October 5, 1999. Due to the age of this case, no additional information was available.

02C183683: The defendant was convicted of Forgery (F), and granted a term of probation not to exceed three years and Drug Court. Mr. Smith was non-compliant while on probation. He was also arrested on new charges of Theft (M), Trespass (M) and a warrant was issued by Drug Court. Mr. Smith violated probation but was reinstated; however, due to a second felony arrest, his probation was revoked and the underlying sentence was imposed on May 14, 2003.

02C184638-1: The defendant was convicted of Possession of Credit Card without Cardholder's Consent (F), and granted a term of probation not to exceed three years. On February 20, 2003, a violation report was submitted to the Court. The Probation Officer reported that Mr. Smith has "blatant disregard for probation". He incurred two probation violations and was revoked to the underlying sentence concurrent with other cases.

02C184653: The defendant was convicted of Theft (F), and granted a term of probation not to exceed three years and ordered to Drug Court. The defendant failed to comply and a violation report was submitted to the Court. The Probation Officer indicated that after being reinstated to probation, the defendant had picked up new charges and was still not complying with the Court's order to attend Drug Court. On April 23, 2003, the defendant's probation was revoked and he was sentenced to prison.

2:04-CR-27-PMP-RJJ: The defendant was convicted of Conspiracy (F); Identity Theft (F) (2 counts); Production of Five or More Unauthorized Identifications (F); and Possession of Counterfeit Security of an Organization (F), and granted three years supervised released. The defendant's probation was revoked on August 8, 2007. He was remanded to 24 months federal prison, concurrent with four state court cases. No supervised release to follow.

07C232319: The defendant was convicted in 2008 of Burglary-Large Habitual (F) and sentenced to prison. He was paroled in 2017 but violated in 2018. In June, 2019, his parole was revoked and he returned to prison.

07C232113 and 07C232109: The defendant was convicted of Possession of Stolen Vehicle-Large Habitual and Grand Larceny Auto-Large Habitual (F) and sentenced to prison. He was paroled in 2017 but violated in 2018. His parole was revoked in June 2019.

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08C240508: The defendant was convicted of Grand Larceny Auto (F); and Grand Larceny-Large Habitual (F) and sentenced to prison. On March 7, 2017, the defendant was granted parole. The defendant obtained employment and reported as directed. On March 22, 2018, the defendant was arrested for the instant offense and violated his parole which was subsequently revoked.

**V. OFFENSE SYNOPSIS**

Records provided by the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On March 22, 2019, officers responded to an attempt residential burglary, called in by the victim. Upon arrival contact was made with the victim who related he was at his residence when an unknown man, later identified as the defendant Breck Warden Smith, wearing a blue shirt and neon green utility vest with a clipboard began knocking on his front door. The defendant then went around the side of the house to a window, where he began knocking and looking inside. The defendant returned to the front door to see if anyone was there and then back to the window where he removed an unknown item from his person and began to pry open the window screen. The victim was watching this live on his residential video surveillance system. As the defendant began to pry on the window screen, the victim exited his residence and chased the defendant away. The defendant entered a cream colored Mitsubishi and left the area.

Officers came into contact with the perpetrator who identified himself as Breck Smith. The defendant gave verbal consent for officers to look inside his vehicle. Bolt cutters, gloves, duct tape and other miscellaneous tools that could be construed as burglary tools were there. A records check was conducted on Mr. Smith that revealed he was a convicted person and a Priority 1 Felon Habitual Criminal for Burglary.

During an interview, Mr. Smith stated he went to the residence to talk to an unknown man by the name of "Sorro" to see if he would pay a debt he owed. He dressed up as a utility worker to avoid attention to himself. He stated he knocked on the door and then went over t the window when he was chased away. He stated the tools in the vehicle were placed there by an unknown person who never removed them.

Officers reviewed the residential surveillance video that showed Mr. Smith knocking on the door and moving to the side window where he is seen removing an item and attempting to pry open the screen. He was then chased away from the home.

On March 22, 2018, Mr. Smith was arrested, transported to the Clark County Detention Center and booked accordingly.

**Co-Defendant/Offender Information:** N/A

**VI. DEFENDANT'S STATEMENT**

☐ See Attached      ☒ Defendant interviewed, no statement submitted      ☐ Defendant not interviewed

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**VII. VICTIM INFORMATION/STATEMENT**

A Victim Impact Statement and claim forms were mailed to the victim (VC2263804), and a statement has been attached for the Court's review. The victim did not request any restitution. Therefore, the Division is not requesting restitution.

**VIII. CUSTODY STATUS/CREDIT FOR TIME SERVED**

**Custody Status:** In Custody, NDOC

**CTS:** 0 DAYS: 03-22-18 to 04-13-18: (23 days applied to 07C232319, 07C232113, 07C232109 and 08C240508; Nevada Parolee) (CCDC)

**IX. PLEA NEGOTIATIONS**

Both Parties stipulate to recommend a sentence of TWO (2) years to FIVE (5) years imprisonment in the Nevada Department of Corrections. The State agrees not to seek habitual criminal treatment.

**X. RECOMMENDATIONS**

Based on information obtained and provided in this report, the following recommendations are submitted.

**190 Day Regimental Discipline Program:** N/A      **Deferred Sentence Per NRS 453.3363, 458.300, 458A.200, 176A.250, 176A.280:** N/A

**FEEs**

<b>Administrative Assessment:</b> \$25.00	<b>Chemical/Drug Analysis:</b> N/A	<b>DNA:</b> Taken 07-15-08
<b>DNA Admin Assessment:</b> \$3.00		
<b>Domestic Violence Fee:</b> N/A	<b>Extradition:</b> N/A	<b>Psychosexual Fee:</b> N/A

**SENTENCE**

<b>Minimum Term:</b> 24 months	<b>Maximum Term:</b> 60 months	<b>Location:</b> NDOC
<b>Consecutive to:</b> 07C232319; 07C232113; 07C232109; 08C240508	<b>Probation Recommended:</b> No	<b>Probation Term:</b> N/A
<b>Fine:</b> N/A	<b>Restitution:</b> None	<b>Mandatory Probation/ Prison:</b> N/A

☒ Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

☐ Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

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Per the Nevada Revised Statutes, any changes to factual allegations in the Presentence Investigation Report may be ordered by the court within 180 days of the entry of Judgement of Conviction. The prosecuting attorney and defendant must agree to correct the contents.

The information used in the Presentence Investigation Report may be utilized reviewed by federal, state and/or local agencies for the purpose of prison classification, program eligibility and parole consideration.

In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

Respectfully Submitted,

Anne K. Carpenter, Chief

Report prepared by: Sandra Richards  
DPS Parole and Probation, Specialist III  
sccourtservices@dps.state.nv.us

Approved by:

KS Grotelueschen, Digitally signed by KS  
Grotelueschen, Supervisor  
Date: 2019.07.26 11:32:57 -07'00'  
Supervisor  
KS Grotelueschen, DPS Parole and Probation Supervisor  
Southern Command, Las Vegas  
sccourtservices@dps.state.nv.us

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**STANDARD PROBATION AGREEMENT AND RULES IF THE COURT CHOOSES TO GRANT PROBATION:**

1. **Reporting:** You are to report in person to the Division of Parole and Probation as instructed by the Division or its agent. You are required to submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
2. **Residence:** You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation, in each instance.
3. **Intoxicants:** You shall not consume any alcoholic beverages (whatsoever) (to excess). Upon order of the Division of Parole and Probation or its agent, you shall submit to a medically recognized test for blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall be sufficient proof of excess.
4. **Controlled Substances:** You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall submit to drug testing as required by the Division or its agent.
5. **Weapons:** You shall not possess, have access to, or have under your control, any type of weapon.
6. **Search:** You shall submit your person, property, place of residence, vehicle or areas under your control to search including electronic surveillance or monitoring of your location, at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by the Division of Parole and Probation or its agent.
7. **Associates:** You must have prior approval by the Division of Parole and Probation to associate with any person convicted of a felony, or any person on probation or parole supervision. You shall not have any contact with persons confined in a correctional institution unless specific written permission has been granted by the Division and the correctional institution.
8. **Directives and Conduct:** You shall follow the directives of the Division of Parole and Probation and your conduct shall justify the opportunity granted to you by this community supervision.
9. **Laws:** You shall comply with all municipal, county, state, and federal laws and ordinances.
10. **Out-of-State Travel:** You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
11. **Employment/Program:** You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
12. **Financial Obligation:** You shall pay fees, fines, and restitution on a schedule approved by the Division of Parole and Probation. Any excess monies paid will be applied to any other outstanding fees, fines, and/or restitution, even if it is discovered after your discharge.
13. **Special Conditions:**
  1. You shall submit your digital storage media or any digital storage media that you have access or use, including computers, handheld communication devices and any network applications associated with those devices, including social media and remote storage services to a search and shall provide all passwords, unlock codes and account information associated with those items, with or without a search warrant, by the Division of Parole and Probation or its agent.
  2. Any Other Condition As Determined By the Court.

Steve Sisolak  
Governor



James M. Wright  
Director

Natalie Wood  
Chief

# DIVISION OF PAROLE AND PROBATION

July 26, 2019

## PROBATION SUCCESS PROBABILITY (PSP) SCORE

Offender:	SMITH, BRECK	Offense Score Total:	23
PSI #:	576274	Social Score Total:	29
BIN #:	1000157132	Raw Score Total:	19
Case #:	C337302-1	Total PSP Score:	52

### Prior Criminal History:

Felony Convictions:	-1 = 2 or More	Jail Sentences:	0 = 3 or more
Misdemeanor Convictions:	1 = 1-3	Juvenile Commitments:	2 = None/or over 24
Pending, unrelated cases:	2 = None	Years free of Conv:	0 = Less than 3
Subsequent Crim Hist:	2 = None	Prior Formal Supry:	0 = More than 1
Prior Incarcerations:	0 = 2 or more	Criminal Pattern:	-2 = History of Violence

### Present Offense:

Circumstances of Arrest:	2 = Non-prob.	Sophistication/Premeditation:	0 = High
Type of Offense:	2 = Property	Plea Bargain Benefits:	0 = High
Psych or Medical Impact:	3 = N/A	Financial Impact:	2 = Minimal or no loss
Weapon:	3 = N/A	CoOffender:	0 = Leader/Coerced Others or NONE
Controlled Substances:	3 = N/A	Motive:	0 = Deliberate

**Raw Score x 1.2 = Offense Score Total: 23**

### Social History:

Age:	3 = 40 or more	Family Situation:	2 = Moderately Supportive
Employment/Program:	0 = Almost Non-existent	Education:	2 = High School/GED/Vo-Tech
Financial:	2 = Could be developed	Military:	1 = Hon Discharge/No Mil Ser
Employability:	2 = Readily/Not Needed/Mental Health		

### Pre Sentence Adjustment:

Commitment/Ties:	2 = Local/In State	Resource Availability:	2 = Available
Program Participation:	3 = N/A	Substance Drug:	3 = No Use
Honesty/Cooperation:	1 = Reluctant	Substance Alcohol:	3 = Non-Problematic
Attitude/Supervision:	2 = Positive	Attitude/Offense:	1 = Indifferent

**Social Score Total: 29**

**Offense Score + Social Score = PSP TOTAL SCORE: 52**

**DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF PAROLE AND PROBATION  
SENTENCE RECOMMENDATION SELECTION SCALE**

☒ Felony☐ GMDefendant's Name: BRECK WARDEN SMITHCC# C-19-337302-1

CT:	Offense: ATTEMPT BURGLARY (F)	NRS: 205.060	Category: C
Recommendation: 24/60 MONTHS NDOC/CONSECUTIVE TO 07C232319, 07C232113, 07C232109, 08C240508		<input type="checkbox"/> Probation Only  <input type="checkbox"/> Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		<input type="checkbox"/> Probation Only  <input type="checkbox"/> Non-Probation	

CT:	Offense:	NRS: 207.010	Category:
Recommendation:		<input type="checkbox"/> Probation Only  <input type="checkbox"/> Non-Probation	

CT:	Offense:	NRS:	Category:
Recommendation:		<input type="checkbox"/> Probation Only  <input type="checkbox"/> Non-Probation	



PSP TOTAL SCORE: 52 0-54 = Denial ☒ 55-64 = Borderline ☐ 65-100 = Probation ☐

DEVIATION JUSTIFICATION: In to OR Out to Probation ☐ In / Prison ☐ Out / Probation

Raw Score (Offense): 19 Diversion Recommended: 453 ☐ 458 ☐ Veterans ☐ Mental Health ☐ Other ☐  
(transfer score to corresponding risk range below)

SENTENCE STRUCTURE	CATEGORY Score	LOW RANGE 39-49 <input type="checkbox"/>	LOW - MEDIUM 28-38 <input type="checkbox"/>	MEDIUM RANGE 17-27 <input checked="" type="checkbox"/>	MEDIUM - HIGH 6-16 <input type="checkbox"/>	MAXIMUM ≤ 5 (or less) <input type="checkbox"/>
364 days Begin sentence consideration at midpoint six month sentence and adjust based on factors delineated	Gross Misdemeanor (GM)	Factors to justify greater sentence: Prior criminal history, harm to victim, issues can be addressed via probation, restitution will be ordered. Factors to justify lesser sentence and/or fine only: Minimal/no financial loss, minimal/no prior criminal history, age of offender, out of state offender, no issues to be addressed via probation, time in custody prior to sentencing, contemplated in plea negotiations				
1 - 4 years <input type="checkbox"/>	Category E Category D	12-30 months <input type="checkbox"/>	12-32 months <input type="checkbox"/>	12-34 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	19-48 months <input type="checkbox"/>
1 - 5 years <input checked="" type="checkbox"/>	Category C	12-32 months <input type="checkbox"/>	12-34 months <input type="checkbox"/>	12-36 months <input checked="" type="checkbox"/>	18-60 months <input type="checkbox"/>	24-60 months <input type="checkbox"/>
1 - 6 years <input type="checkbox"/>	Category B	12-36 months <input type="checkbox"/>	12-36 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	24-72 months <input type="checkbox"/>	28-72 months <input type="checkbox"/>
1 - 10 years <input type="checkbox"/>	Category B	12-36 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	16-72 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
1 - 15 years <input type="checkbox"/>	Category B Enhancement	12-48 months <input type="checkbox"/>	24-60 months <input type="checkbox"/>	36 - 96 months <input type="checkbox"/>	48-180 months <input type="checkbox"/>	60-180 months <input type="checkbox"/>
2 - 10 years <input type="checkbox"/>	Category B	24-60 months <input type="checkbox"/>	28-72 months <input type="checkbox"/>	32-84 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
2 - 15 years <input type="checkbox"/>	Category B	24-72 months <input type="checkbox"/>	32-84 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-180 months <input type="checkbox"/>	66-180 months <input type="checkbox"/>
3 - 10 years <input type="checkbox"/>	Category B	36-90 months <input type="checkbox"/>	40-100 months <input type="checkbox"/>	42-110 months <input type="checkbox"/>	44-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
3 - 15 years <input type="checkbox"/>	Category B	36-96 months <input type="checkbox"/>	42-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>	60-180 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>
5 - 15 years <input type="checkbox"/>	Category B	60-150 months <input type="checkbox"/>	64-162 months <input type="checkbox"/>	68-174 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>
1 - 20 years <input type="checkbox"/>	Category B	12-48 months <input type="checkbox"/>	18-96 months <input type="checkbox"/>	24-120 months <input type="checkbox"/>	36-240 months <input type="checkbox"/>	72-240 months <input type="checkbox"/>
2 - 20 years <input type="checkbox"/>	Category B	24-60 months <input type="checkbox"/>	30-96 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-240 months <input type="checkbox"/>	84 - 240 months <input type="checkbox"/>
3 - 20 years <input type="checkbox"/>	Category B	36-72 months <input type="checkbox"/>	42-108 months <input type="checkbox"/>	54-144 months <input type="checkbox"/>	66-240 months <input type="checkbox"/>	96 -240 months <input type="checkbox"/>
5 - 20 years <input type="checkbox"/>	Category B & habitual offender	60-150 months <input type="checkbox"/>	64-162 months <input type="checkbox"/>	72-174 months <input type="checkbox"/>	84-240 months <input type="checkbox"/>	96 -240 months <input type="checkbox"/>
Life w/or without parole <input type="checkbox"/>	Category A & habitual offender	Life/possibility of parole after 20 years <input type="checkbox"/>	Life/ possibility of parole after 20 years <input type="checkbox"/>	Life w/possibility of parole <input type="checkbox"/>	Life w/ possibility of parole <input type="checkbox"/>	Life with no possibility of parole <input type="checkbox"/>

**Other Areas of Concern (Check all that apply):**

- ☐ Low Intelligence / Cognitive Difficulties ☐ Physical Handicap ☐ Mental Health Issues
- ☐ Reading and Writing Limitations / Significant Learning Disabilities
- ☐ Other: \_\_\_\_\_

**IMPORTANT:** The factors and areas of concern identified above should not result in a negative impact when formulating a sentencing recommendation. If any of these factors apply to an offender, a downward sentence deviation towards leniency may be appropriate.

ANY RECOMMENDATION THAT DEVIATES FROM SUGGESTED SENTENCE MUST INCLUDE JUSTIFICATION (+) OR (-)

DEVIATION JUSTIFICATION:

Per GPA

Sandra Richards, Specialist III

Digitally signed by Sandra Richards, Specialist III  
Date: 2019.07.23 17:54:12 -0700

Specialist:

3388

CID #

Tuesday, July 23, 2019

Date

KS Grotelueschen, Supervisor

Digitally signed by KS Grotelueschen, Supervisor  
Date: 2019.07.26 08:11:26 -0700

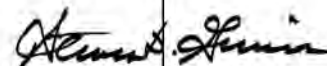
Supervisor:

4336

CID #

Friday, July 26, 2019

Date



CLERK OF THE COURT

**JUSTICE COURT, LAS VEGAS TOWNSHIP**  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs,

Breck Warden Smith,

Defendant

District Court Case No.: C-19-337302-1  
Dept.: XXV

Justice Court Case No.: 18F05188X

**CERTIFICATE**

I hereby certify the foregoing to be a full, true and correct copy of the proceedings as  
the same appear in the above case.

Dated this 10th day of January, 2019



Justice of the Peace, Las Vegas Township

1  
2 **JUSTICE COURT, LAS VEGAS TOWNSHIP**  
3 **CLARK COUNTY, NEVADA**

4 STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 Breck Warden Smith

8 Defendant  
9

District Court Case No.:

Justice Court Case No.: 18F05188X

10 **BINDOVER and ORDER TO APPEAR**

11 An Order having been made this day by me that **Breck Warden Smith** be held to  
12 answer before the Eighth Judicial District Court, upon the charge(s) of **Att burglary**  
13 **[50442]; Att home invasion [50446]; Poss burglary tools [50441]** committed in said  
Township and County, on March 22, 2018 .

14 **IT IS FURTHER ORDERED** that said defendant is commanded to appear in the  
15 Eighth Judicial District Court, Regional Justice Center, Lower Level Arraignment  
16 Courtroom "A", Las Vegas, Nevada on January 14, 2019 at 10:00 AM for arraignment  
17 and further proceedings on the within charge(s).

18 **IT IS FURTHER ORDERED** that the Sheriff of the County of Clark is hereby  
19 commanded to receive the above named defendant(s) into custody, and detain said  
20 defendant(s) until he/she can be legally discharged, and be committed to the custody of the  
Sheriff of said County, until bail is given in the sum of \$7,000/7,000 Total Bail.

21 Dated this 10th day of January, 2019

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25 Justice of the Peace, Las Vegas Township  
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27  
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ORIGINAL

LAS VEGAS JUSTICE COURT  
FILED IN OPEN COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

AUG 30 2018

BY

CLERK

THE STATE OF NEVADA,

Plaintiff,

-vs-

BRECK WARDEN SMITH #806628,

Defendant.

CASE NO: 18F05188X

DEPT NO: 1

AMENDED

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of ATTEMPT BURGLARY (Category C Felony - NRS 205.060, 193.330 - NOC 50442); ATTEMPT INVASION OF THE HOME (Category C Felony - NRS 205.067, 193.330 - NOC 50446) and POSSESSION OF BURGLARY TOOLS (Gross Misdemeanor - NRS 205.080 - NOC 50441), in the manner following, to-wit: That the said Defendant, on or about the 22nd day of March, 2018, at and within the County of Clark, State of Nevada,

COUNT 1 - ATTEMPT BURGLARY

did willfully, unlawfully, and feloniously attempt to enter, with intent to commit larceny, that certain building located at 10091 Edwardian Street, Las Vegas, Clark County, Nevada, occupied by LEOMER SARMIENTO, by knocking on doors and windows.

COUNT 2 - ATTEMPT INVASION OF THE HOME

did willfully, unlawfully, and feloniously attempt to forcibly enter an inhabited dwelling, to wit: 10091 Edwardian Street, Las Vegas, Clark County, Nevada, without permission of the owner, resident, or lawful occupant, to wit: LEOMER SARMIENTO, by knocking on doors and windows.

COUNT 3 - POSSESSION OF BURGLARY TOOLS

did willfully and unlawfully have in his possession, a tool, to wit: a utility vest and/or clipboard and/or a badge, which is commonly used for the commission of a burglary, invasion of the home, larceny, and/or other crime, under circumstances evincing an intent to use or employ said tools in the commission of a crime.

1 All of which is contrary to the form, force and effect of Statutes in such cases made and  
2 provided and against the peace and dignity of the State of Nevada. Said Complainant makes  
3 this declaration subject to the penalty of perjury.

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5 08/23/18  
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27 18F05188X/ckb/L4  
28 LVMPD.EV# 1803222077  
(TK1)

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, 2018 MAR 26 A 8:35

Plaintiff, JUSTICE COURT  
LAS VEGAS NEVADA

CASE NO: 18F05188X

-vs-

BY DEPUTY GEG

DEPT NO: 1

BRECK WARDEN SMITH #806628,

Defendant.

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of ATTEMPT BURGLARY (Category C Felony - NRS 205.060, 193.330 - NOC 50442) and POSSESSION OF BURGLARY TOOLS (Gross Misdemeanor - NRS 205.080 - NOC 50441), in the manner following, to-wit: That the said Defendant, on or about the 22nd day of March, 2018, at and within the County of Clark, State of Nevada,

COUNT 1 - ATTEMPT BURGLARY

did willfully, unlawfully, and feloniously attempt to enter, with intent to commit larceny, that certain building located at 10091 Edwardian Street, Las Vegas, Clark County, Nevada, occupied by LEOMER SARMIENTO, by knocking on doors and windows.

COUNT 2 - POSSESSION OF BURGLARY TOOLS

did willfully and unlawfully have in his possession, a tool, to wit: a utility vest and/or clipboard and/or a badge, which is commonly used for the commission of a burglary, invasion of the home, larceny, and/or other crime, under circumstances evincing an intent to use or employ said tools in the commission of a crime.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

03/23/18

18F05188X/mab  
LVMPD EV# 1803222077  
(TK1)

18F05188X  
CRM  
Criminal Complaint  
9211443



**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 01

**Court Minutes**



L009218601

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Public Defender

**3/27/2018 7:30:00 AM Initial Appearance (In Custody)**

Result: Matter Heard

<b>PARTIES PRESENT:</b>	State Of Nevada	Scheible, Melanie L
	Attorney	Gaston, Tyler
	Defendant	Smith, Breck Warden

**Judge:** Pro Tempore, Judge

**Court Reporter:** McIntosh, Shawna

**Pro Tempore:** Hua, Jeannie

**Court Clerk:** Howard, Erika

**PROCEEDINGS**

<b>Attorneys:</b>	<b>Gaston, Tyler</b>	Smith, Breck Warden	Added
	<b>Public Defender</b>	Smith, Breck Warden	Added

<b>Hearings:</b>	6/13/2018 9:00:00 AM: Preliminary Hearing	Added
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**Events:** **Initial Appearance Completed**  
*Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint*  
**Public Defender Appointed**  
**Defense waives the 15 day rule**  
**Bail Stands - Cash or Surety** Amount: \$7,000.00  
*Counts: 001; 002 - \$7,000.00/\$7,000.00 Total Bail*

**Justice Court, Las Vegas Township  
Clark County, Nevada**

**Court Minutes**

Department: 01



L009551750

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: C. Benjamin Scroggins

**6/13/2018 9:00:00 AM Preliminary Hearing (In custody)**

Result: Matter Heard

<b>PARTIES PRESENT:</b>	State Of Nevada	Jones, John
	Attorney	Scroggins, C. Benjamin
	Defendant	Smith, Breck Warden

**Judge:** Walsh, Robert J.  
**Court Reporter:** McIntosh, Shawna  
**Court Clerk:** Howard, Erika

**PROCEEDINGS**

**Hearings:** 7/16/2018 7:30:00 AM: Negotiations Added

**Events:** **Motion to Continue - Defense**

*Granted*

**Continued For Negotiations**

**Bail Stands - Cash or Surety**

*Amount: \$7,000.00*

*Counts: 001; 002 - \$7,000.00/\$7,000.00 Total Bail*



**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 01

**Court Minutes**



L009682906

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson

**7/16/2018 7:30:00 AM Negotiations (In Custody)**

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney Jones, John Ericsson, Thomas A.  
**Judge:** Walsh, Robert J.  
**Court Reporter:** McIntosh, Shawna  
**Court Clerk:** Orozco, Evelyn

**PROCEEDINGS**

<b>Attorneys:</b>	Ericsson, Thomas A. Smith, Breck Warden	Added
<b>Hearings:</b>	7/30/2018 7:30:00 AM: Negotiations	Added
<b>Events:</b>	<b>Counsel Substitutes in as Attorney of Record</b> <i>T. Ericson, Esq.</i> <b>Motion to Continue - Defense</b> <i>Granted</i> <b>Continued For Negotiations</b> <b>Bail Stands - Cash or Surety</b> <span style="float: right;"><i>Amount: \$7,000.00</i></span> <i>Counts: 001; 002 - \$7,000.00/\$7,000.00 Total Bail</i> <b>Defendant not Transported</b> <i>Defendant currently at Nevada State Prison</i> <b>Custody Comment</b> <i>Defendant currently at Nevada State Prison</i>	

Justice Court, Las Vegas Township  
Clark County, Nevada

Department: 01

Court Minutes



L009743529

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson

**7/30/2018 7:30:00 AM Negotiations (In Custody)**

Result: Matter Heard

**PARTIES PRESENT:**  
State Of Nevada  
Attorney  
Defendant  
Scheible, Melanie L  
Ericsson, Thomas A.  
Smith, Breck Warden

**Judge:** Walsh, Robert J.  
**Court Reporter:** McIntosh, Shawna  
**Court Clerk:** Orozco, Evelyn

**PROCEEDINGS**

**Hearings:** 8/20/2018 7:30:00 AM: Negotiations Added

**Events:** **Motion to Continue - Defense**

*Granted*

**Continued For Negotiations**

**Bail Stands - Cash or Surety** Amount: \$7,000.00

*Counts: 001; 002 - \$7,000.00/\$7,000.00 Total Bail*

**Custody Comment**

*Defendant is in custody at High Desert State Prison*

**Justice Court, Las Vegas Township  
Clark County, Nevada**

**Court Minutes**

Department: 01



L009829601

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson

**8/20/2018 7:30:00 AM Negotiations (In Custody)**

Result: Matter Heard

**PARTIES** State Of Nevada Wong, Hetty  
**PRESENT:** Attorney Ericsson, Thomas A.  
Defendant Smith, Breck Warden

**Judge:** Walsh, Robert J.

**Court Reporter:** Grime, Joanie

**Court Clerk:** Howard, Erika

**PROCEEDINGS**

**Hearings:** 9/4/2018 9:00:00 AM: Preliminary Hearing Added

**Events:** **Matter Not Negotiated - Preliminary Hearing/Trial  
Date Set**

**Preliminary Hearing Date Reset**

**Bail Stands - Cash or Surety** Amount: \$7,000.00

*Counts: 001; 002 - \$7,000.00/\$7,000.00 Total Bail*

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 01

**Court Minutes**



L009881086

**18F05188X      State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson

**8/30/2018 7:30:00 AM Motion (In Custody (High Desert))**

Result: Matter Heard

**PARTIES PRESENT:**      State Of Nevada      Lexis, Chad  
                                 Attorney      Ericsson, Thomas A.

**Judge:**      Walsh, Robert J.  
**Court Reporter:**      McIntosh, Shawna  
**Court Clerk:**      Howard, Erika

**PROCEEDINGS**

**Events:**      **Motion by State to File an Amended Criminal Complaint**  
                         *Granted*  
                         **Amended Criminal Complaint**  
                         *Filed in open court*  
                         **Remand - Cash or Surety**  
                         *Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail*  
                         **Future Court Date Stands**  
                         *September 4, 2018 9am*  
                         *Preliminary Hearing*

**Charges:**      **Amended: 003: Possess burglary tools**      Amended Complaint Filed  
                         **002: Attempted home invasion**

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 01

**Court Minutes**



L009894145

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson

**9/4/2018 9:00:00 AM Preliminary Hearing (In  
Custody(Prison))**

Result: Matter Heard

<b>PARTIES</b>	State Of Nevada	Wong, Hetty
<b>PRESENT:</b>	Attorney	Ericsson, Thomas A.
	Defendant	Smith, Breck Warden

**Judge:** Walsh, Robert J.

**Court Reporter:** Grime, Joanie

**Court Clerk:** Howard, Erika

<b>PROCEEDINGS</b>
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<b>Hearings:</b>	9/18/2018 7:30:00 AM: Negotiations	Added
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**Events: Motion to Continue - Defense**

*Granted*

**Continued For Negotiations**

**Bail Stands - Cash or Surety** *Amount: \$7,000.00*

*Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail*

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 01

**Court Minutes**



L009954301

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson

**9/18/2018 7:30:00 AM Negotiations (In custody  
(Prison))**

Result: Matter Heard

**PARTIES** State Of Nevada Wong, Hetty  
**PRESENT:** Attorney Ericsson, Thomas A.  
Defendant Smith, Breck Warden

**Judge:** Pro Tempore, Judge

**Court Reporter:** Grime, Joanie

**Court Clerk:** Howard, Erika

**Pro Tempore:** Jansen, William D.

**PROCEEDINGS**

**Hearings:** 10/10/2018 9:00:00 AM: Preliminary Hearing

Added

**Events:** **Preliminary Hearing Date Reset**

**Matter Not Negotiated - Preliminary Hearing/Trial  
Date Set**

**Bail Stands - Cash or Surety** Amount: \$7,000.00

*Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail*

**Justice Court, Las Vegas Township  
Clark County, Nevada**

**Court Minutes**

Department: 01



L010047599

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson, ESQ

**10/10/2018 9:00:00 AM Preliminary Hearing (In  
Custody(Prison))**

Result: Matter Heard

<b>PARTIES</b>	State Of Nevada	Cole, Madilyn
<b>PRESENT:</b>	Attorney	Ericsson, Thomas A., ESQ
	Defendant	Smith, Breck Warden

**Judge:** Walsh, Robert J.

**Court Reporter:** McIntosh, Shawna

**Court Clerk:** Orozco, Evelyn

**PROCEEDINGS**

**Hearings:** 10/24/2018 7:30:00 AM: Negotiations

Added

**Events:** **Side Bar Conference Held**  
**Motion to Continue - Defense**  
*Granted*

**Continued For Negotiations**

**Presence Waived**

*for Defendant*

**Bail Stands - Cash or Surety** Amount: \$7,000.00

*Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail*

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 01

**Court Minutes**



L010104905

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson, ESQ

**10/24/2018 7:30:00 AM Negotiations (In Custody  
(Prison))**

Result: Matter Heard

<b>PARTIES</b>	State Of Nevada	Keach, Eckley M.
<b>PRESENT:</b>	Attorney	Stewart, Rachel E, ESQ
	Defendant	Smith, Breck Warden

**Judge:** Pro Tempore, Judge

**Court Reporter:** McIntosh, Shawna

**Pro Tempore:** Miller, James Joseph

**Court Clerk:** Orozco, Evelyn

**PROCEEDINGS**

<b>Attorneys:</b>	<b>Stewart, Rachel E,</b>	Smith, Breck Warden	Added
	<b>ESQ</b>		

<b>Hearings:</b>	1/10/2019 9:00:00 AM: Preliminary Hearing	Added
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**Events:** **Matter Not Negotiated - Preliminary Hearing/Trial  
Date Set**

**Preliminary Hearing Date Reset**

**Bail Stands - Cash or Surety** Amount: \$7,000.00

*Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail*

**Plea/Disp:**



18F05188X

Smith, Breck Warden Attorney: Ericsson, Thomas A., ESQ

10/24/2018 7:30 AM

ScopeID: 806628

Hearing Type

Hearing Comment



L010098611

Negotiations

In Custody(Prison)

Date	Related Event	Comment
10/10/2018	Bail Stands - Cash or Surety	Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail
10/10/2018	Presence Waived	for Defendant

Case Flags: Original Track 01

**Sentencing Information**

1 Attempted burglary [50442] (3/22/2018) (F) PCN/SEQ: 0025742615 001

Plea:

Disp:

2 Attempted home invasion [50446] (3/22/2018) (F) PCN/SEQ: 0025742615 003

Plea:

Disp:

3 Possess burglary tools [50441] (3/22/2018) (G) PCN/SEQ: 0025742615 002

Plea:

Disp:

MNN  
PHR  
B STCS  
CSS

1/10 9am

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 09

**Court Minutes**



L010392483

**18F05188X State of Nevada vs. Smith, Breck Warden**

Lead Atty: Thomas A. Ericsson, ESQ

**1/10/2019 9:00:00 AM Preliminary Hearing (In Custody)**

Result: Bound Over

<b>PARTIES PRESENT:</b>	State Of Nevada	Cole, Madilyn
	Attorney	Ericsson, Thomas A., ESQ
	Defendant	Smith, Breck Warden

**Judge:** Bonaventure, Joseph M.

**Court Reporter:** Camgemi, Robert

**Court Clerk:** Cardwell, Ryan

**PROCEEDINGS**

**Events: Unconditional Bind Over to District Court**

Review Date: 1/11/2019

*Defendant unconditionally waives right to Preliminary Hearing. Defendant Bound Over to District Court as Charged. Defendant to Appear in the Lower Level Arraignment Courtroom A.*

**District Court Appearance Date Set**

*Jan 14 2019 10:00AM: In Custody*

**Case Closed - Bound Over**

**Bail Stands - Cash or Surety** Amount: \$7,000.00

*Counts: 001; 002; 003 - \$7,000.00/\$7,000.00 Total Bail*

**Plea/Disp: 001: Att burglary [50442]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**002: Att home invasion [50446]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**003: Poss burglary tools [50441]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: PC

**Court Minutes**



L009205834

**PC18F05188X     State of Nevada vs. Smith, Breck Warden**

**3/23/2018 9:00:00 AM Initial Appearance Justice  
Court (PC Review)**

Result: Signing Completed

**PARTIES  
PRESENT:**

**Judge:** Walsh, Robert J.  
**Court Clerk:** Cardenas, Pompeya

<b>PROCEEDINGS</b>
--------------------

<b>Hearings:</b>	3/27/2018 7:30:00 AM: 72 Hour Hearing	Added
------------------	---------------------------------------	-------

<b>Events:</b>	Probable Cause Found
----------------	----------------------

**Bail Reset - Cash or Surety**

*Counts: 001; 002 - \$7,000.00/\$7,000.00 Total Bail*

1 C. BENJAMIN SCROGGINS, Esq.  
Nevada Bar No. 7902  
2 HUTCHINGS LAW GROUP, LLC  
552 East Charleston Boulevard  
3 Las Vegas, Nevada 89104  
Tel.: (702) 660-7700  
4 Fax: (702) 552-5202  
Email: [benscrogginsesq@gmail.com](mailto:benscrogginsesq@gmail.com)

5 *Attorney for Defendant,*  
6 BRECK SMITH

7 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

8 COUNTY OF CLARK, STATE OF NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 BRECK WARDEN SMITH,

13 Defendant.

Case No.: 18F05188X  
Dept. No.: 1

14 NOTICE OF ENTRY OF SUBSTITUTION OF ATTORNEY

15 TO: THE STATE OF NEVADA;

16 TO: THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE; and

17 TO: THE CLARK COUNTY PUBLIC DEFENDER.

18 YOU AND EACH OF YOU will please take notice that a Substitution of Attorney was  
19 filed in the above-referenced case on the 10th day of April, 2018. A true and correct copy of the

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FILED

2018 APR 10 P 4:01

JUSTICE COURT  
LAS VEGAS NEVADA

BY \_\_\_\_\_  
DEPUTY

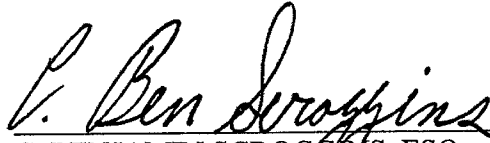
18F05188X  
NTC  
Notice  
9277209



1 Substitution is attached hereto as Exhibit "A." Take due notice thereof and govern yourselves  
2 accordingly.

3 GIVEN this 10th day of April, 2018.

4 HUTCHINGS LAW GROUP, LLC

5   
6

7 C. BENJAMIN SCROGGINS, ESQ.

8 Nevada Bar No. 7902

9 552 East Charleston Boulevard

10 Las Vegas, Nevada 89104

11 *Attorney for Defendant,*

12 *BRECK W. SMITH*

13 **CERTIFICATE OF SERVICE**

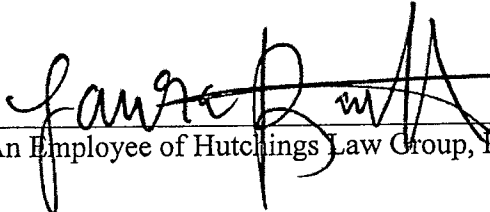
14 I hereby certify that I served a true and correct copy of the foregoing NOTICE OF  
15 ENTRY OF SUBSTITUTION OF ATTORNEY on the 10<sup>th</sup> day of April, 2018, by depositing  
16 the same for mailing in the United States mail, postage prepaid, addressed to the following:

17 Clark County Public Defender  
18 309 South Third Street  
19 Las Vegas, Nevada 89155

20 Clark County District Attorney  
21 Criminal Division  
22 200 Lewis Avenue  
23 Las Vegas, Nevada 89101

24 DATED this 10<sup>th</sup> day of April, 2018.

25 By:

26   
27 An Employee of Hutchings Law Group, LLC

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# Exhibit “A”

1 C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
2 HUTCHINGS LAW GROUP, LLC  
552 East Charleston Boulevard  
3 Las Vegas, Nevada 89104  
Tel.: (702) 660-7700  
4 Fax: (702) 552-5202  
Email: [benscrogginsesq@gmail.com](mailto:benscrogginsesq@gmail.com)

5  
6 *Attorney for Defendant,*  
*BRECK SMITH*

7 **IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP**

8 **COUNTY OF CLARK, STATE OF NEVADA**

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 vs.

12 BRECK WARDEN SMITH,  
13 Defendant.

Case No.: 18F05188X  
Dept. No.: 1

14 **SUBSTITUTION OF ATTORNEY**

15 Defendant, BRECK WARDEN SMITH, hereby substitutes C. BENJAMIN  
16 SCROGGINS, ESQ. and HUTCHINGS LAW GROUP, LLC as his attorneys in place of the

17 ///

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**FILED**

2018 APR 10 A 9:39


JUSTICE COURT  
LAS VEGAS NEVADA

BY AMC  
DEPUTY


Clark County Public Defender. This substitution is made pursuant to JCRLV 30(b)(1).

CONSENT to the above substitution is hereby given:

This 9 day of April, 2018.

By:   
BRECK WARDEN SMITH,  
Defendant


This 10th day of April, 2018.

By:   
PUBLIC DEFENDER  
309 South Third Street  
Las Vegas, Nevada 89155  
(702) 455-4685

This 10 day of April, 2018.

By:   
C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
**HUTCHINGS LAW GROUP, LLC**  
552 East Charleston Boulevard  
Las Vegas, Nevada 89104  
(702) 660-7700

SUBMITTED this 10th day of April, 2018.

  
C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
**HUTCHINGS LAW GROUP, LLC**  
552 East Charleston Boulevard  
Las Vegas, Nevada 89104  
Tel.: (702) 660-7700  
Fax: (702) 552-5202  
[benscrogginsesq@gmail.com](mailto:benscrogginsesq@gmail.com)

**RECEIPT OF COPY**

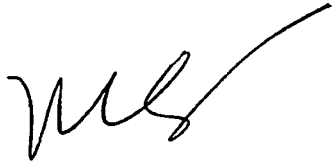
I hereby acknowledge that on the \_\_\_\_ day of April, 2018, I received a copy of the  
foregoing **SUBSTITUTION OF ATTORNEY** filed in Las Vegas Justice Court case number

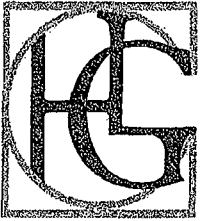


1 18F05188X, STATE OF NEVADA v. BRECK WARDEN SMITH, by hand delivery made at  
2 my office located at:

3 The Office of the Clark County District Attorney  
4 Criminal Division  
5 200 Lewis Avenue  
6 Las Vegas, Nevada 89101

7 DATED this 9 day of April, 2018.

8 By:   
9 An Employee of the Office of the Clark  
10 County District Attorney  
11  
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**HUTCHINGS LAW GROUP**  
ATTORNEYS AT LAW  
552 E. Charleston Blvd.  
Las Vegas, Nevada 89104  
P: (702) 660-7700 F: (702) 552-5202  
[hutchingslawgroup.com](http://hutchingslawgroup.com)

JC |  
**FILED**

2018 APR 10 A 11:55

JUSTICE COURT  
LAS VEGAS NEVADA  
BY JW  
DEPUTY

April 9, 2018

*Sent Via Facsimile and U.S. Mail*

Las Vegas Justice Court  
Department 1  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89101  
Fax: (702) 671-2512


Re: State of Nevada v. Breck Warden Smith  
Case number: 18F05188X

To whom it may concern:

Please be advised that this office represents Mr. Breck Warden Smith in the above-referenced case. Please direct all future notices and correspondence in this case to my attention. If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,

**HUTCHINGS LAW GROUP**

  
C. BENJAMIN SCROGGINS, ESQ.  
Of Counsel

cc: Clark County District Attorney's Office

CBS

18F05188X  
ACON  
Notice of Confirmation of Counsel  
9273981



040

**FAX COVER SHEET**

TO

COMPANY

FAXNUMBER 17026712512

FROM Mark Hutchings

DATE 2018-04-09 17:39:38 GMT

RE LVJC LOR Breck Warden

**COVER MESSAGE**

Laura Bautista  
Legal Assistant  
**Hutchings Law Group, LLC**  
552 E. Charleston Blvd.  
Las Vegas, NV 89104  
P: 702-660-7700  
F: 702-552-5202  
[lbautista@hutchingslawgroup.com](mailto:lbautista@hutchingslawgroup.com)

C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
**HUTCHINGS LAW GROUP, LLC**  
552 East Charleston Boulevard  
Las Vegas, Nevada 89104  
Tel.: (702) 660-7700  
Fax: (702) 552-5202  
Email: [benscrogginsesq@gmail.com](mailto:benscrogginsesq@gmail.com)

*Attorney for Defendant,*  
**BRECK SMITH**

**IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP**  
**COUNTY OF CLARK, STATE OF NEVADA**

THE STATE OF NEVADA,  
Plaintiff,

vs.

BRECK WARDEN SMITH,  
Defendant.

Case No.: 18F05188X  
Dept. No.: 1

**SUBSTITUTION OF ATTORNEY**

Defendant, BRECK WARDEN SMITH, hereby substitutes C. BENJAMIN  
SCROGGINS, ESQ. and HUTCHINGS LAW GROUP, LLC as his attorneys in place of the

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18F05188X  
SUBA  
Substitution of Attorney  
9273060



**FILED**

2018 APR 10 A 9:39

JUSTICE COURT  
LAS VEGAS ~~NEVADA~~  
BY \_\_\_\_\_  
DEPUTY

Clark County Public Defender. This substitution is made pursuant to JCRLV 30(b)(1).

CONSENT to the above substitution is hereby given:


This 9 day of April, 2018.

This 10<sup>th</sup> day of April, 2018.

By:

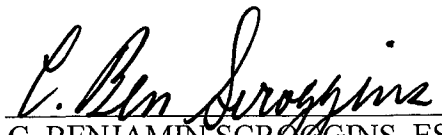
  
BRECK WARDEN SMITH,  
Defendant

By:

  
PUBLIC DEFENDER  
309 South Third Street  
Las Vegas, Nevada 89155  
(702) 455-4685

This 10 day of April, 2018.

By:

  
C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
**HUTCHINGS LAW GROUP, LLC**  
552 East Charleston Boulevard  
Las Vegas, Nevada 89104  
(702) 660-7700

SUBMITTED this 10<sup>th</sup> day of April, 2018.

  
C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
**HUTCHINGS LAW GROUP, LLC**  
552 East Charleston Boulevard  
Las Vegas, Nevada 89104  
Tel.: (702) 660-7700  
Fax: (702) 552-5202  
[benscrogginsesq@gmail.com](mailto:benscrogginsesq@gmail.com)


**RECEIPT OF COPY**

I hereby acknowledge that on the \_\_\_\_ day of April, 2018, I received a copy of the  
foregoing **SUBSTITUTION OF ATTORNEY** filed in Las Vegas Justice Court case number

1 18F05188X, STATE OF NEVADA v. BRECK WARDEN SMITH, by hand delivery made at  
2 my office located at:

3 The Office of the Clark County District Attorney  
4 Criminal Division  
5 200 Lewis Avenue  
6 Las Vegas, Nevada 89101

7 DATED this 9 day of April, 2018.

8 By:   
9 An Employee of the Office of the Clark  
10 County District Attorney  
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1 C. BENJAMIN SCROGGINS, ESQ.  
Nevada Bar No. 7902  
2 HUTCHINGS LAW GROUP, LLC  
552 East Charleston Boulevard  
3 Las Vegas, Nevada 89104  
Tel.: (702) 660-7700  
4 Fax: (702) 552-5202  
Email: [benscrogginsesq@gmail.com](mailto:benscrogginsesq@gmail.com)

5 *Attorney for Defendant,*  
6 *BRECK SMITH*

7 **IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP**

8 **COUNTY OF CLARK, STATE OF NEVADA**

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 vs.

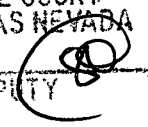
12 BRECK WARDEN SMITH,  
13 Defendant.

Case No.: 18F05188X  
Dept. No.: 1

**FILED**

2018 MAY 11 P 12:55

JUSTICE COURT  
LAS VEGAS NEVADA

BY  DEPUTY

14 **DEFENDANT'S DEMAND FOR DISCOVERY PURSUANT TO NRS 171.1965**

15 TO: THE STATE OF NEVADA; and

16 TO: THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE, its attorneys.

17 Defendant, BRECK WARDEN SMITH, by and through his attorney, C. BENJAMIN  
18 SCROGGINS, ESQ. of HUTCHINGS LAW GROUP, LLC, hereby demands, pursuant NRS  
19 171.1965, that the prosecuting attorney provide, not less than 5 (FIVE) judicial days before a  
20 preliminary examination, copies of any:

21 (a) Written or recorded statements or confessions made by the defendant, or any  
22 written or recorded statements made by a witness or witnesses, or any reports of statements or  
23 confessions, or copies thereof, within the possession or custody of the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific

18F05188X  
MISF  
Miscellaneous Filing  
9415571



1 experiments made in connection with this particular case, or copies thereof, within the  
2 possession or custody of the prosecuting attorney; and

3 (c) Books, papers, documents or tangible objects that the prosecuting attorney intends  
4 to introduce in evidence during the case in chief of the State, or copies thereof, within the  
5 possession or custody of the prosecuting attorney.

6 Please note that any and all evidence responsive to this demand that is within the custody  
7 or possession of any investigating agency is deemed to be within your custody or possession.  
8 This request is made in addition to, and does not affect, the obligation placed upon you by the  
9 Constitution of the State of Nevada or the Constitution of the United States to disclose  
10 exculpatory evidence to the defendant. Defendant hereby specifically requests that the State  
11 produce any and all potentially exculpatory evidence and/or evidence that provides grounds for  
12 the defense to attack the reliability, thoroughness, and good faith of the police investigation, to  
13 impeach the credibility of the State's witnesses, or to bolster the defense case as required by the  
14 Due Process Clause of the Fourteenth Amendment to the United States Constitution, as  
15 interpreted by the Supreme Court of the United States in Brady v. Maryland, 373 U.S. 83 (1963),  
16 and its progeny.

17 MADE this 10th day of May, 2018.

18 HUTCHINGS LAW GROUP, LLC

19 

20 C. BENJAMIN SCROGGINS, ESQ.  
21 Nevada Bar No. 7902  
22 552 East Charleston Boulevard  
23 Las Vegas, Nevada 89104


*Attorney for Defendant,*  
*BRECK W. SMITH*



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The Office of the Clark County District Attorney  
Criminal Division  
200 Lewis Avenue  
Las Vegas, Nevada 89101

DATED this \_\_\_\_\_ day of May, 2018.

  
An Employee of Hutchings Law Group, LLC

# AFFIDAVIT OF SERVICE

<b>Case:</b> 18f05188x	<b>Court:</b> District Court	<b>County:</b> Clark, NV	<b>Job:</b> 2287567
<b>Plaintiff / Petitioner:</b> State of Nevada		<b>Defendant / Respondent:</b> Breck W Smith	
<b>Received by:</b> Serve Vegas LLC		<b>For:</b> Hutchings Law Group, LLC	
<b>To be served upon:</b> Las Vegas Metropolitan Police Department			

**FILED**

2018 MAY 15 P 1:53

JUSTICE COURT  
LAS VEGAS NEVADA

BY **CMH**

I, Jose Arellano, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

**Recipient Name / Address:** Emmie Wood, Badge #15399, 400 S MARTIN L KING BLVD, LAS VEGAS, NV 89106

**Manner of Service:** Government Agency, May 14, 2018, 11:43 am PDT

**Documents:** Subpoena Duces Tecum

## Additional Comments:

1) Successful Attempt: May 14, 2018, 11:43 am PDT at 400 S MARTIN L KING BLVD, LAS VEGAS, NV 89106 received by Emmie Wood, Badge #15399. Age: 67; Ethnicity: Caucasian; Gender: Female; Weight: 150; Height: 5'8"; Pursuant to NRS 14.020 Documents were served by leaving a true copy, with the person stated above, who is a person of suitable age and discretion at the most recent address of the registered agent shown on the information filed with the Secretary of State.

I declare under penalty of perjury that the foregoing is true and correct.

*Jose Arellano*

05/14/2018

Jose Arellano  
R-062729

Date

Serve Vegas LLC  
9811 W. Charleston Blvd 2-732  
Las Vegas, NV 89117  
702-478-0520

Dept 1

18F05188X  
AFDV  
Affidavit  
9431735



ORIGINAL

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MELANIE SCHEIBLE  
Deputy District Attorney  
Nevada Bar #014266  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

FILED

2018 JUL 20 A 7:43

JUSTICE COURT  
LAS VEGAS NEVADA

BY \_\_\_\_\_  
DEPUTY AMC

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BRECK WARDEN SMITH,  
#806628

Defendant.

CASE NO: 18F05188X

DEPT NO: 1

**ORDER FOR PRODUCTION OF INMATE  
BRECK WARDEN SMITH, BAC #77141**

DATE OF HEARING: JULY 30, 2018  
TIME OF HEARING: 7:30 A.M.

TO: BRIAN WILLIAMS, Warden of the High Desert State Prison;

TO: JOSEPH LOMBARDO, Sheriff of Clark County, Nevada

Upon the ex parte application of THE STATE OF NEVADA, Plaintiff, by STEVEN B. WOLFSON, District Attorney, through MELANIE SCHEIBLE, Deputy District Attorney, and good cause appearing therefor,

IT IS HEREBY ORDERED that BRIAN WILLIAMS, Warden of the High Desert State Prison shall be, and is, hereby directed to produce BRECK WARDEN SMITH, in Case Number 18F05188X, on a charge wherein THE STATE OF NEVADA is the Plaintiff, inasmuch as the said BRECK WARDEN SMITH is currently incarcerated in the High Desert

//

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18F05188X  
OPIN  
Order for Production of Inmate  
9702212



WA2018\2018F051\88\18F05188-OPI-(SMITH, BRECK) 001.DOCX

RECEIVED

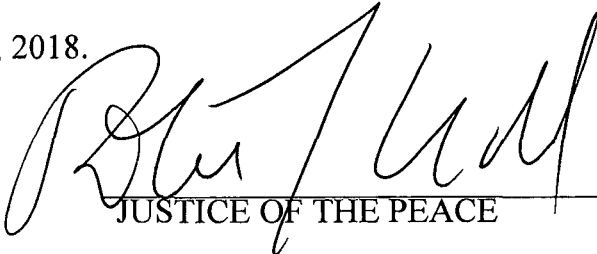
JUL 16 2018

JUSTICE COURT

1 State Prison located in Indian Springs, Nevada and his presence will be required in Las Vegas,  
2 Nevada commencing on JULY 30, 2018, at the hour of 7:30 o'clock A.M. and continuing until  
3 completion of the prosecution's case against the said Defendant.

4 IT IS FURTHER ORDERED that JOSEPH LOMBARDO, Sheriff of Clark County,  
5 Nevada, shall accept and retain custody of the said BRECK WARDEN SMITH in the Clark  
6 County Detention Center, Las Vegas, Nevada, pending completion of said matter in Clark  
7 County, or until the further Order of this Court; or in the alternative shall make all  
8 arrangements for the transportation of the said BRECK WARDEN SMITH to and from the  
9 Nevada State Prison facility which are necessary to insure the BRECK WARDEN SMITH'S  
10 appearance in Clark County pending completion of said matter, or until further Order of this  
11 Court.

12 DATED this 19th day of July, 2018.

13  
14   
15 JUSTICE OF THE PEACE

16 STEVEN B. WOLFSON  
17 Clark County District Attorney  
Nevada Bar #001565

18  
19 BY 

20 MELANIE SCHEIBLE  
21 Deputy District Attorney  
Nevada Bar #014266

22  
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28 ckb/L4

ORIGINAL FILED

1 SUBT

2 THOMAS A. ERICSSON, ESQ.

3 Nevada Bar No. 4982

4 Oronoz & Ericsson LLC

5 1050 Indigo Drive, Suite 120

6 Las Vegas, Nevada 89145

7 Telephone: (702) 878-2889

8 Facsimile: (702) 522-1542

9 tom@oronozlawyers.com

10 Attorneys for Defendant

2018 JUL 31 A 8: 25

JUSTICE COURT  
LAS VEGAS NEVADA

BY GMH  
DEPUTY

11 LAS VEGAS JUSTICE COURT

12 CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 BRECK SMITH,

17 Respondent.

CASE NO.: 18F05188X

DEPT: 1

18 SUBSTITUTION OF ATTORNEY

19 I, BRECK SMITH, do hereby appoint and accept the appointment of THOMAS A.  
20 ERICSSON, ESQ., as attorney of record in the place and stead of the C. Benjamin Scroggins.

21 DATED this 30 day of July, 2018.

22   
23 BRECK SMITH

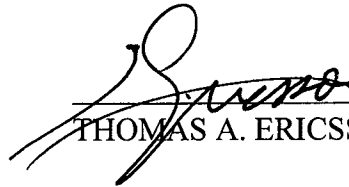
24 18F05188X  
SUBA  
Substitution of Attorney  
9747209



051


1 I, THOMAS A. ERICSSON, ESQ., do hereby accept the substitution of attorney  
2 regarding BRECK SMITH.

3 DATED this 30 day of July, 2018.

6  
7   
THOMAS A. ERICSSON, ESQ.

9 I hereby consent to the foregoing substitution, and hereby release all pleadings and papers  
10 I have for BRECK SMITH.

11 DATED this 30th day of July, 2018.

15  
16   
C. BENJAMIN SCROGGINS  
17 552 E. Charleston Blvd.  
18 Las Vegas, NV 89104

23  
24 Imaged  
CV

THOMAS A. ERICSSON, ESQ.

Oronoz & Ericsson LLC

Las Vegas, Nevada 89145

Facsimile: (702) 522-1542

*Attorneys for Defendant*

**LAS VEGAS JUSTICE COURT**

**CLARK COUNTY, NEVADA**

Plaintiff,

**VS.**

Respondent.

CASE NO.: 18F05188X

DEPT: 1

### RECEIPT OF COPY

RECEIPT OF COPY of the foregoing Substitution of Attorney is hereby acknowledged

this 31 day of July, 2018.

OFFICE OF THE DISTRICT ATTORNEY  
200 Lewis Avenue  
Las Vegas, NV 89155

ORIGINAL

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

FILED

THE STATE OF NEVADA 2018 AUG 24 P 3: 56

Plaintiff, JUSTICE COURT  
LAS VEGAS NEVADA

-VS-

BY ANG  
DEPUTY

CASE NO: 18F05188X

DEPT NO: 1

BRECK WARDEN SMITH,  
#806628

Defendant.

STATE'S MOTION TO AMEND CRIMINAL COMPLAINT

Upon the application of STEVEN B. WOLFSON, Clark County District Attorney, it is hereby requested that the above entitled matter be placed on the arraignment calendar on the 30th day of August, 2018, at 8:00 o'clock A.M. for the purpose of Motion to Amend Criminal Complaint.

DATED this 24<sup>th</sup> day of August, 2018.

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

BY

Hetty O. Wong  
HETTY O. WONG  
Chief Deputy District Attorney  
Nevada Bar #011324

BY

[Signature]  
CLERK OF THE COURT

CERTIFICATE OF EMAIL TRANSMISSION

I hereby certify that service of State's Motion to Amend Criminal Complaint was made this 24<sup>th</sup> day of August, 2018 by email transmission to THOMAS A. ERICSSON, ESQ. at tom@oronozlawyers.com.

BY:

[Signature]  
Secretary for the District Attorney's Office

ckb/L4  
18F05188X  
MOF  
Motion  
9857071





**STATE OF NEVADA  
CERTIFICATION OF  
BOARD OF PAROLE COMMISSIONERS ACTION  
ORDER GRANTING PAROLE**

<u>SMITH, BRECK WARDEN</u>	<u>77141</u>	<u>2008-042473</u>	<u>ISCC-U2-C-19-B</u>	<u>07/15/2020</u>
Inmate Name	NDOC Number	Booking #	Location	Date

It is the Order of the Board that Parole is GRANTED. The effective date of parole is: 07/01/2020.

Release to the community or to a consecutive sentence is authorized on the above specified date. If "when eligible" is indicated, release is authorized on or after the date of this hearing upon attaining minimum eligibility, as determined by the Nevada Department of Corrections (NDOC).

You are expected to program and/or work constructively regardless of institutional setting, and you are expected to abide by the rules of the NDOC. Failure to work and/or program constructively, or violation of the rules of the NDOC may result in the rescission of this order and denial of parole.

NOTE: A parolee who violates a condition of his or her parole forfeits all or part of the credits for good behavior earned by the parolee after release on parole at the discretion of the Board. A parolee whose parole is revoked for having violated a condition of parole forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to NRS 209. The Board may restore any forfeited credits at its discretion.

**THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):**

*Controlling sentence denoted by \*, Case #: Count: Offense Description:*

232319; 1; BURGLARY

232113; 1; HABITUAL CRIMINAL (GREATER)

240508; 1; HABITUAL CRIMINAL (GREATER)

232109; 1; HABITUAL CRIMINAL (GREATER)

**Reason(s) for action:**

Grant Reason: The inmate must serve a consecutive sentence.

**Recommendation of the panel who conducted the hearing: Grant Parole**

Chairman Christopher Dericco; Grant Parole

Commissioner Tony Corda; Grant Parole

Commissioner Mary Baker; Grant Parole

**The final action was ratified by the following Members of the Board of Parole Commissioners:**

Chairman Christopher Dericco; Grant Parole

Commissioner Mary Baker; Grant Parole

Commissioner Tony Corda; Grant Parole

Commissioner Susan Jackson; Grant Parole

  
\_\_\_\_\_  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

*This document was prepared by MS ALLING at 7/22/2020 8:15 AM*

**STATE OF NEVADA  
CERTIFICATION OF  
BOARD OF PAROLE COMMISSIONERS ACTION  
ORDER TAKING NO ACTION**

<b>SMITH, BRECK WARDEN</b>	<b>77141</b>	<b>2008-042473</b>	<b>ISCO-U2-C-19-B</b>	<b>04/21/2020</b>
<b>Inmate Name</b>	<b>NDOC Number</b>	<b>Booking #</b>	<b>Location</b>	<b>Date</b>

No Action was taken on the above referenced inmate at the parole hearing held on this date.

**THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):**

*Controlling sentence denoted by \*, Case #: Court: Offense Description:*

232319; 1; BURGLARY

232113; 1; HABITUAL CRIMINAL (GREATER)

240508; 1; HABITUAL CRIMINAL (GREATER)

232109; 1; HABITUAL CRIMINAL (GREATER)

**Reason(s) for action:**

Reason for No Action: Public Meeting Cancelled due to COVID-19 Emergency Declaration

Recommendation of the panel who conducted the hearing: No Action

Commissioner Michael Keeler; No Action

**NOTE:** A 'No Action' order does not require ratification by a majority of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

*This document was prepared by JME ADOR at 4/21/2020 11:50 AM*



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	06/25/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived?

Waived

Was the notice of rights executed? Yes

Counsel Type: Retained / Public Defender

Represented By:

Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	<u>Guilty</u> / Not Guilty	<u>Guilty</u> / Not Guilty	
Laws	<u>Guilty</u> / Not Guilty	<u>Guilty</u> / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	<u>Withdrawn by P&amp;P</u>
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	<u>Withdrawn by P&amp;P</u>

ACTION (indicate one):

<input checked="" type="checkbox"/>	Parole is revoked to: <u>07/01/2020</u>	WARRANT IS SUSTAINED. Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored <u>ALL</u> credits.</b>
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date _____  Parole Credit Forfeiture:	WARRANT IS QUASHED. Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input type="checkbox"/>	No Action Taken	

Evidence Relied Upon:

- ☒ Guilty Plea (where applicable)
- ☒ Report of P&P: Violation Report dated 3/28/2019
- ☒ Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)
- ☒ Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)
- ☒ Restitution Report: P&P Restitution Account 2017
- ☒ Other: WestCare 4/03/2018
- ☒ Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, Christiansen, De La Torre via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

OFFENDER COMMITTED A NEW FELONY AND IS NOT AMENABLE TO SUPERVISION AT THIS TIME

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN 77141 2008-042473 HDSP-U7-A-33-B 08/07/2018  
INMATE NAME NDOC NUMBER BOOKING# LOCATION DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY

232113;1;HABITUAL CRIMINAL (GREATER)

\*232109;1;HABITUAL CRIMINAL (GREATER)

240508;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained / Public Defender

Represented By: Cichoski

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
30. Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date _____  Parole Credit Forfeiture: _____	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	<u>Hearing rescheduled to September 25, 2018, pending new criminal charges.</u>

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 7/02/2018

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Police Report: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other:

Other:

Name of P&P Division Representative: Sergeant Stankus

Name of Parole Board Panel Members Present: Keeler, Christiansen, DeRicco via telephone.

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U1-C-22-B	05/02/2018
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117      Warrant Date 04/11/2018      Arrest Date: 03/22/2018  
Was the PI Hearing conducted or waived?    Waived      Was the notice of rights executed? Yes  
Counsel Type: Retained / Public Defender      Represented By: Cichoski

Absconder      No      Stop Date:      Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
30. Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ____ Immediately ____ Upon Plan Approval ____ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to August 7, 2018, pending new criminal charges.

Evidence Relied Upon:

Guilty Plea (where applicable)
Violation Report: Report from P&P dated 3-28-2018
Police Report: LVMPD Arrest Report dated 3-22-2018 (2 pages)
Other: CCDC Inmate In-Custody Status dated 4-7-2018 (2 pages)
Other:

Name of P&P Division Representative: Officer Billich

Name of Parole Board Panel Members Present: Keeler, Dericco, Jackson via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	05/28/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained (Public Defender)

Represented By:

Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to June 25, 2019, pending new criminal charges

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2019

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, De La Torre, Christiansen via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	05/28/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained (Public Defender)

Represented By:

Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to June 25, 2019, pending new criminal charges

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2019

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, De La Torre, Christiansen via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	05/28/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained (Public Defender)

Represented By:

Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to June 25, 2019, pending new criminal charges

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2019

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, De La Torre, Christiansen via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	04/09/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY

232113;1;HABITUAL CRIMINAL (GREATER)

240508;1;HABITUAL CRIMINAL (GREATER)

\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived?

Waived

Was the notice of rights executed? Yes

Counsel Type: Retained / Public Defender

Represented By:

Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ____ Immediately ____ Upon Plan Approval ____ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to May 28, 2019, pending new criminal charges.

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2019

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, Christiansen, De La Torre via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

Michael Keeler  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	02/26/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained Public Defender

Represented By: Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to April 2, 2019, pending new criminal charges and inmate not available.

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2018

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, Christiansen, ~~DeRicco~~ via telephone, PK

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	01/22/2019
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained Public Defender

Represented By: Richards

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ____ Immediately ____ Upon Plan Approval ____ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to February 26, 2019, pending new criminal charges.

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2018

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Other: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Bellow

Name of Parole Board Panel Members Present: Keeler, De La Torre, Christiansen via telephone

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-B-11-B	12/04/2018
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117

Warrant Date 04/11/2018

Arrest Date: 03/22/2018

Was the PI Hearing conducted or waived? Waived

Was the notice of rights executed? Yes

Counsel Type: Retained / Public Defender

Represented By:

Cichoski

Absconder

No

Stop Date:

Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
30. Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____.	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<input type="checkbox"/>	Continue on Parole: ____ Immediately ____ Upon Plan Approval ____ At Date _____  Parole Credit Forfeiture:	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to January 22, 2019, pending new criminal charges.

Evidence Relied Upon:

Guilty Plea (where applicable)

Report of P&P: Violation Report dated 3/28/2018

Police Report: LVMPD Arrest Report dated 3/22/2018 (2 pages)

Police Report: CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

Restitution Report: P&P Restitution Account 2017

Other: WestCare 4/03/2018

Other: ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

Other:

Name of P&P Division Representative: Officer Stankus

Name of Parole Board Panel Members Present: Keeler, De La Torre, Christiansen via telephone.

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS



STATE OF NEVADA  
BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

SMITH, BRECK WARDEN	77141	2008-042473	HDSP-U7-A-33-B	09/25/2018
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

232319;1;BURGLARY  
232113;1;HABITUAL CRIMINAL (GREATER)  
240508;1;HABITUAL CRIMINAL (GREATER)  
\*232109;1;HABITUAL CRIMINAL (GREATER)

Warrant # 42117      Warrant Date 04/11/2018      Arrest Date: 03/22/2018  
Was the PI Hearing conducted or waived?      Waived      Was the notice of rights executed? Yes  
Counsel Type: Retained / Public Defender      Represented By: Chicowski

Absconder      No      Stop Date:      Restart Date:

CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	
30. Mand SA eval, prof treat	Guilty / Not Guilty	Guilty / Not Guilty	

**ACTION (indicate one):**

<b>Parole is revoked to:</b> _____	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. <b>The Board has restored _____ credits.</b>
<b>Continue on Parole:</b> ____ Immediately ____ Upon Plan Approval ____ At Date _____  <b>Parole Credit Forfeiture:</b>	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____  The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<b>No Action Taken</b>	<u>Hearing rescheduled to December 4, 2018 pending new charges</u>

**Evidence Relied Upon:**

**Guilty Plea (where applicable)**

**Report of P&P:** Violation Report dated 03/28/2018

**Police Report:** LVMPD Arrest Report dated 3/22/2018 (2 pages)

**Other:** CCDC Inmate In-Custody Status 4/07/2018 (2 pages)

**Other:** WestCare 4/03/2018

**Other:** ASAM Dimension Acute Intoxication and Withdrawal (7 pages)

**Name of P&P Division Representative:** Officer Stankus

**Name of Parole Board Panel Members Present:** Keeler, Christiansen, De La Torre

**Reason for Revocation (where applicable):** The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.**

Michael Keeler  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS





4 case

**VIOLATION REPORT**  
Date Report Prepared: March 28, 2018

**TO THE HONORABLE BOARD OF PAROLE COMMISSIONERS  
CARSON CITY, NEVADA**

**NAME:** SMITH, Breck  
**FILE #:** L17-1752  
**CC #:** C232113  
**NDOC#:** 77141

**SUPERVISION GRANT:** 03-07-2017  
**EXPIRATION:** LIFE

**CRIME:** CT I: HABITUAL CRIMINAL (GREATER) (CATEGORY A FELONY)  
**SENTENCE:** \$25 ADMINISTRATIVE ASSESSMENT FEE, \$150 DNA COLLECTION FEE, CC WITH C232109.  
MAXIMUM TERM OF LIFE WITH A MINIMUM PAROLE ELIGIBILITY OF 10 YEARS IN THE  
NEVADA DEPARTMENT OF CORRECTIONS.

**I. VIOLATION:**

Conduct; Laws: On March 22, 2018, Breck Smith was arrested by the Las Vegas Metropolitan Police Department and charged with Attempt Burglary and Possession of Burglary Tools in Case# 18F05188X in addition to four counts of Violation of Parole. The subject was placed in custody in the Clark County Detention Center and bail was set at \$7,000. The subject is scheduled to appear in the Las Vegas Justice Court on June 13, 2018.

Financial Obligations: On March 7, 2017, Mr. Smith was ordered to pay \$30 in monthly supervision fees. He is 2 months in arrears for a total of \$60. *Current office as of 4/26/18.*

Special Condition (3) Complete substance abuse evaluation within 30 days release from NDOC: Breck Smith was previously supervised by the Pahrump office and transferred to the Las Vegas office on or about August, 2017. Since that time, the subject has claimed he completed his substance abuse evaluation while in Pahrump however, to date, he has provided no verification that this has been completed.

**II. RESPONSE TO SUPERVISION:**

This is the subject's first major violation since being released to parole in March of 2017. The subject has not tested positive for any narcotics and has managed to maintain employment. However, his new arrest is most concerning to the Division. The subject is currently being supervised for four parole cases and he has apparently fallen back into his old behavior. Due to the subject's past criminal history with burglary offenses, the Division feels the subject is not an appropriate candidate for continued community supervision.

**III. WHEREABOUTS AND AVAILABILITY:**

Effective March 22, 2018, the subject is in custody in the Clark County Detention Center.

NAME: SMITH, Breck  
FILE#: L17-1752

PAGE 2

IV. RECOMMENDATION:

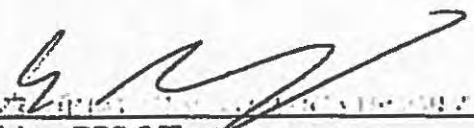
It is recommended that a Retake Warrant be issued and the subject's parole be revoked.

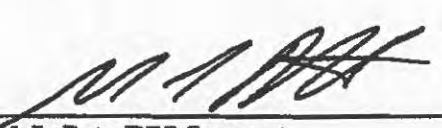
V. LEVEL OF SUPERVISION:

Maximum

Respectfully submitted:

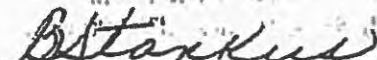
APPROVED: Approved:

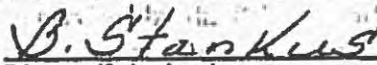
  
S. Brickey, DPS Officer  
smbickey@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
M. LaPutt, DPS Sergeant  
mlaputt@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

Print name if other than above

Print name if other than above

  
S. Brandon, DPS Lieutenant  
sbrandon@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
Print name if other than above

1000157132\_7\_VR  
Violation Report- Parole.doc





4 cases

**VIOLATION REPORT**  
**Date Report Prepared: March 28, 2018**

**TO THE HONORABLE BOARD OF PAROLE COMMISSIONERS**  
**CARSON CITY, NEVADA**

**NAME:** SMITH, Breck  
**FILE #:** L17-1752A  
**CC #:** C232109  
**NDOC#:** 77141

**SUPERVISION GRANT:** 03-07-2017  
**EXPIRATION:** LIFE

**CRIME:** CT I: HABITUAL CRIMINAL (GREATER) (CATEGORY A FELONY)  
**SENTENCE:** \$25 ADMINISTRATIVE ASSESSMENT FEE, \$150 DNA COLLECTION FEE AND \$7,009.00 RESTITUTION. MAXIMUM TERM OF LIFE WITH A MINIMUM PAROLE ELIGIBILITY OF 10 YEARS IN THE NEVADA DEPARTMENT OF CORRECTIONS.

**I. VIOLATION:**

**Conduct; Laws:** On March 22, 2018, Breck Smith was arrested by the Las Vegas Metropolitan Police Department and charged with Attempt Burglary and Possession of Burglary Tools in Case# 18F05188X in addition to four counts of Violation of Parole. The subject was placed in custody in the Clark County Detention Center and bail was set at \$7,000. The subject is scheduled to appear in the Las Vegas Justice Court on June 13, 2018.

**Financial Obligations:** On March 7, 2017, Mr. Smith was ordered to pay \$7,009.00 restitution in \$50 monthly increments. Division records show that the subject has not made a restitution payment since August 17, 2017. He has a restitution balance of \$7,009.00 for Case #C232109.

On March 7, 2017, Mr. Smith was ordered to pay \$30 in monthly supervision fees. He is 2 months in arrears for a total of \$60.

**Special Condition (3) Complete substance abuse evaluation within 30 days release from NDOC:** Breck Smith was previously supervised by the Pahrump office and transferred to the Las Vegas office on or about August, 2017. Since that time, the subject has claimed he completed his substance abuse evaluation while in Pahrump however, to date, he has provided no verification that this has been completed.

**II. RESPONSE TO SUPERVISION:**

This is the subject's first major violation since being released to parole in March of 2017. The subject has not tested positive for any narcotics and has managed to maintain employment. However, his new arrest is most concerning to the Division. The subject is currently being supervised for four parole cases and he has apparently fallen back into his old behavior. Due to the subject's past criminal history with burglary offenses, the Division feels the subject is not an appropriate candidate for continued community supervision.



**III. WHEREABOUTS AND AVAILABILITY:**

Effective March 22, 2018, the subject is in custody in the Clark County Detention Center.

**IV. RECOMMENDATION:**

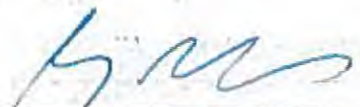
It is recommended that a Retake Warrant be issued and the subject's parole be revoked.


**V. LEVEL OF SUPERVISION:**

Maximum

Respectfully submitted:


Approved

  
\_\_\_\_\_  
S. Brickey, DPS Officer  
smbrickey@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
\_\_\_\_\_  
M. LaPutt, DPS Sergeant  
mlaputt@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

\_\_\_\_\_  
Print name if other than above

\_\_\_\_\_  
Print name if other than above

  
\_\_\_\_\_  
S. Brandon, DPS Lieutenant  
sbrandon@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
\_\_\_\_\_  
Print name if other than above



**VIOLATION REPORT**  
**Date Report Prepared: March 28, 2018**

**TO THE HONORABLE BOARD OF PAROLE COMMISSIONERS**  
**CARSON CITY, NEVADA**

**NAME:** SMITH, Breck  
**FILE #:** L17-1752B  
**CC #:** 08C240508  
**NDOC#:** 77141

**SUPERVISION GRANT:** 03-07-2017  
**EXPIRATION:** LIFE

**CRIME:** CT I: HABITUAL CRIMINAL (GREATER) (CATEGORY A FELONY)  
**SENTENCE:** \$25 ADMINISTRATIVE ASSESSMENT FEE, \$150 DNA COLLECTION FEE AND \$3,293.11 RESTITUTION. MAXIMUM TERM OF LIFE WITH A MINIMUM PAROLE ELIGIBILITY OF 10 YEARS IN THE NEVADA DEPARTMENT OF CORRECTIONS.

**I. VIOLATION:**

**Conduct; Laws:** On March 22, 2018, Breck Smith was arrested by the Las Vegas Metropolitan Police Department and charged with Attempt Burglary and Possession of Burglary Tools in Case# 18F05188X in addition to four counts of Violation of Parole. The subject was placed in custody in the Clark County Detention Center and bail was set at \$7,000. The subject is scheduled to appear in the Las Vegas Justice Court on June 13, 2018.

**Financial Obligations:** On March 7, 2017, Mr. Smith was ordered to pay \$3,293.11 restitution in \$50 monthly increments. Division records show that the subject has not made a restitution payment since August 17, 2017. He has a restitution balance of \$867.56 for Case #08C240508.

On March 7, 2017, Mr. Smith was ordered to pay \$30 in monthly supervision fees. He is 2 months in arrears for a total of \$60.

**Special Condition (3) Must complete a substance abuse evaluation within 30 days release from NDOC. Participate in treatment as instructed until released by a qualified treatment provider:** Breck Smith was previously supervised by the Pahrump office and transferred to the Las Vegas office on or about August, 2017. Since that time, the subject has claimed he completed his substance abuse evaluation while in Pahrump however, to date, he has provided no verification that this has been completed.

Proof of EVAL (Westchase) on 5/24/17  
in packet



**II. RESPONSE TO SUPERVISION:**

This is the subject's first major violation since being released to parole in March of 2017. The subject has not tested positive for any narcotics and has managed to maintain employment. However, his new arrest is most concerning to the Division. The subject is currently being supervised for four parole cases and he has apparently fallen back into his old behavior. Due to the subject's past criminal history with burglary offenses, the Division feels the subject is not an appropriate candidate for continued community supervision.

**III. WHEREABOUTS AND AVAILABILITY:**

Effective March 22, 2018, the subject is in custody in the Clark County Detention Center.

**IV. RECOMMENDATION:**

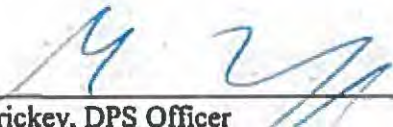
It is recommended that a Retake Warrant be issued and the subject's parole be revoked.


**V. LEVEL OF SUPERVISION:**

Maximum

Respectfully submitted:

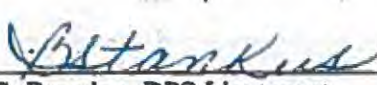
Approved

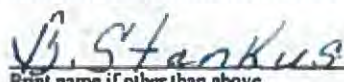
  
\_\_\_\_\_  
S. Brickey, DPS Officer  
smbrickey@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
\_\_\_\_\_  
M. LaPutt, DPS Sergeant  
mlaputt@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

\_\_\_\_\_  
Print name if other than above

\_\_\_\_\_  
Print name if other than above

  
\_\_\_\_\_  
S. Brandon, DPS Lieutenant  
sbrandon@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
\_\_\_\_\_  
Print name if other than above



**VIOLATION REPORT**  
**Date Report Prepared: March 28, 2018**

**TO THE HONORABLE BOARD OF PAROLE COMMISSIONERS**  
**CARSON CITY, NEVADA**

**NAME:** SMITH, Breck  
**FILE #:** L17-1752C  
**CC #:** C232319  
**NDOC#:** 77141

**SUPERVISION GRANT:** 03-07-2017  
**EXPIRATION:** LIFE

**CRIME:** COUNT I - BURGLARY (CATEGORY B FELONY)  
**SENTENCE:** \$25 ADMINISTRATIVE ASSESSMENT FEE, \$150 DNA COLLECTION FEE, CONCURRENT WITH C232109, C232113, C24050. MAXIMUM TERM OF LIFE WITH A MINIMUM PAROLE ELIGIBILITY OF 10 YEARS IN THE NEVADA DEPARTMENT OF CORRECTIONS.

**I. VIOLATION:**

**Conduct; Laws:** On March 22, 2018, Breck Smith was arrested by the Las Vegas Metropolitan Police Department and charged with Attempt Burglary and Possession of Burglary Tools in Case# 18F05188X in addition to four counts of Violation of Parole. The subject was placed in custody in the Clark County Detention Center and bail was set at \$7,000. The subject is scheduled to appear in the Las Vegas Justice Court on June 13, 2018.

**Financial Obligations:** On March 7, 2017, Mr. Smith was ordered to pay \$30 in monthly supervision fees. He is 2 months in arrears for a total of \$60.

**Special Condition (3) Must complete a substance abuse evaluation within 30 days release from NDOC. Participate in treatment as instructed until released by a qualified treatment provider:** Breck Smith was previously supervised by the Pahrump office and transferred to the Las Vegas office on or about August, 2017. Since that time, the subject has claimed he completed his substance abuse evaluation while in Pahrump however, to date, he has provided no verification that this has been completed.

**II. RESPONSE TO SUPERVISION:**

This is the subject's first major violation since being released to parole in March of 2017. The subject has not tested positive for any narcotics and has managed to maintain employment. However, his new arrest is most concerning to the Division. The subject is currently being supervised for four parole cases and he has apparently fallen back into his old behavior. Due to the subject's past criminal history with burglary offenses, the Division feels the subject is not an appropriate candidate for continued community supervision.



III. WHEREABOUTS AND AVAILABILITY:

Effective March 22, 2018, the subject is in custody in the Clark County Detention Center.

IV. RECOMMENDATION:


It is recommended that a Retake Warrant be issued and the subject's parole be revoked.


V. LEVEL OF SUPERVISION:

Maximum

Respectfully submitted:


Approved

  
S. Brickey, DPS Officer  
smbrickey@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV.

  
M. LaPutt, DPS Sergeant  
mlaputt@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

Print name if other than above

Print name if other than above

  
S. Brandon, DPS Lieutenant  
sbrandon@dps.state.nv.us  
Division of Parole and Probation  
Southern Command, Las Vegas, NV

  
Print name if other than above

STATE OF NEVADA  
DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF PAROLE AND PROBATION

NOTICE OF RIGHTS

You, SMITH, Breck, are herein advised that your return to The Nevada Department of Corrections to answer charges of parole violation before the Nevada Board of Parole Commissioners was determined at your Preliminary Inquiry Hearing held on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_  
(Place)

You are further advised of your rights as follows:

1. Representation by retained counsel of your own choice and at your own expense. \_\_\_ Yes \_\_\_ No  
(If Yes, list name and address of attorney.) (Initial) BS

2. Representation as an indigent by the State Public Defender. \_\_\_ Yes \_\_\_ No  
(Please indicate on attached Affidavit and Application for Appointment of Counsel.) (Initial) BS

3. If our alleged parole violation is not based on a new conviction, you may present witnesses to testify in your behalf and you may confront witnesses who testified against you. (Initial) \_\_\_\_\_

4. It will be your responsibility to notify and pay the expenses of witnesses testifying in your behalf. Provide the names below: (Initial) BS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Name and agency of the witnesses you wish to confront: (If you intend to refute witness allegations, request they be present.) (Initial) BS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. You may also present affidavits for the record. (Initial) BS

I hereby certify I have received the following documents:

A. Details and summary of alleged parole violations as charged.

B. Summary of Findings determined at my Preliminary Inquiry Hearing on:

\_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_  
(Place)

C. A copy of this, my Notice of Rights.

Signed 

Date 3-30-17

Witness 

Date 05/30/18



Inmate In-Custody Status				
ID	Name	Age	Race	Sex
Case	Charge	Status		
Related Case	Arrest Date	Detainer	Cash Bail	Surety Bail
Housing	Sched Department	Sched Action	Sched Date	Sched Time

00806628	SMITH, BRECK W	51	White	Male
07C232113	ARREST FOR VIOL OF COND OF PAROLE			Active
	3/22/2018	N	\$0.00	\$0.00
NV2G	PAROLE / PROBATION B	TO NDOC	3/23/2018	1:03 AM

00806628	SMITH, BRECK W	51	White	Male
07C232319	ARREST FOR VIOL OF COND OF PAROLE			Active
	3/22/2018	N	\$0.00	\$0.00
NV2G	PAROLE / PROBATION B	TO NDOC	3/23/2018	1:03 AM

00806628	SMITH, BRECK W	51	White	Male
08C240508	ARREST FOR VIOL OF COND OF PAROLE			Active
	3/22/2018	N	\$0.00	\$0.00
NV2G	PAROLE / PROBATION B	TO NDOC	3/23/2018	1:03 AM

00806628	SMITH, BRECK W	51	White	Male
18F05188X	ATT BURGLARY			Active
	3/22/2018	N	\$7,000.00	\$7,000.00
NV2G	01	PRELIM HEARING	6/13/2018	9:00 AM

00806628	SMITH, BRECK W	51	White	Male
18F05188X	POSS BURGLARY TOOLS			Active
	3/22/2018	N	\$0.00	\$0.00
NV2G	01	PRELIM HEARING	6/13/2018	9:00 AM

00806628	SMITH, BRECK W	51	White	Male
07C232109	ARREST FOR VIOL OF COND OF PAROLE			Active
	3/22/2018	N	\$0.00	\$0.00
NV2G	PAROLE / PROBATION B	TO NDOC	3/23/2018	1:03 AM

**Searched On****Defendant's ID: 00806628****Defendant's Case No:****Records Found: 6**[Top](#)[Another Search](#)[Back to CCDC Home Page](#)



*Heather S. Smith*  
CLERK OF THE COURT

FCL  
**McAVOY AMAYA & REVERO ATTORNEYS**  
MICHAEL J. MCAVOYAMAYA, ESQ. (14082)  
TIMOTHY E. REVERO (14603)  
400 S. 4<sup>th</sup> Street, Suite 500  
Las Vegas, NV 89101  
Telephone: 702.685.0879  
Facsimile: 702.995.7137  
[Mike@mrlawlv.com](mailto:Mike@mrlawlv.com)  
[Tim@mrlawlv.com](mailto:Tim@mrlawlv.com)  
*Attorneys for Petitioner*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY OF NEVADA**

\* \* \* \*

In the Matter of the Application of,  
  
BRECK SMITH, #  
For a Writ of Habeas Corpus.

CASE NO.: C-19-337302-1

Dept. XXV

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

DATE OF HEARING: JANUARY 27, 2021  
TIME OF HEARING: 3:00 PM

THIS CAUSE having come up for hearing before the Honorable KATHLEEN DELANEY, District Judge, on the 27th day of January, 2021, the Petitioner being represented by MICHAEL J. MCAVOYAMAYA, ESQ, of MCAVOY AMAYA & REVERO ATTORNEYS, the Respondent being represented by KATRINA A. SAMUELS, of the Office of the Nevada Attorney General, and the Court having considered the matter, including the briefs, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Petitioner was arrested, convicted, and sentenced under the habitual offender statute in 2008.
2. Petitioner was granted parole for the 2008 convictions on March 7, 2017.
3. On March 22, 2018, Petitioner was arrested on new charges of attempted burglary, possession of burglary tools, and parole violation.



1           15.     When “a determination has been made that probable cause exists for the continued  
2 detention of a paroled prisoner, the Board shall consider the prisoner's case within 60 days after  
3 his return to the custody of the Department of Corrections or his or her placement in residential  
4 confinement pursuant to subsection 1.” *See Nev. Rev. Stat. § 213.1517(3).*

5           16.     The sixty (60) day parole revocation hearing requirement is intended to ensure that  
6 a parolee believed to have violated the terms of his parole is not deprived of his constitutionally  
7 protected liberty interests without due process.

8           17.     There is an exception to NRS § 213.1517(3) when “probable cause for continued  
9 detention of a paroled prisoner is based on conduct which is the subject of a new criminal charge,”  
10 which permits the Parole Board to either “consider the prisoner's case under the provisions of  
11 subsection 3 or defer consideration until not more than 60 days after his or her return to the custody  
12 of the Department of Corrections following the final adjudication of the new criminal charge.” *See*  
13 *Nev. Rev. Stat. § 213.1517(4).*

14           18.     Petitioner argued in his briefs and at the hearing that the plain language of both the  
15 sixty (60) day parole revocation hearing requirement in NRS § 213.1517 Subsection 3, and its  
16 exception in Subsection 4, impose a duty on the Parole Board to hold the parole revocation hearing  
17 within sixty (60) days of the parolee's return to NDOC custody.

18           19.     The State argued in its response brief and the hearing that the exception in NRS §  
19 213.1517 Subsection 4 permits the Parole Board to defer the parole revocation hearing until sixty  
20 (60) days after the adjudication of the parolee's new charges.

21           20.     The Court finds, based on the plain language of NRS § 213.1517, that Petitioner's  
22 interpretation of the statute is correct. NRS § 213.1517(4) does not grant the Parole Board the  
23 authority to impose indefinite terms of imprisonment in the custody of NDOC by taking custody  
24 of a parolee, and then deferring the parole revocation hearing until after the parolee is convicted  
25 on the new charges.

26           21.     The Court holds that the plain language of NRS §§ 213.1517 Subsections 3 and 4  
27 impose a duty on the Parole Board to hold the parole revocation hearing within sixty (60) days of  
28 a parolee's return to the custody of NDOC upon a finding a probable cause that the terms of parole  
have been violated, regardless of whether there are new charges pending. The Parole Board may  
only defer the parole revocation hearing if the parolee remains in the custody of the jurisdiction  
where the new charges have been committed until final adjudication of the new charges. *See Nev.*

1 Rev. Stat. § 213.1517(4). Upon conviction on the new charges, the Parole Board must then hold  
2 the parole revocation hearing within sixty (60) days of the parolee's return to NDOC custody. *Id.*

3 22. The Court acknowledges and understands the State's argument and requested  
4 interpretation of the statute that the sixty (60) day time period to hold the parole revocation hearing  
5 run from the date of conviction, but finds that the only way that the State's interpretation  
6 withstands scrutiny is by ignoring the plain language in NRS § 213.1517 subsection 3 and 4 stating  
7 that the sixty (60) day period to hold the parole revocation hearing begins to run upon the parolee's  
8 return to NDOC custody, or imposition of residential confinement.

9 23. This Court is not permitted to "ignore as meaningless" words and clauses in a  
10 statute or law. *State ex rel. Thatcher v. Reno Brewing Co.*, 42 Nev. 397, 405, 178 P. 902, 903  
11 (1919). There is a presumption that the framers of our laws intended "to give force and effect, not  
12 only to the main legislative intent of the act but also to its several parts, words, clauses, and  
13 sentences, and chose appropriate language to express their intention." *Id.* That "presumption is  
14 removed only when it appears, from a construction of a statute as a whole, effect cannot be given  
15 to the paramount purpose unless particular words or clauses are rejected, or without limiting or  
16 expanding their literal import." *Id.*

17 24. The State has failed to overcome the presumption that the plain language in NRS §  
18 213.1517 Subsections 3 and 4 means that the Parole Board must hold the parole revocation hearing  
19 ~~be held~~ within sixty (60) days of the parolee's return to NDOC custody. *Id.*

20 25. For these reasons, this Court holds that the Parole Board exceeded its authority  
21 pursuant to NRS § 213.1517, deferring the parole revocation well beyond sixty (60) days after  
22 Petitioner's return to NDOC custody.

23 26. Petitioner also raised the issue of the Parole Board's procedure of taking custody  
24 of Petitioner and deferring the parole revocation also resulted in a violation of Petitioner's  
25 constitutional right to bail on the new charges. The State opposed, arguing that NRS § 178.484(2)  
26 prevents a parolee from receiving bail unless ordered by the court, the Parole Board, or the Division  
27 of Parole and Probation, and that no such order was issued.

28 27. The Court does not believe Petitioner's constitutional right to bail was violated by  
the Parole Board, but because the Court finds the Parole Board exceeded its authority under NRS  
§ 213.1517, the Court will not decide on the merits of that issue at this time.

**ORDER**

28. THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, and it is, hereby GRANTED. The Court orders that based on its findings and conclusions the Petitioner is entitled to recalculation of his time served for the parole violation and sentence entered in this case as follows:

- a. Petitioner's parole revocation hearing should have been held on June 12, 2018, which is 60 days from April 13, 2018, the date he returned to the custody of NDOC.
- b. The period of Petitioner's parole revocation penalty should have run from June 12, 2018, the date his parole revocation hearing should have been held, to June 17, 2019, the date his one-year penalty would have expired.
- c. NDOC shall ensure that in Case Nos. 07C232109, 07C232113, 07C232319 and 08C240508 Petitioner has been awarded flat time and statutory credit from June 12, 2018, the date his parole revocation hearing should have been held, to June 17, 2019, the date his one-year penalty would have expired.

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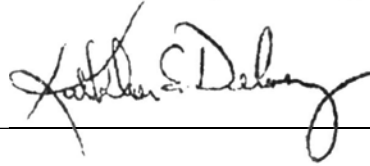
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- 1 d. NDOC shall also ensure that in Case No. 19C337302, Petitioner has been awarded flat  
2 time and statutory credit from June 24, 2019, the date he entered his plea, to the present  
3 date.

4 Dated this 17th day of February, 2021

5   
6

7 0BB 329 BD7D 12F3  
8 Kathleen E. Delaney  
9 District Court Judge

10 **MCAVOY AMAYA & REVERO ATTORNEYS**  
11 MICHAEL J. MCAVOY-AMAYA, ESQ.  
12 Nevada Bar No. 14082

13 BY: /s/ Michael J. McAvoy-Amaya  
14 MICHAEL J. MCAVOYAMAYA, ESQ.  
15 Nevada Bar No.: 14082  
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17 Katrina A. Samuels  
18 Deputy Attorney General  
19 State of Nevada  
20 Nevada Bar No. 13394

21 BY: /s/ Katrina A. Samuels  
22 KATRINA A. SAMUELS, ESQ  
23 Nevada Bar No.: 13394  
24 *Attorney for Respondent*  
25  
26  
27  
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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5  
6 State of Nevada

CASE NO: C-19-337302-1

7 vs

DEPT. NO. Department 25

8 Breck Smith  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

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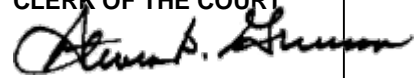
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Attorneys for Respondents

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BRECK SMITH,

Petitioner,

vs.

STATE OF NEVADA,

Respondents.

Case No. C-19-337302-1  
Dept. No. XXV

Date of Hearing: 1/27/2021  
Time of Hearing: 3:00 pm

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

Respondents oppose Petitioner Breck Smith's *Emergency Petition for Writ of Habeas Corpus, Mandamus, and/or Prohibition to Correct Illegal Sentence Imposed by the Nevada Board of Parole Commissioners* ("petition") filed on January 12, 2021. Respondents move for denial of Smith's petition because Smith violated the terms and conditions of his parole, he waived his right to a preliminary inquiry, and his parole violation hearing was held in conformity with NRS 213.1517(4).

This response is made and based upon the papers and pleading on file herein and the following points and authorities.

DATED this 25<sup>th</sup> day of January 2021.

AARON D. FORD  
Attorney General

By: /s/ Katrina A. Samuels  
Katrina A. Samuels  
Deputy Attorney General



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **BACKGROUND**

3 In 2008, Breck Smith was adjudicated guilty of the following offenses: Grand Larceny  
4 Automobile (*Case No. 07C232109*), Receiving or Transferring Stolen Vehicle (*Case No. 07C232113*),  
5 Burglary (*Case No. 07C232319*), and Grand Larceny (*Case No. 08C240508*). Smith was sentenced under  
6 the habitual offender statute<sup>1</sup> on each offense and was sentenced to four concurrent terms of life in prison  
7 with the possibility of parole after ten years of his sentence has been served. On March 7, 2017, Smith  
8 was paroled on all four cases (Exhibit 1 at 4-5).

9 On March 22, 2018, Smith was arrested and charged with Attempt Burglary and Possession of  
10 Burglary Tools. *Id.* at 2. He was also arrested and charged for violating the terms and conditions of his  
11 parole. *Id.* Smith was placed in custody in the Clark County Detention Center (“CCDC”) and bail was  
12 set at \$7,000. *Id.* He was still in custody at CCDC when he made his initial appearance for his new  
13 charges in the justice court on March 27, 2018 (Exhibit 2 at 6) and when he waived his rights to his  
14 preliminary inquiry on March 30, 2018 (Exhibit 1 at 6-7).

15 On April 11, 2018, the Nevada Board of Parole Commissioners (“Parole Board”) issued a retake  
16 warrant in order for Smith to be retaken and returned into the custody of the Nevada Department of  
17 Corrections (“NDOC”). *Id.* at 9. He arrived at NDOC on April 13, 2018 (Exhibit 3 at 9). Between the  
18 time Smith made his initial appearance in justice court and was transported to NDOC, his new case  
19 remained in justice court until he was bound over to the state district court on January 10, 2019 (Exhibit  
20 2 at 6-18).

21 On January 11, 2019, the State filed an information charging Smith with a felony arising from  
22 his parole violation (*Case No. C-19-337302-1*) (Exhibit 4). Smith’s initial arraignment was held on  
23 January 14, 2019 (Exhibit 5), but it was continued multiple times at the request of Smith’s trial counsel  
24 (Exhibit 6). On June 24, 2019, Smith entered an *Alford*<sup>2</sup> plea to Attempt Burglary (Exhibits 7 and 8). On  
25 June 25, 2019. Smith’s parole violation hearing was held, and the Parole Board revoked his parole for  
26 one year (Exhibit 3 at 11). On August 12, 2019, Smith was sentenced to 24 to 60 months in prison,  
27 running consecutively to *Case Nos. 07C232109, 07C232113, 07C232319, and 08C240508* (Exhibit 9).

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<sup>1</sup> NRS 207.010

<sup>2</sup> *North Carolina v. Alford*, 400 U.S. 25 (1970).

1 On January 12, 2021, Smith, with the assistance of counsel, filed a Petition challenging his parole  
2 revocation. Respondents now respond to Smith’s Petition, and respectfully request that this Court deny  
3 relief.

#### 4 ARGUMENT

5 An inmate may challenge the revocation of parole in a petition for writ of habeas corpus under  
6 NRS 34.360. *See also Anaya v. State*, 96 Nev. 119 (1980), and *Hornback v. Warden*, 97 Nev. 98, 100  
7 (1981). As a parole revocation proceeding involves the loss of liberty, it requires certain procedural due  
8 process protections for the parolee. *Anaya* at 122. Still, as a parole revocation hearing differs from a  
9 criminal prosecution, the full panoply of constitutional protections afforded a criminal defendant does  
10 not apply. *See Gagnon v. Scarpelli*, 411 U.S. 778 (1973); *Morrissey v. Brewer*, 408 U.S. 471, (1972).

11 The United States Supreme Court, in *Gagnon* and *Morrissey*, outlined the minimal procedures  
12 necessary to revoke parole. Those procedures include a preliminary inquiry to determine whether there  
13 is probable cause to believe the parolee violated the conditions of his parole, notice of the alleged parole  
14 violations, a chance to appear and speak on his own behalf and to bring in relevant information, an  
15 opportunity to question persons giving adverse information, and written findings by the hearing officer,  
16 who must be “someone not directly involved in the case.” *Morrissey* at 485-87. If probable cause is  
17 found, the parolee is then entitled to a formal revocation hearing at which the same rights attach. *Gagnon*  
18 at 786. The function of the final revocation hearing is two-fold, as the parole board must determine  
19 whether the alleged violations occurred, and if “the facts as determined warrant revocation.” *Morrissey*  
20 at 480; *see also Anaya* at 122.

#### 21 I. Smith Waived His Right to a Preliminary Inquiry.

22 Pursuant to NRS 213.1511(3), except in cases where the parolee is a fugitive, the inquiry must  
23 be held at or reasonably near the place of the alleged violation or the arrest and within 15 working days  
24 after the arrest. The purpose of the preliminary inquiry is to determine whether there is probable cause  
25 to believe a parolee violated the terms and conditions of his parole. NRS 213.15105. The United States  
26 Supreme Court has held that a parolee is entitled to certain notices, so that he may appear and speak on  
27 his own behalf during the inquiry and may also bring in relevant evidence if appropriate. Those mandates  
28 are codified at NRS 213.1511 thru 213.1515.

On March 22, 2108, Smith was arrested and charged with Attempt Burglary and Possession of Burglary Tools in addition to four counts of Violation of Parole (Exhibit 1 at 2). Smith was on notice of his charges when he made his initial appearance in justice court five days after his arrest (Exhibit 2 at 6). On March 30, 2018, Smith received a notice of preliminary inquiry and a copy of his alleged parole violations along with a notice of his rights (Exhibit 1 at 6-7). Smith claims that he was not granted his due process rights pursuant to NRS §213.1511 to: (a) appear and speak on his own behalf; (b) obtain counsel; (c) present any relevant letters or other documents and any person who can give relevant information and (d) confront and question any person who appears against him. *Petition* at 20:18-21:4. However, Smith is mistaken because on his notice of preliminary inquiry hearing form Smith waived his right to a preliminary inquiry hearing and requested to present his case directly to the Court/Parole Board (Exhibit 1 at 6-7). Because Smith waived his rights, the Parole Board did not violate his statutory due process rights by determining there was probable cause to believe he violated the terms and conditions of his parole. Pursuant to NRS 213.1517(1)(c), when the inquiring officer has determined that there is probable cause, the parolee's parole may be suspended, and he may be returned to confinement. However, this action must be taken within 15 days if the prisoner was paroled by the Parole Board. In this case, Smith waived his rights on March 30, 2018 (Exhibit 1 at 6-7), and he was returned to the confinement of NDOC within 15 days. (Exhibit 3 at 9). As a result, Smith's rights were not violated when the retake warrant was issued, and his parole was suspended.

**II. Smith's Parole Revocation Hearing was Held in Conformity with NRS 213.1517.**

Pursuant to NRS 213.1517(3), if a determination has been made that probable cause exists for the continued detention of a paroled prisoner, the Parole Board shall consider the prisoner's case within 60 days after his return to custody. In this case, Smith was returned to NDOC on April 13, 2018 (Exhibit 3 at 9). It appears that Smith has focused solely on NRS 213.1517(3) in support of his argument that his parole revocation hearing was allegedly held in an untimely matter, but he fails to take into consideration the exception listed in NRS 213.1517(4). NRS 213.1517(4) states that if a violation is based on new criminal conduct, then the 60 days does not begin until after Smith is convicted on the underlying charge. Because Smith was not adjudicated guilty on his underlying charge until he entered his plea on June 24,

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2019, to Attempt Burglary (Exhibits 7 and 8), his parole revocation hearing, which was held the next day (Exhibit 3 at 11), was timely.

Smith claims that the Parole Board chose to defer its final decision to revoke his parole for over a year until he entered his plea on the underlying charge, but the record states otherwise. Between the timeframe Smith waived his preliminary inquiry and entered his plea, there were multiple continuances made by Smith's trial counsel (Exhibits 5 and 6). Because Smith's trial counsel requested the multiple continuances, Smith cannot demonstrate that the Parole Board is responsible for Smith entering his plea on his underlying charge a year later. As previously stated, Smith's hearing was held the day after he entered his plea. Since Smith has failed to demonstrate that the Parole Board delayed his right to a timely parole revocation hearing, Smith's argument fails.

### **III. Smith was Not Entitled to Bail During the Pendency of His Parole Violation Proceeding.**

The determination of bail is governed by NRS 178.484. Pursuant to NRS 178.484(2), when a person has been released on parole and is subsequently arrested for an unrelated felony, that person must not be admitted to bail unless an order to do so is issued by the court or the detention facility is directed to so by the Parole Board or the Division of Parole and Probation. In this case, Smith has not demonstrated that the court, Parole Board, or the Division of Parole and Probation directed or ordered that he be admitted on bail. Because no direction or order for bail was given, Smith cannot claim that he would have otherwise been entitled to reasonable bail on his new charges.

### **CONCLUSION**

This Court should deny Smith's Petition because Smith violated the terms and conditions of his parole, he waived his right to a preliminary inquiry, and his parole violation hearing was held in conformity with NRS 213.1517(4).

Respectfully submitted this 25<sup>th</sup> day of January 2021.

AARON D. FORD  
Attorney General

By: /s/ Katrina A. Samuels  
Katrina A. Samuels  
Deputy Attorney General

**AFFIRMATION**  
**(Pursuant to NRS 239B.030)**

The undersigned does hereby affirm that the foregoing document does not contain the social security number of any person.

Dated this 25<sup>th</sup> day of January 2021.

AARON D. FORD  
Attorney General

By: /s/ Katrina A. Samuels  
Katrina A. Samuels  
Deputy Attorney General

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I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail; postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days to the following unregistered participant at his last known address:

/s/ M. Landreth  
An employee of the Office of the Attorney General