

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN MICHAEL MCKENDRICK,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Jul 13 2021 06:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-19-338224-1

Docket No: 82920

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
SEAN MCKENDRICK #84624,
PROPER PERSON
P.O. BOX 1989
ELY, NV 89301-1989

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

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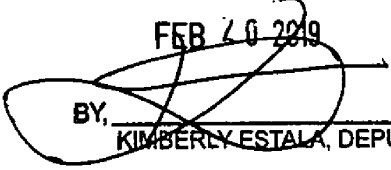
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ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB 7 0 2019

BY, 
KIMBERLY ESTALA, DEPUTY

1 IND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #14158
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-19-338224-1

11 -vs-

DEPT NO: VI

12 SEAN MICHAEL MCKENDRICK,
13 #7068215

14 Defendant.

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, SEAN MICHAEL MCKENDRICK, accused by the
18 Clark County Grand Jury of the crime(s) of BATTERY BY PRISONER (Category B Felony
19 - NRS 200.481(2)(F) - NOC 50229); ATTEMPT MURDER (Category B Felony - NRS
20 200.010, 200.030, 193.330 - NOC 50029); and ATTEMPT BATTERY WITH
21 SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor - NRS 200.481,
22 193.330 - NOC 50244/50245); committed at and within the County of Clark, State of Nevada,
23 on or about the 29th day of January, 2019, as follows:

24 COUNT 1 - BATTERY BY PRISONER

25 did willfully, unlawfully, feloniously, and knowingly use force or violence upon the
26 person of another, to wit: D. WEBB, by punching the said D. WEBB, Defendant at the time
27 of the offense, being a prisoner in lawful custody.

28 //

C-19-338224-1
IND
Indictment
4817324



W:\2019\2019F01767\19F01767-IND-002.docx

1 COUNT 2 - BATTERY BY PRISONER

2 did willfully, unlawfully, feloniously, and knowingly use force or violence upon the
3 person of another, to wit: D. COYNE, by punching the said D. COYNE, Defendant at the time
4 of the offense, being a prisoner in lawful custody.

5 COUNT 3 - ATTEMPT MURDER

6 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill D.
7 WEBB, a human being, by attempting to push D. WEBB off of a 2nd story balcony.

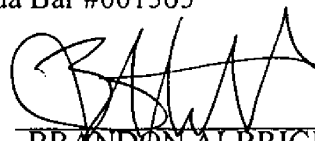
8 COUNT 4 - ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM

9 did willfully, unlawfully, and feloniously attempt to use force or violence upon the
10 person of another, to wit: D. WEBB, by attempting to push D. WEBB off of a 2nd story
11 balcony, resulting in substantial bodily harm to D. WEBB.

12 DATED this 19th day of February, 2019.

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

15
16 BY


17 BRANDON ALBRIGHT
18 Deputy District Attorney
19 Nevada Bar #14158
20

21 ENDORSEMENT: A True Bill
22

23 
24 Foreperson, Clark County Grand Jury
25
26
27
28

1 Names of Witnesses and testifying before the Grand Jury:

2 COYNE, DANIEL – LVMPD

3 WEBB, DANIEL – LVMPD

4

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

6 CUSTODIAN OF RECORDS - CCDC

7 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

8 CUSTODIAN OF RECORDS - LVMPD RECORDS

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27 18AGJ225X/19F01767X/cl-GJ

LVMPD EV# 190100136881

28 (TK7)

WARR

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

FEB 20 2019
BY, KIMBERLY ESTALA, DEPUTY

THE STATE OF NEVADA,
Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK
ID#7068215

Defendant.

CASE NO: C-19-338224-1
DEPT NO: VI

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 20th day of February, 2019, in the above entitled Court, charging Defendant SEAN MICHAEL MCKENDRICK, above named, with the crime(s) of: (2) CTS - BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229); (1) CT - ATTEMPT MURDER (Category B Felony - NRS 200.010, 200.030, 193.330 - NOC 50029); (1) CT - ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor - NRS 200.481, 193.330 - NOC 50244/50245).

YOU ARE, THEREFORE, COMMANDED forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$100,000 with high level electronic monitoring

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night.

GIVEN under my hand this 20th day of February, 2019.

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

BY

Brandon Albright
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #14158

Linda Marie Bell
Linda Marie Bell
DISTRICT COURT JUDGE VII
BAIL \$ 100,000 with high level
electronic monitoring

DA# 18AGJ225X/19F01767X/cl
LVMPD EV#190100136881
07/01/1983; WMA; 573-75-1896;
(TK7)

C-19-338224-1
WARR
Warrant
4817326



RET
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #14158
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK,
ID#7068215

Defendant.

CASE NO: C-19-338224-1
DEPT NO: VI

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 20th day of February, 2019, in the above entitled Court, charging Defendant SEAN MICHAEL MCKENDRICK, above named, with the crime(s) of: (2) CTS - BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229); (1) CT - ATTEMPT MURDER (Category B Felony - NRS 200.010, 200.030, 193.330 - NOC 50029); (1) CT - ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor - NRS 200.481, 193.330 - NOC 50244/50245), and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the ____ day of _____ 2019.

JOSEPH LOMBARDO
Sheriff, Clark County, Nevada

BY: _____

Deputy

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
6 - 7
WILL FOLLOW VIA
U.S. MAIL

RET

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #14158
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

Electronically Filed
02/21/2019

Steven B. Wolfson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK,
ID#7068215

Defendant.

CASE NO: C-19-338224-1
DEPT NO: VI

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 20th day of February, 2019, in the above entitled Court, charging Defendant SEAN MICHAEL MCKENDRICK, above named, with the crime(s) of: (2) CTS - BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229); (1) CT - ATTEMPT MURDER (Category B Felony - NRS 200.010, 200.030, 193.330 - NOC 50029); (1) CT - ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor - NRS 200.481, 193.330 - NOC 50244/50245), and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the 20 day of FEB 2019.

JOSEPH LOMBARDO
Sheriff, Clark County, Nevada

BY:

Deputy

[Signature]
elob wnpd

*PAGE 1 OF 1 ☐ UOF ☐ BODY CAM ☐ NEW ID ☐ DNA SAMPLE TAKEN ☒ DNA NOT REC'D
*ID/CS# 7068215
*ARREST DATE: 2/20/2019 *ARREST TIME: 1558
*EVENT #: 190100136881
(* DENOTES OFFICER REQUIRED FIELD)

CO. SGT APPROVAL ☒ REBOOK ☐ ABSENTIA ☐ FORM 6 ☐ NDOC ☐ EXT TO LAS VEGAS ☐ LVC ☐ HND ☐ NLV ☐ COURTESY HOLD ☐ DETAINER

*INTAKE NAME (AKA, ALIAS, ETC.)		LAST		FIRST		MIDDLE		TRUE NAME		LAST		FIRST		MIDDLE	
MCKENDRICK		SEAN		MICHAEL		MICHAEL		MCKENDRICK		SEAN		MICHAEL		MICHAEL	
*HOME ADDRESS (STREET # AND STREET NAME) 8400 W CHARLESTON															
*DATE OF BIRTH		*RACE		*HISP ETHN		*SEX		*HEIGHT		*WEIGHT		*HAIR		*EYES	
[REDACTED]		W		M		5'06"		140		BRO		BRO		BRO	
*LOCATION OF CRIME (STREET ADDRESS, CITY, STATE, ZIP) ☒ CC ☐ LV															
WARRANT LAS VEGAS, NV 89101															
*LOCATION OF ARREST (STREET ADDRESS, CITY, STATE, ZIP) CCDC LAS VEGAS, NV 89101 > ST-6M-17-S															
*ARR **		*COURT JURIS		*WARRANT # / CASE #		*# CNTS		*NOC CODE		*M GM F		*CHARGE LITERAL		*ORD / NRS	
GJI		DC		C-19-338224-1		1		50229		[REDACTED]		BATTERY BY PRSNR/PNP		200.481.2A	
GJI		DC		C-19-338224-1		1		50229		[REDACTED]		BATTERY BY PRSNR/PNP		200.481.2A	
GJI		DC		C-19-338224-1		1		50029		[REDACTED]		ATT MURDER		200.010	
GJI		DC		C-19-338224-1		1		50244		[REDACTED]		ATT BATTERY, R/SBH		200.481.2B	
WITH HOUSE ARREST															
TAPP 2-27-2019 @830AM DC 6															
*OTHER JURISDICTION:															
PC - PROBABLE CAUSE BS - BONDSMAN SURRENDER BW - BENCH WARRANT AW - ARREST WARRANT RM - REMAND GJI - GRAND JURY INDICTMENT															
**ARREST TYPES:															

TIME STAMP AT BOOKING		T. JAMOU		8600		LVMPD		OT		TIME STAMP AT RELEASING	
2/20/2019 4:01 PM		*ARRESTING OFFICER SIGNATURE		*PRINTED NAME		*P#		*AGENCY		*SECTOR/BENEFIT OF ARREST	
2/20/2019 4:01 PM		*TRANSPORTING OFFICER SIGNATURE		*PRINTED NAME		*P#		*AGENCY		*AREA CMD	
2/20/2019 4:01 PM		*EMERGENCY CONTACT		CYNTHIA NOTGIVEN		NAME		CUSTODY RELEASED TO		JUDGE:	
2/20/2019 4:01 PM		*RELATIONSHIP		MOTHER		POSITION		JUDGE:		JUDGE:	
2/20/2019 4:01 PM		*PHONE NUMBER		7753332827		AGENCY		JUDGE:		JUDGE:	
2/20/2019 4:01 PM		*EMAIL ADDRESS		AGENCY		JUDGE:		JUDGE:		JUDGE:	
2/20/2019 4:01 PM		*DOC DIT P#		P#		REL REV P#		P#		REL REV P#	
2/20/2019 4:01 PM		*RT LT RI L SCORE:		REBOOK		1:N RT LT RI L SCORE:		P#		REL REV P#	
2/20/2019 4:01 PM		*POLICE RECORDS COPY		*COURTS COPY		*DSD RECORDS COPY		*PROCESSING COPY		P#	



EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
 Plaintiff,)
)
 vs.)
)
 SEAN MICHAEL MCKENDRICK,)
)
 Defendant.)

GJ No. 18AGJ225X
DC No. C338224

Taken at Las Vegas, Nevada
Tuesday, February 19, 2019
10:01 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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

12:00 1 GRAND JURORS PRESENT ON FEBRUARY 19, 2019
2
3 RUSSELL WALKER, Foreperson
4 CAROLYN JORDAN, Deputy Foreperson
12:00 5 RACHEL TABRON, Secretary
6 MICHELE CRINE, Assistant Secretary
7 JOHN ASSELIN
8 KATHY COX
9 THERESA GAISSER
12:00 10 DAWN HERSHEY
11 CATHIE HILTZ
12 MICHAEL HOLLINGSWORTH
13 STACI HOLLINGSWORTH
14 CHRISTOPHER KERCEL
12:00 15 SHARON KLINCK
16 JAMES MCGREGOR
17 ERIN SCHAPER
18 MARYLEE WHALEN
19
12:00 20 Also present at the request of the Grand Jury:
21 Brandon Albright, Deputy District Attorney
22
23
24
25

12:00

1

INDEX OF WITNESSES

2

Examined

3

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DANIEL COYNE

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12:00

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DANIEL WEBB

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DANIEL COYNE

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12:00

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INDEX OF EXHIBITS

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Grand Jury ExhibitsIdentified

4

1 - PROPOSED INDICTMENT

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12:00

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2 - INSTRUCTIONS

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3 - PHOTOGRAPH

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12:00 1 LAS VEGAS, NEVADA, FEBRUARY 19, 2019

2 * * * * *

3

4 DANETTE L. ANTONACCI,

12:00 5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.

8

9 MR. ALBRIGHT: Good morning again ladies

10:01 10 and gentlemen. My name is Brandon Albright. I'm the
11 deputy district attorney this morning will be presenting
12 case number 18AGJ225X, the State of Nevada versus Sean
13 Michael McKendrick. Mr. McKendrick in the proposed
14 Indictment includes battery by prisoner, two counts,
10:01 15 attempt murder, and attempt battery with substantial
16 bodily harm. My first witness will be Officer Coyne,
17 C-O-Y-N-E.

18 THE FOREPERSON: Please raise your right
19 hand.

10:02 20 You do solemnly swear the testimony you are
21 about to give upon the investigation now pending before
22 this Grand Jury shall be the truth, the whole truth, and
23 nothing but the truth, so help you God?

24 THE WITNESS: I do.

10:02 25 THE FOREPERSON: You may be seated.

10:02 1 THE WITNESS: Thank you.

2 THE FOREPERSON: You are advised that you

3 are here today to give testimony in the investigation

4 pertaining to the offenses of battery by prisoner,

10:02 5 attempt murder, and attempt battery with substantial

6 bodily harm, involving Sean Michael McKendrick.

7 Do you understand this advisement?

8 THE WITNESS: Yes.

9 THE FOREPERSON: Please state your first

10:02 10 and last name and spell both for the record.

11 THE WITNESS: Daniel Coyne. D-A-N-I-E-L,

12 C-O-Y-N-E.

13 MR. ALBRIGHT: Ladies and gentlemen, just

14 briefly I do want to point out that Exhibit 1 is the

10:03 15 proposed Indictment and Exhibit 2 are the instructions

16 for the charges included in that Indictment. I would

17 exhort you to read through those instructions prior to

18 and during deliberations after you've heard from the

19 witnesses today.

10:03 20 DANIEL COYNE,

21 having been first duly sworn by the Foreperson of the

22 Grand Jury to testify to the truth, the whole truth,

23 and nothing but the truth, testified as follows:

24

10:03 25 ///

EXAMINATION

BY MR. ALBRIGHT:

Q. Officer Coyne, how are you employed?

A. As a corrections officer in the house arrest section of the Las Vegas Metropolitan Police Department.

Q. How does a house arrest officer differ from a patrol officer?

A. We're responsible for pretty much inmates out on house arrest. We have a little over 800 inmates who are released on the electronic monitoring program. We go to their house for random checks, we give them permission to go to places, we pretty much make sure that they're abiding by the conditions of their release, making sure they're not a danger to the public, random urinal tests.

Q. And you specifically, do you have specific inmates who you're assigned to?

A. Yes. We have a caseload, there's 16 officers on our section that split all 800 inmates but I work, my partner and I work swing shift with only two officers on swing shift so we're responsible for our caseload and everybody else's caseload at night. So if anything comes up we have to go handle their inmates as

10:04 1 well.

2 Q. You mentioned your partner. Who is he?

3 A. Daniel Webb.

4 Q. And what hours are the swing shift that you

10:04 5 mention?

6 A. From noon till 10:00 p.m. Day shift

7 they're done by 4:00 p.m.

8 Q. And so you also mentioned that you're the

9 only two that work the swing shift?

10:04 10 A. Yes.

11 Q. So do you receive calls all night from

12 other officers needing help with their assigned inmates?

13 A. Yes, we do.

14 Q. You mentioned that you give permission to

10:04 15 inmates to do certain things. So do they have to ask to

16 do certain things?

17 A. Yeah. So inmates on electronic monitoring

18 program, they can't leave their house without prior

19 permission from their officer. So if they need to go

10:05 20 anywhere except for doctor's appointment or medical

21 emergency really, they have to get permission. If they

22 want to go their parents' house for dinner they call us

23 and ask and we either say yes or no based on the

24 circumstances.

10:05 25 Q. Do the inmates sign a contract?

10:05 1 A. Yes, they sign an inmate contract for house
2 arrest.

3 Q. And does that contract kind of list the
4 things you just mentioned, restriction of movement,
10:05 5 where and when they're allowed to go places, curfew,
6 things like that?

7 A. Yes, it does.

8 Q. And in fact is it called a Clark County
9 Detention Center House Arrest Inmate Contract?

10:05 10 A. Yes, it is.

11 Q. And in that contract does it refer to
12 whoever it is as an inmate?

13 A. Yes. Yes, the, we make it clear to the
14 people who go out on the program that they are still
10:06 15 inmates of Clark County, they still are in our custody,
16 they're just given certain, you know, they're allowed to
17 do their time at home because the courts gave them that
18 condition of release. But they're still considered
19 inmates. They sign away their Fourth Amendment as well
10:06 20 stating they don't have a right to privacy because
21 they're inmates and we need to check their house, make
22 sure there's no weapons, drugs or contraband, just like
23 we're allowed to search the inmates' cells.

24 Q. Were you on duty in your capacity as a
10:06 25 house arrest officer on January 20, 2019?

10:06 1 A. Yes.

2 Q. And you mentioned previously that you work
3 from 4:00 to 10:00 or noon to 10:00?

4 A. From noon till 10:00.

10:06 5 Q. On this evening were you with your partner
6 Officer Webb?

7 A. Yes, I was.

8 Q. Did you receive a call from another officer
9 regarding his inmate Sean Michael McKendrick?

10:06 10 A. So yes we did. Officer Araiza called
11 Webb's cell phone and relayed the information that he
12 had gotten from inmate McKendrick's sister stating that
13 he was acting erratic, possibly under the influence of
14 methamphetamines, and that she was scared.

10:07 15 Q. You mentioned his sister. Is it your
16 understanding that he was living at his sister's house?

17 A. Yes, he was living at his sister's
18 apartment.

19 Q. As per his inmate house arrest agreement,
10:07 20 that was the house he was supposed to be living in;
21 correct?

22 A. Yes.

23 Q. Did you at approximately 7:00 p.m. go to
24 that apartment?

10:07 25 A. Yes.

10:07 1 Q. And was contact made with Mr. McKendrick?

2 A. Yes. We knocked on his door. When he
3 opened the door, he violently opened the door as fast as
4 he could yelling who is it. I said Metro house arrest.

10:07 5 He looked at me and invited us in. At that point he was
6 speaking very fast, he was sweating profusely and his
7 eyes were pinned. Based on my training and experience I
8 recognized him to be under the influence of narcotics.

9 Q. When you say his eyes were pinned, what
10:08 10 does that mean?

11 A. I mean they were just laser focused on you,
12 pupils just, I mean kind of small pupils just looking
13 right at you, not much movement in them.

14 Q. Did you see anybody else in the house?

10:08 15 A. Yes, there was a teenager, I think late
16 teens, early twenties, later identified as McKendrick's
17 nephew.

18 Q. You mentioned earlier that it was the
19 sister who had called the police. Was she at home at
10:08 20 the time?

21 A. No.

22 Q. You also mentioned that he invited you in?

23 A. Yes.

24 Q. What happened next as you entered the
10:08 25 apartment?

10:08 1 A. Due to me noticing that he was under the
2 influence of narcotics I told him to turn around, place
3 his hands behind his back. He started arguing with me,
4 refusing to do so. Told him again place your hands
10:08 5 behind your back, you're under arrest, and I physically
6 turned him around. Then he placed his hands behind his
7 back, I took out my handcuffs to place one handcuff on
8 his left wrist, it ratcheted. As soon as that it
9 ratcheted he violently turned, spun towards me pushing
10:09 10 me away and yanking his hand back. So now the handcuff
11 is stuck on his left wrist and my left two fingers are
12 stuck in the other cuff and he's violently yanking back
13 causing excruciating pain with my fingers cause he's
14 twisting and pulling. Once he realizes I have hold of
10:09 15 the handcuff, he starts violently swinging his fists and
16 pushing myself on Officer Webb. I was struck multiple
17 times with his right fist in my body and legs and so was
18 Officer Webb that I observed. I was eventually able to
19 get my fingers free from the cuff. At that point both
10:10 20 his hands were free, he turned towards the door where
21 Officer Webb was and he pushed him through a glass and
22 wooden table by the doorway.

23 Q. When you say he pushed him through, did he
24 push him down and the officer landed on the table?

10:10 25 A. He threw him towards the table, Webb hit

10:10 1 the table, it broke, and he ended up on the floor. Webb
2 immediately goes back to his feet, he's in the doorway
3 now and the door is open.

4 Q. When you say -- I apologize. When you say
10:10 5 the doorway, is that the front door?

6 A. Yes. And we're on a second floor apartment
7 where there's a balcony here and a stairwell going down.

8 Q. Let me draw that picture real quick. So
9 you just used your hands to paint that. If you're
10:10 10 looking, if you're inside the apartment and looking out
11 the open front door, is there a staircase directly in
12 front of you?

13 A. Yes.

14 Q. And to the left is there a balcony?

10:10 15 A. It would be to our right is a balcony and
16 the left is a balcony and in the middle is the stairs.

17 Q. Is there a metal railing?

18 A. Yes, about waist high.

19 Q. About three feet high?

10:11 20 A. Yes, about waist height.

21 Q. Generally what most apartment complexes
22 look like; correct?

23 A. Yes.

24 Q. You said the door was open. What happens
10:11 25 next?

10:11 1 A. He charged him like a football player and
2 pushed him towards that balcony.

3 Q. When you say he --

4 A. McKendrick.

10:11 5 Q. McKendrick charged Webb?

6 A. Charged Webb, yes.

7 Q. What happened next?

8 A. So now Webb's going backwards and

9 McKendrick's going forward. I was right there. I

10:11 10 thought that McKendrick was going to push Webb over the
11 railing and I had to act. I was able to get my left arm
12 around his neck and applied a department approved
13 lateral vascular neck restraint. He kept going forward
14 so I pushed all my weight down to the ground to bring
10:11 15 him down with me. That --

16 Q. I'm sorry to keep cutting you off.

17 When you say he kept going, do you mean
18 that McKendrick was continuously pushing Webb against
19 that railing?

10:11 20 A. Still pushing after I had him in the neck
21 restraint.

22 Q. And was Webb backed up against the railing?

23 A. So as soon as I got him to the ground,

24 that's when I saw Webb hit that railing and then slip

10:12 25 and his foot fell down the stairs and then Webb fell to

10:12 1 the ground.

2 Q. And were you able to subdue McKendrick?

3 A. At that point I had him in the neck
4 restraint and he was pushing up against my elbow and
10:12 5 pulling his head, that's how you would escape it.

6 Trying to escape. He was kicking. I applied pressure
7 until his body went limp. At that point I yelled at
8 Webb to put him in the handcuffs. So his one hand was
9 already in handcuff, he grabbed the other one, put the
10:12 10 other hand in handcuffs. At that point he was secured.

11 I sat him up and at that point he was already back
12 conscious and began kicking again and struggling until
13 he realized he was in cuffs. Then we escorted him down
14 to the car and requested medical attention to check him
10:13 15 out because he was sweating so profusely I thought we
16 should get him checked out.

17 Q. Did you transport him in your vehicle to
18 CCDC?

19 A. Yes. We transported him to the hospital
10:13 20 first to get his wrist checked out because when he was
21 pulling the cuffs with my hand and his wrist, his wrist
22 was swollen from how hard he was pulling. They checked
23 him out. It was just a bruised wrist, no substantial
24 injuries.

10:13 25 Q. What if anything did he do or say in the

10:13 1 patrol car on the way to the hospital?

2 A. On the way to the hospital he apologized

3 for fighting us. He said I fought you guys cause I

4 wanted us to kill me. And then he asked me several

10:13 5 times to shoot him. Then after we cleared him at the

6 hospital he said I'm sorry for what I'm about to do,

7 just kill me, and he started trying to kick the windows

8 out of the car. He kicked the window probably eight

9 times with his feet.

10:14 10 Q. Was he able to break it?

11 A. No.

12 Q. And then you were able to successfully

13 transport him to the jail?

14 A. Yes.

10:14 15 MR. ALBRIGHT: I have no further questions

16 for this witness. Any questions?

17 BY A JUROR:

18 Q. I may have misheard. What day in January

19 was this?

10:14 20 A. Was it 20 -- was it 20th or the 29th?

21 BY MR. ALBRIGHT:

22 Q. January 20, 2019, does that sound correct?

23 A. Twenty, yes.

24 Q. And the address that you responded to, was

10:14 25 that 8400 West Charleston?

10:14 1 A. 8400 West Charleston, yes, apartment
2 complex.
3 Q. Apartment number 210, does that sound
4 correct?
10:14 5 A. Yes.
6 Q. Is that located in Clark County, Las Vegas,
7 Nevada?
8 A. That's Clark County.
9 MR. ALBRIGHT: Any other questions?
10:14 10 BY A JUROR:
11 Q. You identified, you said when you first
12 knocked on the door you identified yourself as a
13 corrections officer. I assume that you are also in
14 uniform --
10:15 15 A. In full uniform and we identify ourselves
16 as Metro house arrest.
17 Q. So it was obvious, okay.
18 A. Yes. So he knows that we're his house
19 arrest officers.
10:15 20 BY MR. ALBRIGHT:
21 Q. Briefly, Officer. Showing you Exhibit
22 Number 3. Who is that?
23 A. This is inmate McKendrick.
24 Q. This is the --
10:15 25 A. The same person we came in contact with

10:15 1 that night.

2 Q. The person we've been talking about today?

3 A. Yes.

4 THE FOREPERSON: Any other questions?

10:15 5 By law, these proceedings are secret and
6 you are prohibited from disclosing to anyone anything
7 that has transpired before us, including evidence and
8 statements presented to the Grand Jury, any event
9 occurring or statement made in the presence of the Grand
10:15 10 Jury, and information obtained by the Grand Jury.

11 Failure to comply with this admonition is a
12 gross misdemeanor punishable by up to 364 days in the
13 Clark County Detention Center and a \$2,000 fine. In
14 addition, you may be held in contempt of court
10:15 15 punishable by an additional \$500 fine and 25 days in the
16 Clark County Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: I understand.

19 THE FOREPERSON: Thank you. You're

10:16 20 excused.

21 THE WITNESS: Thank you guys for your time.

22 A JUROR: Thank you.

23 MR. ALBRIGHT: My next and last witness
24 will be Officer Webb.

10:16 25 THE FOREPERSON: Please raise your right

10:16 1 hand.

2 You do solemnly swear the testimony you are
3 about to give upon the investigation now pending before
4 this Grand Jury shall be the truth, the whole truth, and
10:16 5 nothing but the truth, so help you God?

6 THE WITNESS: Yes, I do.

7 THE FOREPERSON: You may be seated.

8 THE WITNESS: Thank you.

9 THE FOREPERSON: You are advised that you
10:16 10 are here today to give testimony in the investigation
11 pertaining to the offenses of battery by prisoner,
12 attempt murder, attempt battery with substantial bodily
13 harm, involving Sean Michael McKendrick.

14 Do you understand this advisement?

10:17 15 THE WITNESS: Yes, I do.

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

18 THE WITNESS: Daniel Webb. D-A-N-I-E-L,
19 W-E-B-B.

10:17 20 DANIEL WEBB,
21 having been first duly sworn by the Foreperson of the
22 Grand Jury to testify to the truth, the whole truth,
23 and nothing but the truth, testified as follows:

10:17 24
25 ///

EXAMINATION

BY MR. ALBRIGHT:

Q. Officer Webb, how are you employed?

A. I'm a corrections officer with Las Vegas Metropolitan Police.

Q. Specifically in what capacity?

A. I'm assigned to the house arrest section.

Q. And do you work in partners?

A. Yes, I do.

Q. Who is your assigned partner?

A. Officer Daniel Coyne.

Q. What shift do you work?

A. We work a swing shift, the hours of 12:00 noon to 10:00 p.m.

Q. And were you on duty on January 20, 2019?

A. Yes.

Q. Did you receive a call regarding an inmate by the name of Sean Michael McKendrick?

A. Yes.

Q. Who contacted you?

A. Another officer in our section, Officer Antonio Araiza, contacted us to do a check on him.

Q. Officer Araiza, is that what you said?

A. Yes. A-R-A-I-Z-A.

10:18 1 Q. Is Officer Araiza actually assigned to
2 Mr. McKendrick?

3 A. Yes, he is.

4 Q. Because of the difference in shifts he
10:18 5 called you because you were on duty?

6 A. Correct.

7 Q. Did you respond to the apartment where it
8 was your understanding McKendrick was serving his house
9 arrest?

10:18 10 A. Yes, we did.

11 Q. Is that 8400 West Charleston, apartment
12 210?

13 A. Yes, it is.

14 Q. And how did you initially make contact with
10:18 15 Mr. McKendrick?

16 A. After receiving the information that was
17 given to Officer Araiza, we were instructed to or asked
18 to go do a check on him. Officer Araiza received a call
19 from the actual tenants that McKendrick was living with,
10:18 20 which was actually his brother and sister-in-law,
21 earlier in the day or prior to our arrival, Officer
22 Araiza received a call from his sister stating that Sean
23 was acting bizarre, possibly under the influence of
24 controlled substance. And if that was the case he
10:19 25 needed to be removed from the property.

10:19 1 Q. And ladies and gentlemen, what you just
2 heard in regards to what was said by Officer Araiza is
3 hearsay so it's not introduced for the truth of the
4 matter, but simply to learn what Officer Webb did next,
10:19 5 what it caused him to do.

6 So based on that you made contact with
7 McKendrick; is that right?

8 A. Yes, we did.

9 Q. How was that contact made?

10:19 10 A. Approximately 7:40 p.m. on that date we
11 arrived at the residence of 8400 West Charleston,
12 knocked on the door of apartment 210. Sean McKendrick
13 answered the door. At that time he abruptly opened the
14 door, pulling the door inward in an aggressive manner.
10:19 15 At that point we observed him to be profusely sweating
16 and possibly under the influence of a controlled
17 substance based on my experience.

18 Q. Did you and/or Officer Coyne attempt to
19 place him under arrest?

10:19 20 A. Yes. Officer Coyne initiated a, informed
21 him that he's going back to jail, placed him under
22 arrest. He complied with the left cuff being placed on,
23 became argumentative, why am I going back to jail. We
24 instructed him that he's going back to jail, I don't
10:19 25 remember if any reason was given other than house arrest

10:20 1 rule violations. At that point he become very agitated,
2 very outspoken, abruptly turned to his left
3 counterclockwise position, swinging a closed fist
4 striking me in the lower abdomen.

10:20 5 Q. You said striking you?

6 A. Yes.

7 Q. So did a fight ensue involving you and
8 Officer Coyne and McKendrick?

9 A. Yes. It become, actually become very
10:20 10 violent fight trying to restrain him. Very sweaty, hard
11 to control. Clothing was torn off McKendrick during the
12 struggle. Slippery skin, profusely sweating. He
13 continued to strike. I was struck in the left side of
14 the face at some time during the incident. During that
10:20 15 incident I lost control of my radio. I was able to gain
16 control of my radio and called for assistance calling a
17 444.

18 Q. What is a 444?

19 A. Officer in an emergency. Emergency call.
10:20 20 For responding units to come because the situation
21 became very violent and very aggressive, almost out of
22 control.

23 Q. At any point was any furniture in the
24 apartment damaged?

10:21 25 A. Yes. Just outside, I would say as you're

10:21 1 facing inward, there's a glass curio table. At that
2 point I was thrown backwards into that smashing myself
3 against that, falling to the floor and smashing the
4 glass.

10:21 5 Q. When you say you were thrown backwards, who
6 or how were you thrown backwards?

7 A. Just the momentum of the force involved of
8 the struggle. I'm not sure exactly how or who, but
9 during the struggle I was pushed backwards into the
10:21 10 corner where I came in contact with the glass table
11 cabinet smashing that and falling on the floor.

12 Q. At some point did the struggle end up
13 outside of the front door?

14 A. Yes, it did. As I regained my footing, I
10:21 15 stood back up and my, I'm in the doorway now, McKendrick
16 tried to rush out. I felt that he rushed me in an
17 aggressive manner, made contact with me, and I went, his
18 momentum pushed me backwards almost over the railing and
19 down the stairs.

10:21 20 Q. So when you say that you kind of made a
21 bear hug motion. Are you motioning that McKendrick kind
22 of grabbed you?

23 A. Like a football tackle, yes.

24 Q. And you mentioned that that forced you
10:22 25 towards the stairs and the balcony?

10:22 1 A. Yes.

2 Q. At some point did your back make contact
3 with that balcony?

4 A. I made contact with the balcony. At first
10:22 5 my foot slipped down the stairs, probably two or three
6 steps down the, my right leg, and my back against the
7 balcony, and I was able to regain my footing and pushed
8 myself back upwards.

9 Q. At any point, after that fact did you
10:22 10 become aware of any injuries on your body from hitting
11 that railing?

12 A. Yes. I mean because of, as I said the
13 adrenaline in the situation you don't realize until
14 everything settles down, I felt a little swollen on the
10:22 15 left side of my jaw. Two, three days later I noticed
16 bruising from probably my mid calf up to my mid thigh
17 where I possibly made contact with the stairs.

18 Q. How was it that McKendrick stopped pushing
19 you towards the balcony?

10:23 20 A. Once McKendrick had, I don't know if he
21 still had control of me or not, but Officer Coyne
22 engaged in an LVNR, lateral ventricular neck restraint,
23 rendered him unconscious.

24 Q. Okay. And until that happened was he
10:23 25 actively pushing you?

10:23 1 A. Yes, he was. He was actively pushing and
2 the struggle was still on the very top of the decking,
3 just right above the stairs there, and he, at that point
4 he fell downward and I was able to grasp his left hand
10:23 5 which the cuff was already there and restrain him with
6 his right hand.

7 Q. Showing you Exhibit 3. Who is that?

8 A. That's Sean McKendrick.

9 Q. This is the individual we've been talking
10:23 10 about this morning?

11 A. Yes, sir.

12 MR. ALBRIGHT: I have no further questions
13 for this witness.

14 BY A JUROR:

10:24 15 Q. Officer Webb, did you feel your life was in
16 danger at any point?

17 A. I would say yes, absolutely. In that
18 situation you never know which direction it's going to
19 go. After we restrained, we found three knives on him.

10:24 20 Q. Thank you.

21 BY MR. ALBRIGHT:

22 Q. Was that found during a search incident to
23 arrest?

24 A. Yes, it was.

10:24 25 THE FOREPERSON: By law, these proceedings

10:24 1 are secret and you are prohibited from disclosing to
2 anyone anything that has transpired before us, including
3 evidence and statements presented to the Grand Jury, any
4 event occurring or statement made in the presence of the
10:24 5 Grand Jury, and information obtained by the Grand Jury.

6 Failure to comply with this admonition is a
7 gross misdemeanor punishable by up to 364 days in the
8 Clark County Detention Center and a \$2,000 fine. In
9 addition, you may be held in contempt of court
10:24 10 punishable by an additional \$500 fine and 25 days in the
11 Clark County Detention Center.

12 Do you understand this admonition?

13 THE WITNESS: Yes, I do.

14 THE FOREPERSON: Thank you. You're
10:25 15 excused.

16 THE WITNESS: Thank you.

17 MR. ALBRIGHT: Just one very minor
18 amendment to the Indictment. I believe to conform to
19 the testimony that we heard today, line 23 on page 1
10:25 20 should read the 20th day of January, not the 29th.

21 With that I'll hand it to you to
22 deliberate.

23 (At this time, all persons, other than
24 members of the Grand Jury, exit the room at 10:25 a.m.
10:25 25 and return at 10:28 a.m.)

10:27 1 MR. ALBRIGHT: I just need to very briefly
2 recall a witness to correct something on the Indictment.

3 THE FOREPERSON: Okay.

4 You're still under oath from the previous
10:28 5 swearing in.

6 THE WITNESS: Okay. Daniel Coyne.

7 DANIEL COYNE,

8 having been previously duly sworn by the Foreperson of
9 the Grand Jury to testify to the truth, the whole truth,
10:28 10 and nothing but the truth, testified as follows:

11 FURTHER EXAMINATION

12

13 BY MR. ALBRIGHT:

14 Q. Officer Coyne, the event we were speaking
10:28 15 about earlier, is it correct that it occurred on
16 January 29, 2019?

17 A. Yes. I just confirmed with my records it
18 happened on the 29th. He was released into our custody
19 from the jail on the 20th.

10:28 20 Q. So the confusion stemmed from the fact that
21 he started house arrest on the 20th. January 29th is
22 the event we've been discussing today.

23 A. Yes.

24 Q. Okay. Thank you, Officer.

10:29 25 THE FOREPERSON: Same admonition about the

10:29 1 secrecy.

2 THE WITNESS: Yes, sir.

3 MR. ALBRIGHT: With that being said, ladies
4 and gentlemen, the aforementioned amendment is no longer
10:29 5 relevant so the Indictment is correct. The 29th is the
6 day.

7 THE FOREPERSON: Okay.

8 MR. ALBRIGHT: I'm sorry for that.

9 THE FOREPERSON: No worries.

10:29 10 (At this time, all persons, other than
11 members of the Grand Jury, exit the room at 10:29 a.m.
12 and return at 10:32 a.m.)

13 THE FOREPERSON: Mr. District Attorney, by
14 a vote of 12 or more grand jurors a true bill has been
10:32 15 returned against defendant Sean Michael McKendrick
16 charging the crimes of two counts battery by a prisoner,
17 one count attempt murder, one count attempt battery with
18 substantial bodily harm, in Grand Jury case number
19 18AGJ225X. We instruct you to prepare an Indictment in
10:32 20 conformance with the proposed Indictment previously
21 submitted to us.

22 MR. ALBRIGHT: Thank you ladies and
23 gentlemen.

24 (Proceedings concluded.)

10:32 25 --oo0oo--

REPORTER'S CERTIFICATE

STATE OF NEVADA)
 : ss
COUNTY OF CLARK)

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

Dated at Las Vegas, Nevada,
March 5, 2019.

/s/ Danette L. Antonacci

Danette L. Antonacci, C.C.R. 222

10:32

1

AFFIRMATION

2

Pursuant to NRS 239B.030

3

4

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
18AGJ225X:

10:32

5

6

7

8

X Does not contain the social security number of any
person,

9

10:32

10

-OR-

11

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

12

13

A. A specific state or federal law, to-
wit: NRS 656.250.

14

-OR-

10:32

15

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

16

17

18

/s/ Danette L. Antonacci

3-5-19

19

Signature

Date

10:32

20

21

Danette L. Antonacci

22

Print Name

23

Official Court Reporter

24

Title

25

● ORIGINAL ●

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STEVEN B. WOLFSON
2 Clark County District Attorney
Nevada Bar #001565
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FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 27 2019

BY: Louisa Garcia
LOUISA GARCIA, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-19-338224-1
GPA
Guilty Plea Agreement
4826980



9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 SEAN MICHAEL MCKENDRICK,
#7068215

13 Defendant.
14

CASE NO: C-19-338224-1

DEPT NO: VI

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **BATTERY BY PRISONER (Category B Felony -**
17 **NRS 200.481(2)(F) - NOC 50229)**, as more fully alleged in the charging document attached
18 hereto as Exhibit "I".

19 My decision to plead guilty is based upon the plea agreement in this case which is as
20 follows:

21 The State retains the right to argue.

22 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
23 and/or impounded in connection with the instant case and/or any other case negotiated in
24 whole or in part in conjunction with this plea agreement.

25 I understand and agree that, if I fail to interview with the Department of Parole and
26 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
27 by affidavit review, confirms probable cause against me for new criminal charges including
28 reckless driving or DUI, but excluding minor traffic violations, the State will have the

1 unqualified right to argue for any legal sentence and term of confinement allowable for the
2 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
3 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
4 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
5 twenty-five (25) year term with the possibility of parole after ten (10) years.

6 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
7 plea agreement.

8 CONSEQUENCES OF THE PLEA

9 I understand that by pleading guilty I admit the facts which support all the elements of
10 the offense(s) to which I now plead as set forth in Exhibit "1".

11 I understand that as a consequence of my plea of guilty The Court must sentence me to
12 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
13 ONE (1) year and a maximum term of not more than SIX (6) years. The minimum term of
14 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I
15 understand that I may also be fined up to \$10,000.00. I understand that the law requires me to
16 pay an Administrative Assessment Fee.

17 I understand that, if appropriate, I will be ordered to make restitution to the victim of
18 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
19 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
20 reimburse the State of Nevada for any expenses related to my extradition, if any.

21 I understand that I am eligible for probation for the offense to which I am pleading
22 guilty. I understand that, except as otherwise provided by statute, the question of whether I
23 receive probation is in the discretion of the sentencing judge.

24 I understand that I must submit to blood and/or saliva tests under the Direction of the
25 Division of Parole and Probation to determine genetic markers and/or secretor status.

26 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
27 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
28 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation

1 and may receive a higher sentencing range.

2 I understand that if more than one sentence of imprisonment is imposed and I am
3 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
4 the sentences served concurrently or consecutively.

5 I understand that information regarding charges not filed, dismissed charges, or charges
6 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

7 I have not been promised or guaranteed any particular sentence by anyone. I know that
8 my sentence is to be determined by the Court within the limits prescribed by statute.

9 I understand that if my attorney or the State of Nevada or both recommend any specific
10 punishment to the Court, the Court is not obligated to accept the recommendation.

11 I understand that if the offense(s) to which I am pleading guilty was committed while I
12 was incarcerated on another charge or while I was on probation or parole that I am not eligible
13 for credit for time served toward the instant offense(s).

14 I understand that if I am not a United States citizen, any criminal conviction will likely
15 result in serious negative immigration consequences including but not limited to:

- 16 1. The removal from the United States through deportation;
- 17 2. An inability to reenter the United States;
- 18 3. The inability to gain United States citizenship or legal residency;
- 19 4. An inability to renew and/or retain any legal residency status; and/or
- 20 5. An indeterminate term of confinement, with the United States Federal
21 Government based on my conviction and immigration status.

22 Regardless of what I have been told by any attorney, no one can promise me that this
23 conviction will not result in negative immigration consequences and/or impact my ability to
24 become a United States citizen and/or a legal resident.

25 I understand that the Division of Parole and Probation will prepare a report for the
26 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
27 sentencing, including my criminal history. This report may contain hearsay information
28 regarding my background and criminal history. My attorney and I will each have the

1 opportunity to comment on the information contained in the report at the time of sentencing.
2 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
3 comment on this report.

4 WAIVER OF RIGHTS

5 By entering my plea of guilty, I understand that I am waiving and forever giving up the
6 following rights and privileges:

- 7 1. The constitutional privilege against self-incrimination, including the right
8 to refuse to testify at trial, in which event the prosecution would not be
allowed to comment to the jury about my refusal to testify.
- 9 2. The constitutional right to a speedy and public trial by an impartial jury,
10 free of excessive pretrial publicity prejudicial to the defense, at which
trial I would be entitled to the assistance of an attorney, either appointed
11 or retained. At trial the State would bear the burden of proving beyond
a reasonable doubt each element of the offense(s) charged.
- 12 3. The constitutional right to confront and cross-examine any witnesses who
would testify against me.
- 13 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 14 5. The constitutional right to testify in my own defense.
- 15 6. The right to appeal the conviction with the assistance of an attorney,
16 either appointed or retained, unless specifically reserved in writing and
agreed upon as provided in NRS 174.035(3). I understand this means I
17 am unconditionally waiving my right to a direct appeal of this conviction,
including any challenge based upon reasonable constitutional,
18 jurisdictional or other grounds that challenge the legality of the
proceedings as stated in NRS 177.015(4). However, I remain free to
19 challenge my conviction through other post-conviction remedies
including a habeas corpus petition pursuant to NRS Chapter 34.

21 VOLUNTARINESS OF PLEA

22 I have discussed the elements of all of the original charge(s) against me with my
23 attorney and I understand the nature of the charge(s) against me.

24 I understand that the State would have to prove each element of the charge(s) against
25 me at trial.

26 I have discussed with my attorney any possible defenses, defense strategies and
27 circumstances which might be in my favor.

28 All of the foregoing elements, consequences, rights, and waiver of rights have been

1 thoroughly explained to me by my attorney.

2 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
3 that a trial would be contrary to my best interest.

4 I am signing this agreement voluntarily, after consultation with my attorney, and I am
5 not acting under duress or coercion or by virtue of any promises of leniency, except for those
6 set forth in this agreement.

7 I am not now under the influence of any intoxicating liquor, a controlled substance or
8 other drug which would in any manner impair my ability to comprehend or understand this
9 agreement or the proceedings surrounding my entry of this plea.

10 My attorney has answered all my questions regarding this guilty plea agreement and its
11 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

12 DATED this 27th day of ~~February~~, 2019.
13 March

14 
15 SEAN MICHAEL MCKENDRICK
Defendant

16 AGREED TO BY:

17 
18 BRANDON ALBRIGHT
19 Deputy District Attorney
20 Nevada Bar #014158
21
22
23
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28

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
charge(s) to which guilty pleas are being entered.
- 5 2. I have advised the Defendant of the penalties for each charge and the restitution
6 that the Defendant may be ordered to pay.
- 7 3. I have inquired of Defendant facts concerning Defendant's immigration status
and explained to Defendant that if Defendant is not a United States citizen any
8 criminal conviction will most likely result in serious negative immigration
consequences including but not limited to:
- 9 a. The removal from the United States through deportation;
- 10 b. An inability to reenter the United States;
- 11 c. The inability to gain United States citizenship or legal residency;
- 12 d. An inability to renew and/or retain any legal residency status; and/or
- 13 e. An indeterminate term of confinement, by with United States Federal
14 Government based on the conviction and immigration status.

15 Moreover, I have explained that regardless of what Defendant may have been
told by any attorney, no one can promise Defendant that this conviction will not
16 result in negative immigration consequences and/or impact Defendant's ability
to become a United States citizen and/or legal resident.

- 17 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
consistent with the facts known to me and are made with my advice to the
18 Defendant.
- 19 5. To the best of my knowledge and belief, the Defendant:
- 20 a. Is competent and understands the charges and the consequences of
pleading guilty as provided in this agreement,
- 21 b. Executed this agreement and will enter all guilty pleas pursuant hereto
22 voluntarily, and
- 23 c. Was not under the influence of intoxicating liquor, a controlled
24 substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

25 Dated: This 27th day of ~~February~~ 2019.

26 March

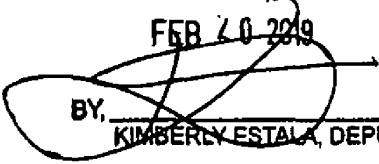
27 
ATTORNEY FOR DEFENDANT

28 19F01767X/rmj/L-3

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB 20 2019

BY, 
KIMBERLY ESTALA, DEPUTY

1 IND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #14158
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-19-338224-1

11 -vs-

DEPT NO: VI

12 SEAN MICHAEL MCKENDRICK,
13 #7068215

14 Defendant.

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, SEAN MICHAEL MCKENDRICK, accused by the
18 Clark County Grand Jury of the crime(s) of BATTERY BY PRISONER (Category B Felony
19 - NRS 200.481(2)(F) - NOC 50229); ATTEMPT MURDER (Category B Felony - NRS
20 200.010, 200.030, 193.330 - NOC 50029); and ATTEMPT BATTERY WITH
21 SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor - NRS 200.481,
22 193.330 - NOC 50244/50245); committed at and within the County of Clark, State of Nevada,
23 on or about the 29th day of January, 2019, as follows:

24 COUNT 1 - BATTERY BY PRISONER

25 did willfully, unlawfully, feloniously, and knowingly use force or violence upon the
26 person of another, to wit: D. WEBB, by punching the said D. WEBB, Defendant at the time
27 of the offense, being a prisoner in lawful custody.

28 //

C-19-338224-1
IND

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1 COUNT 2 - BATTERY BY PRISONER

2 did willfully, unlawfully, feloniously, and knowingly use force or violence upon the
3 person of another, to wit: D. COYNE, by punching the said D. COYNE, Defendant at the time
4 of the offense, being a prisoner in lawful custody.

5 COUNT 3 - ATTEMPT MURDER

6 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill D.
7 WEBB, a human being, by attempting to push D. WEBB off of a 2nd story balcony.

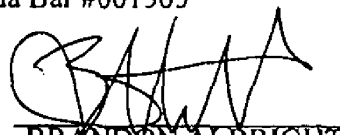
8 COUNT 4 - ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM

9 did willfully, unlawfully, and feloniously attempt to use force or violence upon the
10 person of another, to wit: D. WEBB, by attempting to push D. WEBB off of a 2nd story
11 balcony, resulting in substantial bodily harm to D. WEBB.

12 DATED this 19th day of February, 2019.

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

15
16 BY


17 BRANDON ALBRIGHT
18 Deputy District Attorney
19 Nevada Bar #14158
20

21 ENDORSEMENT: A True Bill
22

23 
24 Foreperson, Clark County Grand Jury
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Names of Witnesses and testifying before the Grand Jury:

COYNE, DANIEL – LVMPD

WEBB, DANIEL – LVMPD

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

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

18AGJ225X/19F01767X/cl-GJ
LVMPD EV# 190100136881
(TK7)

FILED

MAR 28 2019

Ann L. Johnson
CLERK OF COURT

BAIL BOND

In the DISTRICT Court, County of Clark, State of Nevada

STATE OF NEVADA.

Bail Bond No. 511418618-4
(Power of Attorney with this number must be attached)

Vs.

Defendant MCKENDRICK SEAN Case Number: C-19-338224-1

Know all men by these presents:

That we, **FREE BAIL BONDS LLC**, As principal, and **BANKERS INSURANCE CO.** as the surety, heretofore authorized to transact Bail Bonds in the State of Nevada, are held and bound, to the above court for payment in the sum of:

10,000⁰⁰ Dollars, whereof, we bind ourselves, our heirs, executors, administrators, and successors, and assigns, jointly, severally, and firmly, by these presents. The condition of this obligation is such that the defendant shall appear from day to day and term-to-term of said court to answer to the charge(s) of:

2CTS BATTERY BY PRISONER ATTEMPT MURDER ATTEMPT BATTERY
WITH SUBSTANTIAL BODILY HARM

And not depart the same without leave, then this obligation to be void, else to remain in full force and effect.

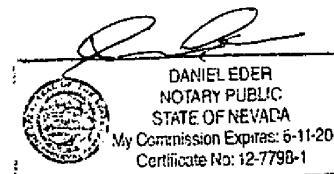
This bond shall be in full force and effect until any of the following events:

- 1) Exoneration by the court order,
- 2) Termination of this case by dismissal or conviction

Signed and sealed this 28 day of MARCH 20 19

SS
Attorney in fact (Signature)

Subscribed and sworn before me, a notary for the State of Nevada,



This 28 day of MARCH 20 19

Approved this _____ day of _____ 20 _____

By _____
BONDING COMPANY STAMPS
FREE BAIL BONDS LLC
121 GASS AVE
LAS VEGAS, NV 89101
RECEIVED
INSURANCE COMPANY STAMPS
BANKERS INSURANCE COMPANY
P.O. BOX 15707
ST. PETERSBURG, FLORIDA 33733-5707

C-19-338224-1
BAB
Bail Bond
4826133



MAR 28 2019

CLERK OF THE COURT

BAIL ONLY
POWER AMOUNT
\$11000.00

BANKERS INSURANCE COMPANY
P.O. Box 33015 • St. Petersburg, Florida 33733 • 800-627-0000
POWER OF ATTORNEY

511418618 - 4

Bailassist@BankersFinancialCorp.com

KNOW ALL MEN BY THESE PRESENTS: that Bankers Insurance Company, a corporation duly organized and existing under the laws of the State of Florida, has made pursuant to Article IV, Section 11 of the By-Laws, which was adopted by the Directors of the said company, and is now in effect, does constitute and appoint, and by these presents does make, constitute and appoint below named agent its true and lawful Attorney-In-Fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-In-Fact is limited to appearance bonds. **This power must be filed with the court as a permanent court record to obligate the surety, for court appearances only, of the named Defendant. This power shall not obligate the surety for the Defendant's future lawful conduct, court imposed conditions, restrictions, or fines costs, restitution or any other circumstances not specifically related to court appearances.**

This Power of Attorney is for use with Bail Bonds for State, County and Municipal Courts only. Not valid in Federal Court nor if used in connection with Federal Immigration Bonds. This power shall be void if its original format has been altered, if it exceeds the maximum amount listed, is used with other powers of this or any other surety company to cover one bond amount, or is used by an individual who is not authorized to execute surety bonds on behalf of Bankers Insurance Company.

THE OBLIGATION OF THE COMPANY SHALL NOT EXCEED THE SUM OF THIS STATED FACE AMOUNT, AND PROVIDED THIS Power of Attorney is filed with the bond and retained as a part of the court records. The said Attorney-In-Fact is hereby authorized to insert in this Power of Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, BANKERS INSURANCE COMPANY has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 28 day of MARCH, 2019

Bond Amount \$ 10,000 Appearance Date _____ Premium \$ _____

Defendant McKENDRICK SEAN

S.S.# _____ D.O.B. _____

Case # C-19-338224-1

Court DISTRICT

City LAS VEGAS State NV

Offense 2 CTS BATTERY BY PRISONER ATTEMPT MURDER

ATTEMPT BATTERY WITH SUBSTANTIAL BODILY

HARM

If Rewrite, Original # _____

Executing Agent ST THOMAS FREE

BIC992004-110818

BANKERS INSURANCE COMPANY

ROBERT G. MENKE, President



DECEMBER 31, 2019

VOID IF NOT
USED BY

IT IS UNLAWFUL TO PRINT THIS
FORM WITHOUT WRITTEN
CONSENT OF HOME OFFICE

FREE BAIL BONDS LIC#552228
121 GASS AVENUE
702-598-3733 (FREE)
LAS VEGAS, NEVADA 89101

511418618 - 4

Bailassist@BankersFinancialCorp.com

Title or Attorney-In-Fact _____

IN WITNESS WHEREOF, BANKERS INSURANCE COMPANY has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 28 day of MARCH, 2019

Bond Amount \$ 10,000. Appearance Date _____ Premium \$ _____ Attorney _____

Defendant WICKENDRICK SEAN Address _____

S.S.# _____ D.O.B. _____ City _____ State _____

Case # 6-17-33744-1 Home Phone _____ Work Phone _____

Court 15th Dist Collateral

City Los Angeles State CA

Offense CIS LETTER BY PRISONER ATTEMPT TO KILL Receipt No: 11-1-11

ATTEMPT BATTERY WITH SUBSTANCE Indemnitor 9/64

FILE NO. _____
 FBI - NEW YORK

If Rewrite, Original # _____

Executing Agent _____
BIC002004 110819

BIC992004-110818



VOID IF NOT
USED BY

FREE BAIL BONDS LIC#552228
121 GASS AVENUE
702-598-3733 (FREE)
LAS VEGAS, NEVADA 89101

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55 - 65
WILL FOLLOW VIA
U.S. MAIL

BNCH

Electronically Filed
6/10/2019 4:03 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA

Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK,
ID# 7068215

Defendant.

CASE NO: C-19-338224-1

DEPT NO: VI

BENCH WARRANT

THE STATE OF NEVADA,

TO: Any Sheriff, Constable, Marshal, Policeman, or Peace Officer in this State:

IT APPEARING to the Court that SEAN MICHAEL MCKENDRICK was heretofore ordered to appear before the above entitled Court on the 10th day of June, 2019, on the charge of BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229), and having failed to appear at said time, NOW, THEREFORE, YOU ARE COMMANDED to arrest and bring the said person before the Court, or, if the Court has adjourned, to deliver said person into the custody of the Sheriff of Clark County. The Warrant may be served at any hour day or night.

GIVEN under my hand this 10th day of June, 2019.

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

BY

Brandon Albright
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158

J. Bluth
DISTRICT JUDGE BLUTH
NO BAIL

DA#19F01767X/rmj/L-3
LVMPD EV#190100136881/A. ARIAZA #8110
07011983; WMA; 573751896
(TK7)

BNCH
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK,
ID#7068215

Defendant.

CASE NO: C-19-338224-1

DEPT NO: VI

BENCH WARRANT RETURN

SEAN MICHAEL MCKENDRICK, the Defendant above named, was heretofore ordered to appear before the above entitled Court on the 10th day of June, 2019, on the charge of BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229), and having failed to appear at said time the Court issued a Bench Warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Bench Warrant and served the same by arresting the within Defendant on the ____ day of _____, 2019.

JOSEPH LOMBARDO
Sheriff, Clark County, Nevada

BY:

Deputy

6

FILED

JUN 14 2019

Steven D. Grierson
CLERK OF COURT

ORIGINAL

1 NOIB

2 DISTRICT COURT

Clark County, Nevada

3 STATE OF NEVADA,
Plaintiff,

4 vs

SEAN MICHAEL MCKENDRICK,

5 Defendant.

Case No: C-19-338224-1

Power No: 511418618-4

Surety Co: Banker's Insurance Company

NOTICE OF INTENT TO FORFEIT

6 NOTICE IS HEREBY GIVEN that the above-named Defendant failed to appear in Department 6 of
the District Court on June 10, 2019. Your surety bond in the amount of \$10,000.00 will be declared forfeited
7 on December 12, 2019.

8 If the terms of NRS 178.509 have not been satisfied on or before the one hundred-eighty first day,
or terms of NRS 178.512 have not been satisfied, you will be brought before this Court January 7, 2020 to
show cause for nonpayment of this amount and why bonds posted by your company should not be refused
9 until your forfeitures have been satisfied.

DATED: This 14th day of June, 2019.

10 C-19-338224-1
NOIB
Notice of Intent to Forfeit
4842456



STEVEN D. GRIERSON, CLERK OF THE COURT

Kaye Jenks
Kaye Jenks, Deputy

Affidavit of Mailing

12 The undersigned Deputy Clerk deposes and says: On this 14th day of June, 2019 a copy of the
above notice was sent by certified mail, postage paid, to:

13 Free Bail Bonds
121 Cass ST
Las Vegas, NV 89101

Banker's Insurance Company
PO Box 33015
St Petersburg, FL 33733

14 and that on said date, a copy of said notice was transmitted to the District Attorney, Clark County, Nevada.

SUBSCRIBED and sworn to before me on

STEVEN D. GRIERSON, CLERK OF COURT

15 *Mary Anderson*
Mary Anderson, Deputy

Kaye Jenks
Kaye Jenks, Deputy

RECEIVED

JUN 14 2019

CLERK OF THE COURT

2

7011 2970 0004 2965 9963

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Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees		

Sent To	Free Bail Bonds
Street, Apt. No., or PO Box No.	121 Gass Street
City, State, ZIP+4	Las Vegas, NV 89101

PS Form 3800, August 2006

See Reverse for Instructions

7011 2970 0004 2965 3008

U.S. Postal Service™
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Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage		

Sent To	Banker's Insurance Company
Street, Apt. No., or PO Box No.	P.O. Box 33015
City, State, ZIP	St. Petersburg, FL 33733

PS Form 3800, August 2006

See Reverse for Instructions



1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #014158
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 SEAN MICHAEL MCKENDRICK,
13 #7068215

14 Defendant.

CASE NO: C-19-338224-1

DEPT NO: VI

15 **STATE'S NOTICE OF INTENT TO SEEK PUNISHMENT AS**
16 **A HABITUAL CRIMINAL**

17 TO: SEAN MICHAEL MCKENDRICK, Defendant; and

18 TO: KARA M. SIMMONS, DEPUTY PUBLIC DEFENDER, Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant SEAN MICHAEL
21 MCKENDRICK, as a habitual criminal in the event of a felony conviction in the above-entitled
22 action.

23 That in the event of a felony conviction in the above-entitled action, the STATE OF
24 NEVADA will ask the court to sentence Defendant SEAN MICHAEL MCKENDRICK as a
25 habitual criminal based upon the following felony convictions, to-wit:

26 1. That on or about 2004, the Defendant was convicted in the State of
27 Nevada, for the crime of ASSAULT WITH A DEADLY WEAPON (felony) in CR04-1800.
28

1 2. That on or about 2008, the Defendant was convicted in the State of
2 nevada, for the crime of BATTERY WITH USE OF A DEADLY WEAPON RESULTING
3 IN SUBSTANTIAL BODILY HARM (felony) in CR08-0323.

4 3. That on or about 2008, the Defendant was convicted in the State of
5 Nevada, for the crime of BATTERY BY PRISONER (felony) in CR08-1349.

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001569

9 BY

10 BRANDON ALBRIGHT
11 Deputy District Attorney
12 Nevada Bar #014158

13 CERTIFICATE OF SERVICE

14 I certify that on the 20th day of June 2019, I mailed a copy of the foregoing Notice

15 to:

16 KARA M. SIMMONS, Deputy Public Defender
17 Email: Kara.simmons@clarkCountyNV.gov

18
19 BY

20 R. JACKSON
21 Secretary for the District Attorney's Office

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DOCUMENT,
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72 - 73
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U.S. MAIL

BNCH
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BRANDON ALBRIGHT
Deputy District Attorney
Nevada Bar #014158
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

Electronically Filed
06/27/2019

Alvin L. Smith
CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK,
ID#7068215

Defendant.

CASE NO: C-19-338224-1

DEPT NO: VI

BENCH WARRANT RETURN

SEAN MICHAEL MCKENDRICK, the Defendant above named, was heretofore ordered to appear before the above entitled Court on the 10th day of June, 2019, on the charge of BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229), and having failed to appear at said time the Court issued a Bench Warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Bench Warrant and served the same by arresting the within Defendant on the 26 day of JUNE, 2019.

JOSEPH LOMBARDO
Sheriff, Clark County, Nevada

BY:

[Signature]
Deputy

6914

W:\2019\2019F\01767\19F01767-BNCH-(MCKENDRICK_SEAN)-001.DOCX

*ARREST DATE: 6/26/2019 *ARREST TIME: 0940
*EVENT #:

9

*INTRAKE NAME (AKA, ALIAS, ETC.)		*LAST		*FIRST		*MIDDLE		*TRUE NAME		*LAST		*FIRST		*MIDDLE																									
MCKENDRICK		SEAN		SEAN		MICHAEL		MCKENDRICK		SEAN		MICHAEL		MICHAEL																									
*HOME ADDRESS (STREET # AND STREET NAME)				8400 W CHARLESTON		BLDG./APT. #		210		*CITY		LAS VEGAS		*STATE		NV		*ZIP		89117		*PLACE OF BIRTH		VISALIA, CALIFORNIA															
*DATE OF BIRTH		*RACE		HISP ETHAN		*SEX		M		*HEIGHT		5'06"		*WEIGHT		140		*HAIR		BRO		*EYES		BRO		*SOCIAL SECURITY #		[REDACTED]		*CITIZENSHIP		USA		*ALIEN REGISTRATION #					
[REDACTED]		W		NH																																			
*LOCATION OF CRIME (STREET ADDRESS, CITY, STATE, ZIP)																								[X] CC		[] LV		*LOCATION OF ARREST (STREET ADDRESS, CITY, STATE, ZIP)										CCDC LAS VEGAS, NV 89101 > ST-6M-19-S	
WARRANT LAS VEGAS, NV 89101																																							
*ARR **		*COURT JURIS		*WARRANT # / CASE #		*# CNTS		*NOC CODE		*M GM F		*CHARGE LITERAL		*ORD / MRS		*BAIL		*EVENT # / NIC#																					
BW		DC		C-19-338224-1		1		50229		[] [X]		BATTERY BY PRSMR/PNP		200.461.2A		0		190100136881																					
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AT BOOKING
6/26/2013 10:00 AM

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PID: 1:1

RT LT RI LI SCORE: _____

☐ POLICE RECORDS COPY ☐ COURTS COPY ☒ DSD RECORDS COPY ☐ PROCESSING COPY

1:1 RT LT RI LI SCORE: _____

TIME STAMP
AT RELEASING

REL REV P# _____

*ARRESTING OFFICER SIGNATURE _____

*TRANSPORTING OFFICER SIGNATURE _____

JOSEPH J DAOS

JOSEPH J DAOS

*EMERGENCY CONTACT
REFUSED NOT GIVEN

*RELATIONSHIP
NOT PROVIDED

*PHONE NUMBER

*EMAIL ADDRESS

6914

6914

MPD

MPD

OTHER

*PRINTED NAME

*P#

*AGENCY

*AREA CMD

JOSEPH J DAOS

6914

MPD

MPD

OTHER

*EMERGENCY CONTACT
REFUSED NOT GIVEN

*RELATIONSHIP
NOT PROVIDED

*PHONE NUMBER

*EMAIL ADDRESS

CUSTODY RELEASED TO

NAME

POSITION

AGENCY

FIRST APP DATE: _____

TIME: _____

COURT: ☐ JUSTICE
☐ MUNICIPAL ☐ JUVENILE

☐ STD BAIL ☐ O.R. REL
☐ PC ☐ I.A.D.

JUDGE: _____

P# _____

Steven D. Grierson

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

SEAN MICHAEL MCKENDRICK
#7068215

Defendant.

CASE NO. C-19-338224-1

DEPT. NO. VI

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of BATTERY BY PRISONER (Category B Felony) in violation of NRS 200.481(2)(F); thereafter, on the 15th day of July, 2019, the Defendant was present in court for sentencing with counsel KARA SIMMONS, Deputy Public Defender, and good cause appearing,

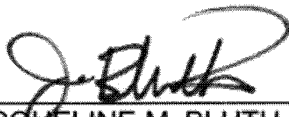
THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense under the HABITUAL CRIMINAL STATUTE NRS 207.010 and, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00

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

1 DNA Collection Fee, the Defendant is sentenced as follows: LIFE WITH a MINIMUM
2 parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC);
3 with FIFTY-NINE (59) DAYS credit for time served.
4

5 COURT recommends Defendant for the 184 program while incarcerated.

6 DATED this 18th day of July, 2019.

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9 JACQUELINE M. BLUTH
10 DISTRICT COURT JUDGE
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FILED
AUG 05 2019
CLERK OF COURT

1 Sean McKendrick #84624 x

2 In Proper Person
3 P.O. Box 650 H.D.S.P.
4 Indian Springs, Nevada 89018

5 8th DISTRICT COURT

6 CLARK COUNTY NEVADA

8 THE STATE OF NEVADA,

9 PLAINTIFF,

10 -v-

11 SEAN MCKENDRICK,

12 DEFENDANT,

Case No. C-19-338774-1 x

Dept. No. District 6 x

Docket _____

14 NOTICE OF APPEAL

15 Notice is hereby given that the DEFENDANT, Sean
16 McKendrick, by and through himself in proper person, does now appeal
17 to the Supreme Court of the State of Nevada, the decision of the District
18 Court JUDGMENT OF CONVICTION

21 Dated this date, 8-3-19 x

23 Respectfully Submitted,

26 RECEIVED
AUG 05 2019

27 CLERK OF THE COURT

24 Sean McKendrick

25 In Proper Person

CERTIFICATE OF SERVICE BY MAILING

I, Sean McKechnick, hereby certify, pursuant to NRCP 5(b), that on this 3 day of August, 20 19, I mailed a true and correct copy of the foregoing, " _____"

NOT

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

DISTRICT ATTORNEY
200 LEWIS AVE.
LV. NV. 89155

DATED: this 3 day of August, 20 19.

Sean McKechnick

/In Propria Persona
Post Office box 650 [HDSP]
Indian Springs Nevada 89018

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOT

(Title of Document)

filed in District Court Case number _____

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

-OR-

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

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

(State specific law)

-OR-

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

x *Ann M. [Signature]*
Signature

8-3-19
Date x

Print Name

DEFENDANT
Title

Seen Mckendrick 84624
P.O. Box 605
Indian Springs NV 89070

Hasler
FIRST-CLASS MAIL
PRST
08/02/2019
US POSTAGE \$000.45⁹



ZIP 89101
011E12650764

District Court
200 Lewis Ave. 3r FL
Las Vegas, NV 89155

INTAKE
NSF 3763

87 FRENCH 89101

UNIT 1 A/B
AUG 01 2019

HIGH DESERT STATE PRISON



0001
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
KARA M. SIMMONS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 14621
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Kara.Simmons@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,)
)
v.)
)
SEAN MICHAEL MCKENDRICK,)
)
Defendant,)
)

CASE NO. C-19-338224-1

DEPT. NO. VI

DATE: August 19, 2019
TIME: 9:30 a.m.

MOTION FOR ADDITIONAL CREDIT FOR TIME SERVED

COMES NOW, the Defendant, SEAN MICHAEL MCKENDRICK, by and through KARA M. SIMMONS, Deputy Public Defender and hereby moves this Court to order the additional time of twenty-three (23) days be credited to the Defendant in the instant case.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 6th day of August, 2019.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kara M. Simmons

KARA M. SIMMONS, #14621
Deputy Public Defender

DECLARATION

KARA M. SIMMONS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.
2. Mr. McKendrick was sentenced on July 15, 2019 in front of this Court. At that time, this Court ordered he be credited fifty-nine (59) days for the time Mr. McKendrick had previously served.
3. Mr. McKendrick was in custody on this case from January 29, 2019 until March 31, 2019 when he posted bond, which would have been sixty-two days.
4. As he unfortunately missed his first sentencing date, Mr. McKendrick was arrested on a bench warrant on June 26th and remained in custody until his sentencing, which was an additional twenty (20) days.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 6th day of August, 2019.

/s/Kara M. Simmons

KARA M. SIMMONS

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LEGAL ARGUMENT

Pursuant to NRS 176.055, a criminal defendant is entitled to credit toward any sentence imposed upon him as long as he was not already serving a sentence pursuant to a judgment of conviction for a different case. A criminal defendant sentenced to prison is entitled to credit for the time he serves in the county jail. Slack v. State, 528 P.2d 703, 90 Nev. 373 (1974). As Mr. McKendrick was in custody at the Clark County Detention Center on the additional dates, he is entitled to that time being credited to his prison sentence.

CONCLUSION

As such, Mr. McKendrick asks this Court to grant this motion and order that he be credited the additional twenty-three (23) days credit toward his prison sentence.

DATED this 6th day of August, 2019.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By /s/Kara M. Simmons

KARA M. SIMMONS, #14621
Deputy Public Defender

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION FOR
ADDITIONAL CREDIT FOR TIME SERVED will be heard on the 19th day of August, 2019, at
9:30 a.m. in District Court, Department 6.

DATED this 6th day of August, 2019.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By /s/ Kara M. Simmons

KARA M. SIMMONS, #14621
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via
electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com
on this 6th day of August, 2019.

By: /s/ Erin Prisbrey

An employee of the
Clark County Public Defender's Office



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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

SEAN MICHAEL MCKENDRICK,

Defendant(s),

Case No: C-19-338224-1

Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): Sean McKendrick

2. Judge: Jacqueline M. Bluth

3. Appellant(s): Sean McKendrick

Counsel:

Sean McKendrick #84624

P.O. Box 650

Indian Springs, NV 89070

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney

200 Lewis Ave.

Las Vegas, NV 89101

(702) 671-2700

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

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

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

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

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

9. Date Commenced in District Court: February 20, 2019

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

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 8 day of August 2019.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Sean McKendrick

Steven D. Grierson

1 Sean McKendrick 84624 x

2 In Proper Person
3 P.O. Box 650 H.D.S.P.
4 Indian Springs, Nevada 89018

5 8th DISTRICT COURT

6 CLARK COUNTY NEVADA

7
8 THE STATE OF NEVADA,

9 PLAINTIFF,

Case No. C-19-338224-1 x

10 -v-

Dept.No. 6th x

11 SEAN MCKENDRICK,

Docket _____

12 DEFENDANT,

13
14 NOTICE OF APPEAL

15 Notice is hereby given that the DEFENDANT,

16 _____, by and through himself in proper person, does now appeal
17 to the Supreme Court of the State of Nevada, the decision of the District
18 Court JUDGMENT OF CONVICTION

19
20
21 Dated this date, 8-13-19 x

22
23 Respectfully Submitted,

Sean McKendrick x

In Proper Person

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AUG 15 2019
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, Sean McEndrick, hereby certify, pursuant to NRCP 5(b), that on this 8 day of 13, 2019, I mailed a true and correct copy of the foregoing, "Highest Conditions NOA"

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

DISTRICT ATTORNEY
200 Lewis Ave
Las Vegas, NV 89155

DATED: this 13 day of 8, 2019.

Sean McEndrick
Sean McEndrick # 84624
/In Propria Persona
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOA

(Title of Document)

filed in District Court Case number C-19-338224-1 X

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

-OR-

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

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

(State specific law)

-or-

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

X Sean McKendrick
Signature

8-13-19 X
Date

X Sean McKendrick
Print Name

DEFENDANT
Title



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12 SEAN MICHAEL MCKENDRICK,

13 Defendant(s),

Case No: C-19-338224-1

Dept No: VI

14
15
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Sean McKendrick

18 2. Judge: Jacqueline M. Bluth

19 3. Appellant(s): Sean McKendrick

20 Counsel:

21 Sean McKendrick #84624
22 P.O. Box 650
23 Indian Springs, NV 89070

24 4. Respondent: The State of Nevada

25 Counsel:

26 Steven B. Wolfson, District Attorney
27 200 Lewis Ave.
28 Las Vegas, NV 89101

(702) 671-2700

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

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

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

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

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

9. Date Commenced in District Court: February 20, 2019

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

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79372

12. Child Custody or Visitation: N/A

Dated This 15 day of August 2019.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Sean McKendrick



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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SEAN MICHAEL MCKENDRICK
#7068215

Defendant.

CASE NO. C-19-338224-1

DEPT. NO. VI

AMENDED JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of BATTERY BY PRISONER (Category B Felony) in violation of NRS 200.481(2)(F); thereafter, on the 15th day of July, 2019, the Defendant was present in court for sentencing with counsel KARA SIMMONS, Deputy Public Defender, and good cause appearing,

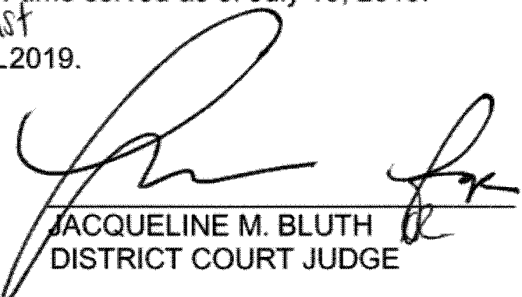
THE DEFENDANT IS ADJUDGED guilty of said offense under the HABITUAL CRIMINAL STATUTE NRS 207.010 and, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA

1 Collection Fee, the Defendant sentenced as follows: LIFE WITH a MINIMUM parole
2 eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC); with
3 FIFTY-NINE (59) DAYS credit for time served.
4

5 COURT recommends Defendant for the 184 program while incarcerated.

6 THEREAFTER, on the 19th day of August, 2019, the Defendant not present, but
7 represented by counsel ASHLEY SISOLAK, Deputy Public Defender, and pursuant to
8 Defendant's Motion for Additional Credit for Time Served, COURT ORDERED, Motion
9 GRANTED; the Amended Judgment of Conviction reflects the following: Defendant to
10 receive NINETY-EIGHT (98) DAYS credit for time served as of July 15, 2019.
11

12 DATED this 21st ^{August} day of ~~July~~, 2019.

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16 JACQUELINE M. BLUTH
17 DISTRICT COURT JUDGE
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1 **REQT**

2 DARIN F. IMLAY, PUBLIC DEFENDER
3 NEVADA BAR No. 5674
309 South Third Street, Suite 226
4 Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

5 **DISTRICT COURT**

6 **CLARK COUNTY, NEVADA**

7 THE STATE OF NEVADA,)
8)
Plaintiff,) CASE NO. C-19-338224-1
9)
v.) DEPT. NO. VI
10)
SEAN MICHAEL MCKENDRICK,)
11)
Defendant.)
12 _____)

13 **APPELLANT'S REQUEST FOR CERTIFIED TRANSCRIPT OF PROCEEDINGS**

14 TO: De'Awna Takas
15 Court Recorder, Department VI

16 Appellant requests preparation, at State expense, of a
17 transcript of the proceedings before the District Court, as
18 follows:
19

20 **Judge or officer hearing the proceeding:** Judge
21 Jacqueline Bluth.

22 **Date or dates of proceeding:** 03/27/19, 07/01/19,
23 07/15/19.

24 **Portions of the transcript requested:** (03/27/19,
25 07/01/19, 07/15/19 - De'Awna Takas) - Any and all proceedings, all
26 transcripts to include word index.
27

28 **Number of copies required:** Two.

1 I hereby certify that on this date I ordered this
2 transcript from the court reporter named above. I further certify
3 that Appellant is indigent and exempt from paying the required
4 deposit.

5 EXECUTED on the 14 day of October, 2019.

6
7 DARIN F. IMLAY
8 CLARK COUNTY PUBLIC DEFENDER

9 By: /s/ Kara M. Simmons
10 KARA M. SIMMONS, #14621
11 Deputy Public Defender
12 309 S. Third Street, Ste. 226
13 Las Vegas, Nevada 89155
14 (702) 455-4685

15
16 **CERTIFICATE OF ELECTRONIC FILING**

17 I hereby certify that service of the above and foregoing
18 was made this 14 day of October, 2019, by Electronic Filing to:

19 District Attorneys Office
20 E-Mail Address:

21 PDMotions@clarkcountyda.com

22 Jennifer.Garcia@clarkcountyda.com

23 Eileen.Davis@clarkcountyda.com

24 takasd@clarkcountycourts.us

25 /s/ Carrie M. Connolly
26 Secretary for the
27 Public Defender's Office
28



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-19-338224-1
DEPT. VI

10 vs.

11 SEAN MICHAEL MCKENDRICK,
12 Defendant.

13 BEFORE THE HONORABLE JAMES BIXLER,
14 SENIOR DISTRICT COURT JUDGE
15 WEDNESDAY, MARCH 27, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: NEGOTIATIONS**

18 APPEARANCES:

19 For the State:

DAVID STANTON, ESQ.
Chief Deputy District Attorney

21 For the Defendant:

KARA SIMMONS, ESQ.
Public Defender's Office

23
24
25 RECORDED BY: De'AWNA TAKAS, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, March 27, 2019

2

3 [Hearing began at 10:13 a.m.]

4 THE COURT: Page 7 is State of Nevada versus Sean
5 Michael McKendrick, who is present, in custody. Public Defender case,
6 status check on negotiations, and it would appear it's been resolved.

7 MS. SIMMONS: It has been, Your Honor. The only thing, I
8 guess, logistically, to note is that on the back the District Attorney had
9 attached a copy of the full indictment versus an amended information.

10 Mr. McKendrick is going to be pleading to one count of battery
11 by prisoner. So, for efficiency sake, I was suggesting to Mr. Stanton this
12 morning that maybe we just strike all counts but count one.

13 THE COURT: We'll go through count one, and then we'll
14 dismiss the rest of them.

15 MS. SIOMMONS: Thank you, --

16 THE COURT: Okay.

17 MS. SIMMONS: -- Your Honor.

18 THE COURT: That's fine.

19 Mr. McKendrick -- that is your correct name, Sean Michael
20 McKendrick; right?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. I have a guilty plea agreement here that
23 indicates that this case has been resolved. Is that right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: As to the category B felony offense, battery by

1 prisoner, one count, how are you going to plea to that charge?

2 THE DEFENDANT: Guilty.

3 THE COURT: Did read through this guilty plea agreement?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Did you discuss it with your attorney?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You feel confident you understand the terms

8 and conditions of this agreement?

9 THE DEFENDANT: Yes, sir,

10 THE COURT: On page 4 of this agreement, there's a section

11 entitled waiver of rights, did you read through that section carefully?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did you discuss those rights with your

14 attorney?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You feel confident that you thoroughly

17 understand the rights that you would be giving up or waiving in order to

18 plead guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I want to run through them real quickly with

21 you. On a criminal case the State has to prove that the defendant, you,

22 are guilty beyond a reasonable doubt of the charge that you're charged

23 with. You don't have to prove that you're innocent. You have the right

24 to confront and cross-examine the State's witnesses against you. You

25 have the right to subpoena witnesses on your behalf, if you chose to do

1 that. You're also protected by the 5th Amendment of the Constitution
2 against self-incrimination, meaning you could not be compelled to testify
3 in a criminal case where you're the defendant. You can waive that right,
4 and get on the witness stand and testify just like any other witness. If
5 you do that you'll be subject to being cross-examined by the State of
6 Nevada and if you have any prior criminal history the State gets to go
7 into your prior criminal history, to a certain degree.

8 Do you understand all those rights?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: At the end of that trial, if you're convicted, you
11 have the right to appeal that conviction to the Supreme Court. You
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now are you sure you want to waive all those
15 rights so that you can plead guilty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. What is your understanding of the
18 maximum sentence that can be imposed upon you as a result of this
19 plea of guilty?

20 THE DEFENDANT: 28 to 72 months.

21 THE COURT: That is correct. You've been paying attention.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: That's 1 to 6 is the range, but the maximum
24 sentenced would be 28 to 72 months.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You understand that what happens to you at
2 the time of sentencing -- the State retains the right to argue so they're
3 going to be arguing, I have no doubt, for prison time. And what happens
4 to you at the time of sentencing is completely and totally up to the Court,
5 and no one can promise, or predict, what kind of sentence the Court's
6 going to impose, except that that's the maximum sentence that the court
7 can impose, so you're aware of that; right?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. Did anybody promise you anything
10 that's not contained in this guilty plea agreement in order to get you to
11 plead guilty?

12 THE DEFENDANT: No, sir.

13 THE COURT: Anybody threat or coerces you in order to get
14 you to plead guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: Are you pleading guilty because in truth and
17 fact you're actually are guilty and you're freely and -- voluntarily entering
18 this plea; is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I'm going to read to you from the indictment,
21 just the first count; we're going to dismiss the rest of the counts.
22 According to the information contained in count one, it says that on or
23 about the 29th of January 2019 you did willfully, unlawfully, feloniously,
24 and knowingly use force or violence upon another person, to wit: D.
25 Webb, by punching -- said D. Webb, and at that time you were a

1 prisoner lawfully in custody. Are those allegations contained in the
2 indictment true and correct?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And just one last time, I'm not going to see you
5 back here in a few months, or 6 months, asking -- saying I didn't
6 understand what I was doing, and I want to withdraw my plea; anybody
7 sitting on the bench gonna hear that from you?

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay. The court will accept your plea of guilty
10 as have been freely and voluntarily entered. Counts 2, 3 and 4 in this
11 matter are gonna be dismissed.

12 What else is he in custody on?

13 THE DEFENDANT: That's --

14 MS. SIMMIONS: This is --

15 THE DEFENDANT: -- it.

16 MS. SIMMONS: -- the only case holding him, Your Honor.

17 THE COURT: Oh, it is?

18 MS. SIMMONS: It is.

19 THE COURT: Okay. P&P's gonna be here down at the jail to
20 interview you. They'll do it by remote -- I don't know if they have to go to
21 the jail, or if they can do it by some other remote fashion. I'm not sure.
22 But be aware that you're gonna be in contact by P&P, because they
23 need personal background information to prepare the PSI.

24 THE DEFENDANT: Yeah, Your Honor, my lawyer was
25 explaining to me, if I were to get out on bail, or I get an O.R., that to be

1 contact with them, and --

2 MS. SIMMONS: We explained to him his obligations with
3 P&P, Your Honor.

4 THE COURT: What's happened to all these other charges?

5 THE DEFENDANT: Dismissed.

6 MS. SIMMONS: They're getting dismissed.

7 THE COURT: I mean --

8 MS. SIMMONS: The other -- oh, you mean the other case?

9 THE COURT: Yes.

10 MS. SIMMONS: The other case was dismissed.

11 THE COURT: Battery by prisoner, attempt murder --

12 MS. SIMMONS: That's this case, Your Honor.

13 THE COURT: Oh, it is this case?

14 MS. SIMMONS: Yes.

15 THE COURT: I was thinking they were all the charges were
16 battery. That is an attempt murder -- yeah, okay, he's getting a good
17 deal.

18 So are you wanting the court to address his custody status?

19 MS. SIMMONS: If you're willing to do it right now, I was
20 planning on filing a --

21 THE COURT: I would --

22 MS. SIMMONS: -- motion on Friday.

23 THE COURT: -- prefer that you file a motion, and let the State
24 respond. The normal method of addressing bail in these situations is
25 have your counsel file a motion so the State has a chance read it, and

1 then file a response if they chose too. Okay?

2 THE DEFENDANT: I understand that, Your Honor. I just --
3 there's any way to do it today, I want to do it today. My boss has been
4 holding my job for over two months now. You know, I'm a fulltime
5 student at CSN. You know --

6 MS. SIMMONS: So, I guess, the only thing I would ask today,
7 because he has plead just one count, if Your Honor would consider
8 modifying the bail to reflect the charge the he is currently plead to versus
9 the multiple charges he originally had.

10 MR. STANTON: I don't have an objection to that, but would
11 request that anything other than that be in writing.

12 THE COURT: I don't -- I'm just asking the question. What's
13 his background look like?

14 MS. SIMMONS: He has 3 prior felonies.

15 THE DEFENDANT: That are 10 years old.

16 MS. SIMMONS: That's true, Your Honor. In looking at -- and
17 I can show Your Honor a copy of my risk assessment if you'd like. It
18 does show that the last felony conviction he had -- was in 2008.

19 THE COURT: How many points? I'm just getting a custom to
20 the risk assessment that --

21 MS. SIMMONS: The risk assessment is four.

22 THE COURT: Oh, that's not so terrible bad. Here's what I'll
23 do, under the circumstances of a three prior felony convictions and --
24 even though that is -- and with his finally plea, I'll set the bail appropriate
25 for the charge. In my opinion it's \$10,000. So I'll set bail on the one

1 count that he's plead guilty to in the sum of \$10,000.
2 MS. SIMMONS: Thank you, Your Honor.
3 THE COURT: Then they can file a motion to reduce the bail
4 or give you an O.R., but, as of now, the bails 10,000. Okay?
5 THE DEFENDANT: Yes, sir.
6 MR. STANTON: The sentencing date, Your Honor.
7 THE COURT: Yep.
8 THE CLERK: May 13th at 8:30.
9 THE COURT: May 13th.
10 [Hearing concluded at 9:38 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my
23 ability.
24
25


De'Awna Takas
Court Recorder/Transcriber



1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-19-338224-1
DEPT. VI

10 vs.

11 SEAN MICHAEL MCKENDRICK,
12 Defendant.

13 BEFORE THE HONORABLE TIERRA JONES,
14 DISTRICT COURT JUDGE
15 MONDAY, JULY 1, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **BENCH WARRANT RETURN**

18 APPEARANCES:

19 For the State:

DAVID STANTON, ESQ.
Chief Deputy District Attorney

21 For the Defendant:

22 KARA SIMMONS, ESQ.
23 ASHLEY L. SISOLAK, ESQ.
24 Public Defender's Office

25 RECORDED BY: PATTI SLATTERY, COURT RECORDER

1 Las Vegas, Nevada, Monday, July 1, 2019

2
3 [Hearing began at 9:42 a.m.]

4 MS. SISOLAK: Good morning, Your Honor, Ashely Sisolak
5 present on behalf of Mr. McKendrick. Your Honor, this is Ms.
6 Simmons's matter.

7 THE COURT: Okay.

8 MS. SISOLAK: She is in Justice Court. I have notes here that
9 I'm intending to ask for 12 to 48 as recommended by P&P, with a 184
10 program. If Your Honor's inclined to follow that I can handle it, otherwise
11 I'll have to go swap her out and send her up.

12 THE COURT: Well, I mean, I'm not going to tell you what I'm
13 inclined to do, because I haven't heard argument, and the State filed a
14 notice of intend to seek habitual criminal treatment on this.

15 MS. SISOLAK: I'll send -- I'll have her sent her up.

16 THE COURT: Yeah.

17 MS. SISOLAK: Thanks, Your Honor.

18 THE COURT: So, sir, just have a seat we going to come back
19 to you.

20 [Hearing resumed at 9:54 a.m.]

21 MR. STANTON: That's correct, Your Honor.

22 THE COURT: Are you prepared to go forward today?

23 MR. STANTION: I believe the certified copies have been
24 obtained, but they're not in the file. So I'd ask that a sentencing date be
25 set, and that's the note from Mr. Albright, as well.

1 MS. SIMMONS: When was that notice, because I anticipated
2 that would happen, but I did not actually receive the notice.
3 THE COURT: It was filed -- I saw it in Odyssey on Friday --
4 MR. SIMMONS: Okay.
5 THE COURT: -- when I prepped this calendar. It's filed --
6 MS. SIOMMONS: Okay.
7 THE COURT: -- I just couldn't tell you the date.
8 MS. SIMMONS: Okay.
9 THE COURT: But I did see it in Odyssey so I assumed that
10 they'd be requesting a continuance to get the certified priors. So we're
11 going to pass this matter for two weeks for sentencing; that date is?
12 THE CLERK: Two weeks sentencing, Your Honor, July 15th
13 9:30.
14 MS. SIMMONS: Thank you, Your Honor.
15 THE RECORDER: Counsel can you spell your name for me,
16 please?
17 MS. SIMMONS: K-A-R-A S-I-M-M-O-N-S.
18 THE RECORDER: Thank you.
19 MS. SIMMONS: Thank you. I'm sorry, what was that date?
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THE CLERK: July 15th 9:30.

MS. SIMMONS: Thank you.

[Hearing concluded at 9:55 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


De'Awna Takas
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-19-338224-1
DEPT. VI

10 vs.

11 SEAN MICHAEL MCKENDRICK,
12 Defendant.

13 BEFORE THE HONORABLE JACQUELINE M. BLUTH,
14 DISTRICT COURT JUDGE
15 MONDAY, JULY 15, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING: SENTENCING**

17 APPEARANCES:

18 For the State:

BRANDON ALBRIGHT, ESQ.
Deputy District Attorney

21 For the Defendant:

KARA SIMMONS, ESQ.
Public Defender's Office

23
24
25 RECORDED BY: De'AWNA TAKAS, COURT RECORDER

1 Las Vegas, Nevada, Monday, July 15, 2019

2
3 [Hearing began at 10:13 a.m.]

4 THE COURT: C338224 State of Nevada versus Sean
5 Michael McKendrick. Mr. McKendrick is present, in custody, Ms.
6 Simmons on his behalf, Mr. Albright on behalf of the State.

7 This is a time and date set for sentencing. This was on on
8 June 10th of 2019, the defendant wasn't present, a bench warrant was
9 issued. The negotiations were the State has the right to argue.

10 Are both sides ready to proceed today?

11 MS. SIMMONS: I'm prepared, Your Honor, I did want to
12 clarify one thing though. The State had submitted police reports for two
13 incidents that are not part of the negotiation here. They're not at all
14 related to this event. And I had objected to, Your Honor, considering
15 those as part of the sentencing for today.

16 THE COURT: Right.

17 MS. SIMMONS: So I did want to make sure the record was
18 clear I was objecting, because those are incidents that are not -- one
19 was dismissed and one is screening. Neither of them are actually
20 factually part of this case. So I was objecting for relevance and
21 prejudicial purposes. Deferring to Your Honor as to whether or not --
22 and the only thing I need to make clear is, whether or not, Your Honor,
23 did -- use them, and are going to consider them today.

24 THE COURT: Mr. Albright?

25 MR. ALBRIGHT: I'll just refer to *Nevada v. Morfin*, that's M-O-

1 R-F-I-N. It says a sentencing proceeding is not a second trial, and the
2 court is privileged to consider facts and circumstances, which would not
3 be admissible at trial. Other criminal conduct may properly be
4 considered at the sentencing hearing even though the defendant was
5 never charged or convicted of it. And that -- it says the purpose is to
6 allow the sentencing judge to gain a further assessment of the
7 defendant so that the punishment will fit offender and not merely the
8 crime for which he was convicted.

9 Another reason is because I'm seeking habitual --

10 THE COURT: Right.

11 MR. ALBRIGHT: -- treatment, which incubuses his criminal
12 history, Your Honor.

13 THE COURT: Understood.

14 MR. ALBRIGHT: And takes into account judgments of
15 conviction from prior convictions.

16 MS. SIMMONS: And my only response to that, specially, is
17 that, obviously, I already know in a PSI Your Honor's always made
18 aware -- well, specifically, factually in this case he was on house arrest
19 at the time. Obviously there was a prior case; however, that case was
20 dismissed. Obviously Your Honor would know if he had picked up a
21 new case, otherwise the State wouldn't have regained the right -- the full
22 right to argue.

23 THE COURT: Yeah.

24 MS. SIMMONS: However, the factual circumstances of those
25 cases and those allegations, especially when one of those cases was

1 voluntarily dismissed by the State, and the State has yet to file in the
2 other case, I think that is going beyond what should be considered in
3 sentencing Mr. McKendrick here today.

4 As far as the JOC goes, those are things that we can't really
5 argue against.

6 THE COURT: Sure.

7 MS. SIMMONS: Those already happened. But the police
8 reports for the other two cases, I do believe are being inappropriately
9 used here.

10 THE COURT: So I think that I understand your position Ms.
11 Simmons, I think that, you know, it's a little bit different then when it's a
12 judge hearing these things versus a jury; right? I think that I can look at
13 evidence and give evidence the appropriate weight that I see fit, were
14 as, you know, we get nervous with lay people, such as jury that are they
15 gonna be so prejudice by these types of things that they're not gonna be
16 able to, you know, make a determination based on the facts.

17 So, yes, I read them. Yes, I considered them. I don't give the
18 cases that you're -- discussing right now the type of weight that I'd give
19 the cases that are in the PSI, and cases that I have judgments of
20 convictions for. But I think that globally I should look at everything, and
21 then it's up to me to determine what weight is appropriate. So that's
22 what I'll say in regards to that; okay?

23 MS. SIMMONS: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 MS. SIMMONS: Other than that, we are prepared to go

1 forward today.

2 THE COURT: All right. And Mr. Albright are you -- also?

3 MR. ALBRIGHT: I am, Your Honor.

4 THE COURT: All right. Okay, Mr. Albright?

5 MR. ALBRIGHT: I will just briefly -- Your Honor, I mentioned
6 that I'll be seeking habitual treatment. On the State's notice to seek
7 habitual, there is one small amendment on page 1 line 26 it mentions an
8 assault with a deadly weapon. The actual charge per the JOC, which
9 I'll be entering shortly as an exhibit, is an assault upon an officer is the
10 actual name of the charge.

11 THE COURT: Okay.

12 MR. ALBRIGHT: It doesn't change the felony or the case
13 number.

14 THE COURT: Sure.

15 MR. ALBRIGHT: It was also in January of 2005; where as my
16 notice on line 25 says, 2004.

17 THE COURT: Okay.

18 MR. ALBRIGHT: So, I think, because the JOC takes a little
19 while, as you know, it became a 2005 case.

20 THE COURT: Okay.

21 MR. ALBRIGHT: So I just wanna make sure those
22 amendments were on the record.

23 THE COURT: Thank you.

24 MR. ALBRIGHT: The State is requesting today that the --
25 court adjudicate the defendant on the large habitual pursuant to NRS

1 207.010, and that you sentence him to 10 years to life in prison at the
2 Nevada Department of Corrections. As such I'll enter these three
3 exhibits -- prior judgements of convictions exhibit number 1, these have
4 been previously marked by your court. Exhibit 1 is case CR04-1800 a
5 judgment of conviction, 2005, for Sean Michael McKendrick for assault
6 upon an officer. Proposed exhibit number 2 is from case CR08-1349
7 filed in July of 2008 for Sean Michael McKendrick for battery by a
8 prisoner, a felony. And exhibit number 3, the sticker here says it's a
9 proposed exhibit, is a judgment of conviction from June of 2008 for Sean
10 Michael McKendrick case number CR08-0323 the charge of battery with
11 a deadly weapon causing substantially bodily harm.

12 With that, Your Honor, I wanna go a little bit through his
13 criminal history, most of which, obviously, is in the PSI, which you have
14 before you. On page 4, his first conviction was a gross misdemeanor,
15 drug related in 2003. He was 19-years-old, and he was given 12
16 months in jail. Less than a year later, he picks up his next gross
17 misdemeanor; he's barely 20-years-old, it's taking a vehicle without
18 owner's consent. Again, he's given 12 months in jail. Interestingly
19 enough, the next case he picks up is only a month later, which -- its
20 assault with a deadly weapon on a police officer is what he pleads to.
21 The charges included, PSV, eluding police, endangering persons, and
22 property. He's given -- this is his first felony, he's given 12 to 48 months.
23 He's dishonorably discharged in November of 2006. 14 months later
24 he's charged with attempt murder with a deadly weapon. He pleads
25 guilty to battery with a deadly weapon resulting in substantially bodily

1 harm, there's over \$100,000 in restitution. He's 24-years-old at this
2 point, and he's sent to prison for 6 to 15 years. Now before he actually
3 pleads to that, he picks up another case while in custody, which is,
4 according to the PSI, a battery on police officer. He pleads to a battery
5 by prisoner and gets a 16 to 48 consecutive to his 6 to 15 years, so
6 bottom there is about 7½ years. I don't know how much of that 7 to 20
7 years he served, or 7 to 19 years, but the next case that he does pick-up
8 is in January 19 -- 2019, just this year. And this was the case earlier
9 referenced that was dismissed. It's a -- domestic violence related, the
10 victim is his girlfriend, and her friend. It involves robbery with a deadly
11 weapon of him by gun point taking her phone, her wallet, and her tablet,
12 with a firearm, telling her and her friend, with a gun pointed to the friends
13 head, today all three of us are going to die. Eventually he's taken into
14 custody. In his car, is found that firearm with an obliterated serial
15 number. For whatever reason, such as the nature with domestic cases,
16 as you're fully aware, for lack of cooperation on the victim's part, that
17 case was ultimately dismissed.

18 But very shortly after getting arrested he posted bail and was
19 put on house arrest. He was sent to live with -- or permission from the
20 court and his brother, was living with his brother and sister-in-law at their
21 apartment on house arrest. Three days after being on house arrest his
22 brother calls the police, and says I need you to come -- and this is in the
23 report for this case -- the instant case he's on house arrest, and his
24 brother and sister-in-law call the police and say, we need you to do a
25 random check at our house, we want our brother to be drug tested and if

1 tests dirty he's not allowed to live at our house anymore. They leave the
2 house when the -- both the house arrest officers arrive, he's there, he's
3 acting erratic, he's sweating. Because of that they attempt to put him in
4 hand cuffs, and he starts to resist after they've got one hand cuff on. He
5 starts swinging at them, hitting both of them, including being hit by the
6 other half of the hand cuffs. At one point, per the arrest report, as well
7 as the -- they both testified at grand jury, one of the officers is charged
8 and thrown into a table that breaks. At one point the fight ends up
9 outside on the balcony. This is out front there on the second floor, and
10 the defendant charges one of the officers and attempts to push him over
11 the balcony off the second floor. The only way that doesn't happen is
12 that the other officer comes to his rescue, puts him in a headlock where
13 eventually he's rendered unconscious. When he comes to again he
14 immediately starts fighting. He's put into custody, and eventually makes
15 his way to jail.

16 He's charged, in that case, with attempt murder on that police
17 officer, two counts of battery by prisoner, and an attempt battery with --
18 resulting in substantial bodily harm. He ultimately pleads to a battery by
19 prisoner. Which as I've made clear, he's already got one of those
20 convictions in his past, as well as another assault with a deadly weapon
21 on a police officer. His bail is at \$100,000 after he enters his plea,
22 unfortunately as you're fully aware, the State's case load does not allow
23 me to be present for every entry of plea for my cases, so I'm not present
24 for that. The defense argues for lowering the bail to \$10,000. You were
25 not on the bench, Judge Bixler is, he bites at that argument and bail is

1 lowered to -- \$10,000 even though the only thing that's changed is that
2 assumption of guilt, innocence is gone, now he has plead guilty. So that
3 is what it is, it's an argument for another time.

4 But, unfortunately, he makes bail and is released. And to the
5 surprise of no one, he fails to appear at his rendition of sentence here on
6 the 10th of June 2019, a bench warrant is issued. We find out later,
7 actually I only found out a couple days ago, part of the reason he was
8 here is that on June 7th 2019 he picks a new case. He's inside of Your
9 Stop Liquor when police call to the scene, this is case 19F12275X,
10 what's concerning about this case -- although right now it's plead as a
11 trafficking, he's eventually caught with 10.5 grams of methamphetamine
12 on his person, but in the police report, again, as he's -- as officers --
13 multiple officers are trying to take him in custody, he's fighting, he's
14 swinging, he's assaulting multiple officers, a code red is called, three
15 other units have to be called off the street, which obviously puts the
16 community at risk pulling those -- men and woman off the streets, but
17 again as -- his criminal history is shown, again, he's combative with
18 officers, assaulting them, swinging at them, battering them. So that one
19 is yet to be filed, although probable cause has been found by a
20 magistrate, there's a status check on filing.

21 Also, important to note in that case, after he swung -- he's put
22 in hand cuffs, they're running his record to see who this man is, he
23 jumps up in the middle of the street and flees, ultimately escaping. At
24 that point he's -- a prisoners and hasn't been charged as an escape, but
25 it certainly could. He runs across the street into a 7-Eleven parking lot,

1 officers have to run through a street, with traffic, and catch him again
2 and put him in custody.

3 So one -- there's a couple patterns that we see here, multiple
4 incidences of eluding, of running, failing to appear, but another thing we
5 see is violence in every charge, deadly weapons are part of each
6 charge. But most concerning to the State is his tendency to zero in on
7 law enforcement officers. I've never seen a criminal history so over-
8 pleat with instances where whatever's happening whether he's on drugs
9 or not, on house arrest or not, in jail or in prison or not, he's assaulting
10 and victimizing law enforcement officers. It's concerning to the State for
11 -- obvious reasons.

12 I -- want to point out a couple things from the PSI that I expect
13 we'll hear in the defenses argument, and that's his mental health. So on
14 page 3 of the PSI it talks about diagnosed dyslexia, it also says --
15 allegedly he has bipolar disorder, post-traumatic stress disorder, and
16 schizophrenia. So this is unfortunate, and mental health is nothing to be
17 taken lightly, and I'm the first to admit that, but what I want to make clear
18 is that not only would he not be admitted to mental health, and I don't
19 think that's appropriate and I would oppose it if it's on the table, but
20 because of the violent nature I don't think would be accepted, but there
21 are thousands of people living in our city that suffer from schizophrenia,
22 PTSD and bipolar disorder and many, if not the vast majority, of them
23 live productive lives, hold down jobs, have families and struggle with that
24 personally without trying to kill law enforcement officers every time they
25 have the chance.

1 The next point, from the PSI, are drugs. On that same page,
2 page 3, he claims to be addicted to marijuana from age 12 and addicted
3 methamphetamine from 14. Again, I don't think he's a candidate for
4 drug court. I don't think he would be accepted because of the violent
5 nature of these charges and his past. I would oppose any sort of
6 program in that regard. But, again, the State deals with meth addicts on
7 a daily basis, and the vast, vast majority, although -- self-destructive,
8 and self-harming, maybe thieves to feed their need, the vast, vast
9 majority do not victimize other people violently, certainly not police
10 officers, while they're being taken into custody, whether they're high at
11 the time or not.

12 And then finally, I want to speak to the fact that -- of why I'm
13 asking for 10 to life versus 10 to 25. I'm well aware of the different
14 structure in the habitual statute, and why I feel that life on the end as a
15 possibility versus 25 is important here. I've made clear that his criminal
16 history started at 19, at least his adult criminal history, and that every
17 time he's out of custody, even for a short number of months, he picks up
18 another violent concerning charge. I think 10 to 25 versus 10 to life he'll
19 likely -- actually probably get out along the same amount time he'll serve
20 initially the same amount of time, but keeping him on parole for life
21 prospectively, at least gives him that motivation and that, kind of,
22 hammer hanging over his head to try to give him the motivation to be
23 better. It's to protect, not only, the members of our community to maybe
24 people that his family, obviously, were victimized in some of these
25 cases. Law enforcement officers, obviously, but also to protect himself,

1 the defendant, as something that would possible be a motivating factor
2 to be better once he gets out. And with that, I'll submit.

3 THE COURT: I know that the murder that he was charged
4 with in Reno was ultimately -- he was convicted to a bat with deadly with
5 substantial. Does anybody know the underlying circumstances? It's
6 hard to get those records, so I'm blaming anybody for not having them.
7 But does anybody know the underlying circumstances related to the
8 murder?

9 MR. ALBRIGHT: It was hard enough for me to get the
10 judgments of convictions, Your Honor.

11 THE COURT: Okay.

12 MR. ALBRIGHT: And I was hoping the JOC's would include a
13 little bit more factual detail, which they don't.

14 THE COURT: Okay. So, sir, in a moment I'm going to have
15 the opportunity to hear from Ms. Simmons on your behalf, is there
16 anything that you would like to say to the Court before I sentence you?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Okay.

19 THE DEFENDANT: First and foremost everything that the DA
20 has said, it's pretty much true ma'am. I have a really bad history, and no
21 way, shape or form, am I saying that anything right now is an excuse. I
22 am guilty of the crime of resisting arrest, arguing with those officers,
23 when I'm being tried for right now. The only thing is, ma'am, I would like
24 to explain my situation where I was at mentally.

25 I had just did 9½ years solitary confinement in Ely max prison.

1 I was released, I have PTSD I couldn't be around no-body, but I still
2 gainfully had a job. I fell in love with somebody, I was with them for 8
3 months, I found out they were HIV positive. I did not know what to do. I
4 left my apartment, went to my brother's house, cried, went right back to
5 my apartment. Then I was arrested. Do to allegations that were
6 completely false, I was out on bail, this did happen.

7 Your Honor, the only thing I ask of you, is to please give me a
8 chance. Even when I was out on bail I was still gainfully employed. I
9 still got a new apartment. I did not show up for sentencing because I,
10 myself, had gave my girl my money for a new lawyer to show up. I was
11 at work, my lawyer called me, why didn't you show up? I told her what
12 happened. She said you need to get ahold of a lawyer now so they can
13 file a motion to expunge it. Honestly, ma'am, I was so scared I didn't
14 know what to do I just started getting high again.

15 In no way shape or form am I saying that it's right. And no
16 way shape or form am I saying that I'm not guilty, I am. But I'm begging
17 you, please, show me some leniency. I do not even know how to
18 explain the things that I was going through mentally. Even officers that
19 took me to UMC that I got in a fight with I explained it to them while we
20 were there, I told them, look I'll pee in a cup; they were like well it's too
21 late. You know, it was too late. And I understand that I did make
22 mistakes, but I could not function right, but I was trying to get the help
23 that I needed.

24 I'm begging you please don't throw me away like an animal.
25 Please don't give me the habitual. And if you do, ma'am, please

1 suspend it. Give me 5 years probation. Give me intensive house arrest,
2 I will show you that I can be a better man. I'm begging you. And I know
3 that you probably hear this all the time, you used to be a prosecutor
4 yourself, but sometimes, some people just get the bad deal, and that
5 was me. I'm not saying that it was --

6 THE COURT: Got --

7 THE DEFENDANT: -- right.

8 THE COURT: -- the bad --

9 THE DEFENDANT: I'm not --

10 THE COURT: -- deal? What do you mean you got the bad
11 deal? Listen, I --

12 THE DEFENDANT: No, no --

13 THE COURT: No, no, no. I'm all about giving people
14 chances. You have literally tried to kill people, and killed somebody,
15 over, and over, and over again. This isn't about you getting a bad deal.
16 This is about you making bad decisions and trying to hurt people over,
17 and over, and over again. This isn't about me being a prosecutor. This
18 isn't about you being a defendant. This is about you are dangerous, and
19 if you think you are getting probation you are delusional. You have
20 made --

21 THE DEFENDANT: Excuse me --

22 THE COURT: -- no. You have got your chances. You have
23 been given the chances of probation. You've been given the chances of
24 parole. And what you do is you get out, and even when you're not out,
25 you continue to hurt people. And that is going to stop. And it's gonna

1 stop here today. Ms. Ross. Ms. --

2 MS. SIMMONS: Ms. --

3 THE COURT: -- Simmons.

4 MS. SIMMONS: -- Simmons. It's okay, I understand.

5 Obviously, I had previously explained to him if he's treated as
6 a habitual criminal, that's not like -- we can't suspend it, its mandatory
7 prison. I'd also explained to him, obviously, it's a long shot in asking for
8 probation. More than a long shot like the longest shot ever based on his
9 criminal history.

10 But in looking -- so I'm gonna start with I'm asking for. Parole
11 and Probation, when he showed up for his PSI when he went and got
12 the evaluation done by them, they recommended based on all of his
13 criminal history, and the facts at that time, I recognize they are slightly
14 different now, but at that time their recommendation was a 12 to 48. I
15 would, at a minimum, ask that, Your Honor, consider that, but if not,
16 simply not treating him as habitual criminal.

17 In this case -- what we have here is a situation where Mr.
18 McKendrick was, unfortunately at the time, on house arrest. Although I
19 do not agree with it, it was definitely something I was going to writ had
20 we not negotiated the case. Mr. Albright and I actually had negotiated
21 this case prior to him going to the grand jury. Then he had gone to the
22 grand jury, and we done the deal up here in District Court. I think it was
23 going to be actually next to impossible to actually -- substantiate the
24 attempt murder charge in this case. In this case what I think is very
25 clear just based on reading the police report that this was a situation

1 where somebody who was being monitored by house arrest, who was
2 scared of going back to jail, had officer's show up, and maybe he was
3 high, maybe he wasn't, but he definitely was not acting normal, and he
4 panicked. Mr. McKendrick tried to flee. He hurt those officers,
5 unfortunately, in his attempt to flee, but there was no intent by Mr.
6 McKendrick to actually kill one of those officers, which is something the
7 State would have actually had to of proven. And I do think that in and of
8 itself is one charge that probably went a little bit too far. However, he
9 did still plea to the battery by prisoner, because that is, in fact, what
10 happened.

11 As far as the bail goes, Mr. Albright was not here that day, I
12 was here that day, mister -- or Judge Bixler was on the bench, and Mr.
13 Stanton was here for the District Attorney's Office. At that time -- just so
14 that it's clear how it happened, Mr. McKendrick had asked the judge to
15 consider an O.R. I told -- Judge Bixler that I had explained that that has
16 to be in writing, but he would consider reducing the bail based on the
17 charge that he's pleading guilty too. Mr. Stanton did not object, he said
18 that it seemed appropriate to modify the bail based on the charge he's
19 actually pleaing to. And so that's how the bail got set that way.

20 Obviously Mr. Albright was much more familiar with the case,
21 so I understand his position.

22 THE COURT: Sure.

23 MS. SIMMONS: But that is what happened when it came to
24 the bail -- bail reduced at that time.

25 THE COURT: I understand.

1 MS. SIMMONS: As far as the other cases go, I mean, Your
2 Honor, already knows my position. Those are cases were either
3 voluntarily dismissed by the State, or have not yet been filed. So while I
4 do understand that there's still an issue, there's clearly even based on
5 the allegations concerns for the State and Your Honor, based on the
6 simple allegations placed in those new cases -- or, well one older case
7 and then the quote-unquote new case.

8 But what's also clear from the yet -- unyet -- or the yet to be
9 filed case.

10 THE COURT: Sure.

11 MS. SIMMONS: Is that there's still a drug problem. And Mr.
12 Albright's right that is something I'm definitely going to talk about. Mr.
13 McKendrick has a very severe mental health and substance abuse
14 problem. He's been using methamphetamine since 14 and on a regular
15 basis. That doesn't excuse -- and a lot of people are able to not be in
16 the position were Mr. McKenrick is at. But he was also, as Mr. Albright
17 pointed out, 19 when he picked up his first case and shortly thereafter
18 went to prison for 9 or more years before he was ever eligible for parole
19 or released in any fashion. Those are formative years for young people,
20 especially men, because they develop a little bit slower than women do.
21 But those are formative years, and at that time being placed in isolation
22 in max prison, unfortunately as Your Honor's probably aware, people
23 don't always come out of prison being a better person, especially for that
24 amount of time, at that age. It's based on the history. It's clear that
25 there are reasons why Mr. McKendrick became the type of person he is.

1 That he is distrustful. That he is running.

2 Now the violence that is another situation, obviously, I
3 understand all the concerns there. But there are reasons that people
4 who have spent a long -- or large amount of time in prison become
5 distrustful of the system. Become people who flee, who run, who panic,
6 and don't have the appropriate ability to control their impulses. That's
7 why a lot of our clients have to take those impulse control classes when
8 they are still down in Justice Court and they have -- we, hopefully, have
9 the ability to intervene at that time. We having meet Mr. McKendrick at
10 a later stage in life where many things had previously occurred don't
11 have that ability to help him or intervene for him.

12 I do believe habitual treatment is inappropriate in this case.
13 Mr. McKendrick has never been treated as a habitual criminal before.
14 So jumping from zero to large does seem a little bit inappropriate, even
15 when you consider the way that things move. Obviously the way that
16 the law is currently written allows for anything two or more, or three or
17 more. But it's very clear from the intent of a legislature based on the
18 recent changes, which aren't in affect now, but do clearly indicate the
19 way that the State is wanting to treat what is considered a habitual --
20 criminal. And at this stage, Mr. McKendrick, if that law were in place, he
21 would not qualify based on the history that he has. Because of that, I do
22 believe that habitual criminal is inappropriate, and the fact that he has
23 three prior felonies, obviously, very serious prior felonies, but that does
24 not mandate a large habitual criminal sentences in this case.

25 When -- Mr. McKendrick failed to appear at his sentencing, we

1 had been in contact since he had posted bail. We discussed trying to
2 set-up treatment. We has discussed trying to get him evaluated, so that
3 he could come in here before Your Honor and explain what he had been
4 working on. Still even knowing then that it was an extremely long shot at
5 getting probation at that time, but at least to show that he was taking
6 those steps. He had contacted me briefly before -- or just prior to the
7 original sentencing day, I had emailed the Court and Mr. Albright
8 informing everyone, that Mr. McKendrick had contacted -- an attorney. I
9 contacted him the day he missed his sentencing to find out what was
10 going on, because not even another attorney had been here. He
11 explained to me that he had given that money to his girlfriend, that she
12 had set-up a private attorney for him. It turns out, because she shortly
13 thereafter fled that state, that she had actually taken his money and ran.
14 So that's why he was not been here that day. He's already explained
15 why and what happened shortly after that as he panicked.

16 I do believe that based on his mental health, the substance
17 abuse issues that he has, that a more appropriate sentence would be
18 something, which is simply not be habitual treatment, a 28 to 72 is more
19 appropriate then a habitual treatment in this case, because that's not
20 what we should be doing in this society based on the changes that the
21 legislature has made. That's not what a habitual criminal is suppose to
22 be. The type of charges, or the number of convictions, that Mr.
23 McKendrick has at this stage, there's also clearly mitigating issues that
24 we simply cannot address at this stage. That had we had intervened or
25 had somebody intervened at a much younger age for Mr. McKendrick

1 we probably would never have been here.

2 So I'd be asking, Your Honor, to consider a 28 to 72, which, I
3 believe, is the high end of a regular sentence.

4 THE COURT: Okay. So I've taken a lot of time to go through
5 this case, look up the other cases, look up the underlying police reports.
6 Like I stated when I began discussing this case that I -- don't really give
7 a lot of weight in regards to the cases that were either dismissed or
8 haven't been filed yet. Because, quite honestly, we have enough to
9 work with in regards to page 4 of the PSI. And do I agree that this
10 defendant has a drug addiction, yes. Do I agree that to a certain degree
11 there's probably mental health issues, yes I do.

12 But -- what I have to balance out with is the safety of the
13 community. And when I look at assault with a deadly weapon,
14 obstructing a police officer, murder with a deadly weapon, battery with
15 substantial bodily harm, battery on a police officer, battery by prisoner,
16 two counts, attempt murder, attempt battery resulting in substantial
17 bodily harm, there's only so many passes that you get until someone
18 has to call you out on it, and we have to start protecting people that work
19 to protect us. And when we have these constant attacks on police
20 officers, and even attacks of violence on people who are -- lay people,
21 that just has to stop. So I actually agree with the State today. I am
22 going to be sentencing him under the habitual statute.

23 So in accordance with the laws of the State of Nevada, you
24 are hereby judged guilty of the crime of battery by prisoner.

25 In addition to the \$25 Administrative Assessment, the \$150

1 DNA fee, the \$3 DNA collection, the \$250 Indigent Defense fee, and the
2 fact that you must submit to genetic marker testing.

3 You're sentenced under the habitual statute of NRS 207.010,
4 to life in the department -- Nevada Department of Corrections. The first
5 opportunity at parole will be after 10 years has been served.

6 Pursuant to case law it does discuss the fact that I must -- that
7 this isn't just an automatic thing that must be done. That the court must
8 weight the appropriate factors, for and against, the criminal
9 enhancement. I have discussed the constant attacks on people, both
10 that are police officers, that are not police officers, the fact that even
11 while in custody the defendant commits -- continues to commit acts of
12 violence while in custody. And that the court has grave concerns about
13 the safety of the community with the defendant out.

14 The reason why I think that life -- a life sentence is
15 appropriate, is I agree with the State in regards to that I do think that
16 whether it's a 10 to 25 or a 10 to life the defendant probably gets out
17 around the same time, but this thing -- this opportunity that we have of
18 parole hanging over his head will hopefully keep him, we can only hope,
19 will keep him in line and making better decisions.

20 So, the amount of credit for time served is -- I had --

21 THE DEFENDANT: So when I'm 50-years-old it -- that --

22 MS. SIMMONS: Sean. Sean.

23 THE DEFENDANT: -- will be considered --

24 MS. SIMMONS: Sean stop.

25 THE DEFENDANT: -- a better -- judgment for me?

1 MS. SIMMONS: Sean --

2 THE COURT: I really think you're proving me wrong at this
3 point.

4 So I'm showing 26 days for credit for time served, which I
5 don't think is correct, because that was in February of 23.

6 MS. SIMMONS: It's should be 59 days as of today. The only
7 other thing I would ask is, and I don't know if -- he can qualify it, if he's
8 treated as a large habitual defendant, is whether or not he can
9 participate in the drug treatment program --

10 THE COURT: Okay.

11 MS. SIMMONS: -- if that's something, Your Honor, could
12 consider --

13 THE COURT: Of course.

14 MS. SIMMONS: -- allowing him to patriciate in.

15 THE COURT: So I believe it's called the -- Program 184, --

16 MS. SIMMONS: Yes.

17 THE COURT: -- and if he is allowed to partake in that that, I
18 think, would be a great option.

19 MS. SIMMONS: Thank you, Your Honor.

20 MS. SISOLAK: Your Honor, I have Ms. Riffle on page 12.

21 THE COURT: Okay. Just one second.

22 THE CLERK: Counselor, are you offering any exhibits for
23 admission?

24 MR. ALRBRIGHT: Correct, Your Honor. I wasn't sure if they
25 were -- suppose to be proposed, or if they automatically -- but yes I

1 would move for their admission.

2 THE COURT: So they were attached originally, or sent over
3 to the court, but yes they are going to be admitted.

4 MR. ALBRIGHT: And those are the certified originals that I've
5 given over.

6 MS. SIMMONS: And I had received a copy of those
7 previously from Mr. Albright.

8 [Hearing concluded at 11:38 a.m.]

9 * * * * *

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my
ability.

23

24

25


De'Awna Takas
Court Recorder/Transcriber

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN MICHAEL MCKENDRICK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 79372
District Court Case No. C338224

FILED

OCT 27 2020

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of conviction AFFIRMED."

Judgment, as quoted above, entered this 28 day of September, 2020.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
October 23, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Kaitlin Meetze
Administrative Assistant

C-19-338224-1
CCJA
NV Supreme Court Clerks Certificate/Judgm
4933901



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SEAN MICHAEL MCKENDRICK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79872-COA

FILED

SEP 28 2020

ELIZABETH A. SPORN
CLERK OF THE SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Sean Michael McKendrick appeals from a judgment of conviction, entered pursuant to a guilty plea, of battery by a prisoner. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

McKendrick contends the district court abused its discretion by imposing a sentence amounting to cruel and unusual punishment. Regardless of its severity, "[a] sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" *Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting *Culverson v. State*, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

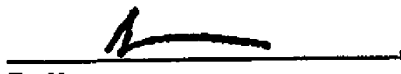
McKendrick was adjudicated a habitual criminal and sentenced to life in prison with the possibility of parole after 10 years. The sentence imposed is within the parameters provided by the relevant statute, see NRS 207.010, and McKendrick does not allege the statute is unconstitutional.

The sentencing judge based McKendrick's sentence on his history of multiple violent acts and the safety of the community. We conclude the sentence imposed is not grossly disproportionate to the crime and McKendrick's history of recidivism, and it does not constitute cruel and unusual punishment. *See Ewing v. California*, 538 U.S. 11, 29 (2003) (plurality opinion). Accordingly, we

ORDER the judgment of conviction **AFFIRMED**.


Gibbons, C.J.


Tao, J.


Bulla, J.

cc: Hon. Jacqueline M. Bluth, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN MICHAEL MCKENDRICK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 79372
District Court Case No. C338224

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: October 23, 2020

Elizabeth A. Brown, Clerk of Court

By: Kaitlin Meetze
Administrative Assistant

cc (without enclosures):

Hon. Jacqueline M. Bluth, District Judge
Clark County Public Defender
Clark County District Attorney \ Alexander G. Chen, Chief Deputy District
Attorney

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on OCT 27 2020.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED
APPEALS

OCT 26 2020

CLERK OF THE COURT

1

20-38837

Case No. C-19-338224-1

Dept. No. 6th Steven D. Grierson

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

The State of Nevada

Petitioner/Plaintiff,

NOTICE OF APPEAL

vs.

Sean McKendrick

Respondent/Defendant.

Notice is hereby given that Defendant, Petitioner/Defendant
above named, hereby appeals to the Court of Appeals for the State of Nevada from the final
judgment / order Judgement of Conviction Helous Courches

Entered in this action on the 2 day of February, 2021.

Dated this 2 day of February, 2021.

Sean McKendrick

NDOC # 84624
Appellant - Pro Per
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

RECEIVED
FEB 08 2021
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAIL

I, Sam McEndrick, hereby certify pursuant to Rule 5(b) of the NRCP, that on this 7 day of February, 20 21, I served a true and correct copy of the above-entitled Judgment of Conviction Habeas Corpus postage prepaid and addressed as follows:

200 Lewis Ave 3rd Floor
Las Vegas NV 89155

Signature

Sam McEndrick

Print Name

Sam McEndrick

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301-1989

AFFIRMATION PURSUANT TO NRS 239B.030

I, Sean McKindrick, NDOC# 84624

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE

ATTACHED DOCUMENT ENTITLED NoA. of Judgment of
Conviction of Habeas Corpus

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY

PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 2 DAY OF February, 20 21.

SIGNATURE:

Sean McKindrick

INMATE PRINTED NAME: Sean McKindrick

INMATE NDOC # 84624

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

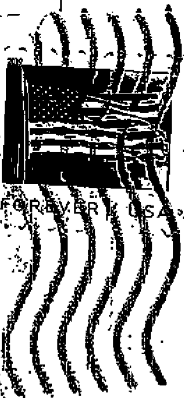
Sean McQuinnick-84624

P.O. Box 1989

Elgin, NV 89301

LAS VEGAS NV 890

3 FEB 2021 PM 4 L



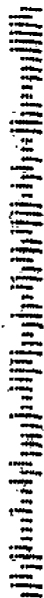
Steven D. Grierson

Clerk of the Court

200 Lewis Ave. 3rd Floor

Las Vegas, Nev. 89155

89101-630000



My Name is Sean McEndrick I'm filing for to appeal the decision of my Hears Court
And I'm asking for a time extion from February 4th 2021 of 90 day to turn in
my opening Brief. I'm trying to find a lawyer I'm No lawyer I cant Read
Write or Comprehend Law. Thank You Sincerely Mr. McEndrick 86624



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12 SEAN MICHAEL MCKENDRICK,

13 Defendant(s),

Case No: C-19-338224-1

Dept No: VI

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15
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17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Sean McKendrick

19 2. Judge: Jacqueline M. Bluth

20 3. Appellant(s): Sean McKendrick

21 Counsel:

22 Sean McKendrick #84624

23 P.O. Box 1989

24 Ely, NV 89301-1989

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney

28 200 Lewis Ave.

Las Vegas, NV 89101

(702) 671-2700

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

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

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

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

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

9. Date Commenced in District Court: February 20, 2019

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

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79372

12. Child Custody or Visitation: N/A

Dated This 10 day of February 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Sean McKendrick

Case No. C-19-338224-1

Dept. No. 6th District

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

The State of Nevada

Petitioner/Plaintiff,

vs.

Sean McKendrick

Respondent/Defendant.

NOTICE OF APPEAL

Notice is hereby given that Sean McKendrick, Petitioner/Defendant
above named, hereby appeals to the Court of Appeals for the State of Nevada from the final
judgment / order Judgment of Conviction / Habeas Corpus.

Entered in this action on the 4 day of February, 20 21.

Dated this 4 day of February, 20 21.

Sean McKendrick

NDOC # 84624
Appellant - Pro Per
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

RECEIVED
FEB - 9 2021
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAIL

I, Sean McKendrick, hereby certify pursuant to Rule 5(b) of the NRCP, that on this 4 day of February, 2021, I served a true and correct copy of the above-entitled N.O.A. Hobbs Corpus. postage prepaid and addressed as follows:

200 Lewis Ave.
Las Vegas, NV. 89101

Signature Sean McKendrick

Print Name Sean McKendrick

Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

AFFIRMATION PURSUANT TO NRS 239B.030

I, Sean McKeandrick, NDOC# 84624,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED N.O.A. Hebron Carter

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 4 DAY OF February, 2021.

SIGNATURE: Sean McKeandrick

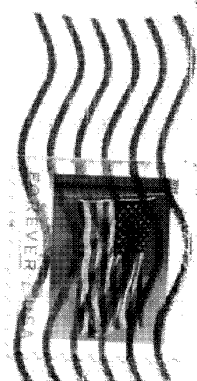
INMATE PRINTED NAME: Sean McKeandrick

INMATE NDOC # 84624

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

Dean McQuinn 84624
P.O. Box 1489
Eliz. NV. 89501

LAS VEGAS NV 890
5 FEB 2021 PM 4 L



RECEIVED

FEB - 9 2021

CLERK OF T. J. COOK
Clark County District Court

200 Lewis Ave.
Las Vegas, NV. 89155

89101-630000



12/15/08
R. J. J.



1 ASTA

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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

SEAN MICHAEL MCKENDRICK,

Defendant(s),

Case No: C-19-338224-1

Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): Sean McKendrick

2. Judge: Jacqueline M. Bluth

3. Appellant(s): Sean McKendrick

Counsel:

Sean McKendrick #84624

P.O. Box 1989

Ely, NV 89301-1989

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney

200 Lewis Ave.

Las Vegas, NV 89101

(702) 671-2700

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

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

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

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

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

9. Date Commenced in District Court: February 20, 2019

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

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79372, 82466

12. Child Custody or Visitation: N/A

Dated This 11 day of February 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

200 Lewis Ave

PO Box 551601

Las Vegas, Nevada 89155-1601

(702) 671-0512

cc: Sean McKendrick

FILED
FEB 24 2021

Ch. J. H. in
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY NEVADA

March 22, 2021
11:00 AM

NAME, STATE OF NEVADA

Plaintiff(s),

-vs-

NAME, SEAN MCKENDRICK

Defendant(s).

CASE NO.

C-19-338224-1

MOTION FOR MODIFICATION OF SENTENCE

COMES NOW, Defendant, in PRO PER and herein above respectfully

Moves this Honorable Court for a MODIFICATION OF SENTENCE

The above is made and based on the following Memorandum of Points and Authorities.

RECEIVED

FEB 18 2021

CLERK OF THE COURT

(Additional pages, if needed; identify what is being continued.)

POINTS AND AUTHORITIES

I STANDARD OF REVIEW

WE FIRST REFER THE COURT TO STALEY VS STATE
787 P2D 396, 106 NE1 15. THE NEVADA SUPREME
COURT HAS LONG RECOGNIZED THAT COURTS HAVE
THE POWER AND JURISDICTION TO MODIFY A SENTENCE.
WE SHALL QUOTE THEIR RULING " IF A SENTENCING
COURT PRONOUNCES SENTENCE WITHIN STATUTORY
LIMITS, THE COURT WILL HAVE JURISDICTION TO
MODIFY, SUSPEND OR OTHERWISE CORRECT THAT
SENTENCE IF IT IS BASED UPON MATERIALLY
UNTRUE ASSUMPTIONS OR MISTAKES WHICH WORK
TO THE EXTREME DETRIMENT OF THE DEFENDANT."
WE WILL PROVE MY ACTUAL COURT RECORD THAT
MR. MCKENDRICK WAS IN FACT SENTENCED BASED
UPON MATERIALLY UNTRUE ASSUMPTIONS AND OR
MISTAKES.

WE NOW REFER THE COURT TO THE SENTENCING
HEARING TRANSCRIPTS OF JULY 15, 2019.

SPECIFICALLY WE FIRST GO TO PAGE 14, LINE 13
AND 14. HERE WE SEE STATING THAT HER SENTENCE
WILL BE BASED ON THE ASSUMPTION THAT MR
MCKENDRICK HAD "KILLED SOMEBODY", WHICH OF

1 COURSE IS UNTRUE. WE NOW REFER TO PAGE 20
2 OF SENTENCING TRANSCRIPT LINE 14, THE JUDGE
3 STATES AGAIN THAT PART OF MR MCKENDRICKS RECORD
4 AND HER BASIS FOR A LIFE SENTENCE IS THAT HE
5 WAS CONVICTED OF "MURDER WITH A DEADLY WEAPON"
6 AGAIN THIS NEVER HAPPENED. THE UNITED STATES
7 SUPREME COURT HAS EXPRESSLY HELD THAT WHEN A DEFENDANT
8 IS SENTENCED ON THE BASIS OF MATERIALLY UNTRUE ASSUMPTIONS
9 CONCERNING HIS CRIMINAL RECORD "THE RESULT, WHETHER
10 CAUSED BY CARELESSNESS OR DESIGN, IS INCONSISTENT
11 WITH DUE PROCESS OF LAW" SEE: TOWNSEND V. BURKE
12 334 U.S. 736, 741 S. CT. 1252, 1255.
13 WE HAVE ESTABLISHED THAT MR. MCKENDRICKS DUE
14 PROCESS WAS VIOLATED AND COURT RECORD AT SENTENCING
15 HEARING CONTAINS A MISREPRESENTATION OF MR
16 MCKENDRICKS CRIMINAL HISTORY AND A CLEAR STATEMENT
17 FROM JUDGE THAT SHE USED THAT AS A BASIS FOR A
18 LIFE SENTENCE. WE ASK THAT THE SENTENCE BE
19 MODIFIED TO 28 TO 72 MONTHS IN THE INTEREST
20 OF JUSTICE

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23
24 Dated this 17TH day of FEBRUARY, 2021

25
26 By: Sean McKendrick

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VERIFICATION

Under penalty of perjury, the undersigned declares that he is the Plaintiff in the foregoing complaint and knows the contents thereof; that the pleading is true and of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true. I further verify that the foregoing pleading is true and correct, and is made under penalty of perjury without benefit of notary pursuant to NRS 208.165, as I am an incarcerated person.

Dated this 17th day of FEBRUARY, 2021.

X Sean McKendrick
SEAN MCKENDRICK # 84624
ELY STATE PRISON
P.O. BOX 1989
Ely, NV. 89301
Plaintiff In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

I, SEAN MCKENDRICK, NDOC# 84624,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED _____

MOTION FOR SENTENCE MODIFICATION

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 17TH DAY OF FEBRUARY, 2021.

SIGNATURE: X *Sean McKendrick*

INMATE PRINTED NAME: SEAN MCKENDRICK

INMATE NDOC # 84624

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

SCM WICKENDICK 84624
E.S.P.
P.O. Box 1989
ELY NV 89301

LAS VEGAS NV 890
17 FEB 2021 PM 5 L



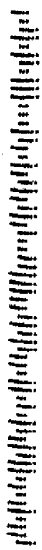
CLERK OF COURTS
300 LEWIS AVE
LAS VEGAS, NEVADA

89155-2212

RECEIVED
FEB 18 2021
CLERK OF THE COURT

Legal Mail

89101-630000



ELY STATE PRISON
FEB 17 2021



1 **RSPN**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 SEAN MICHAEL MCKENDRICK,
13 #7068215

14 Petitioner.

CASE NO: C-19-338224-1

DEPT NO: VI

15 **STATE'S RESPONSE TO DEFENDANT'S MOTION FOR MODIFICATION OF**
16 **SENTENCE**

17 DATE OF HEARING: MARCH 22, 2021
18 TIME OF HEARING: 11:00AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Response to Defendant's Motion for
22 Modification of Sentence.

23 This Response is made and based upon all the papers and pleadings on file herein, the
24 attached points and authorities in support hereof, and oral argument at the time of hearing, if
25 deemed necessary by this Honorable Court.

26 //

27 //

28 //

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 20, 2019, SEAN MICHAEL MCKENDRICK (hereinafter "Defendant")
4 was charged by way of Indictment with: Counts 1 & 2 – BATTERY BY PRISONER
5 (Category B Felony – NRS 200.481(2)(F)); Count 3 – ATTEMPT MURDER (Category B
6 Felony – NRS 200.010, 200.030, 193.330); and Count 4 – ATTEMPT BATTERY WITH
7 SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor – NRS 200.481,
8 193.330).

9 On March 27, 2019, Defendant, pursuant to Guilty Plea Agreement, pled guilty to one
10 count BATTERY BY PRISONER (Category B Felony – NRS 200.481(2)(F)).

11 On June 10, 2019, Defendant failed to appear for sentencing and a bench warrant
12 issued.

13 On June 20, 2019, the State filed its Notice of Intent to Seek Punishment as a Habitual
14 Criminal.

15 On July 1, 2019, Defendant returned to Court after being picked up on the bench
16 warrant. On July 15, 2019, Defendant was sentenced under the habitual criminal statute to Life
17 in the Nevada Department of Corrections with the possibility of parole after a minimum of ten
18 (10) years has been served. The Judgment of Conviction was filed on July 23, 2019.

19 On August 5, 2019, Defendant filed a Notice of Appeal. On September 16, 2019,
20 Defendant was appointed appellate counsel. On September 28, 2020, the Nevada Court of
21 Appeals affirmed Appellant's conviction and sentence and remittitur issued on October 27,
22 2020.

23 On August 6, 2019, Defendant filed a Motion for Additional Credit for Time Served.
24 On August 19, 2019, Defendant's Motion was granted. An Amended Judgment of Conviction
25 was filed on September 4, 2019.

26 On February 24, 2021, Defendant filed the instant Motion for Modification of Sentence.
27 The State responds as follows:

28 //

1 **STATEMENT OF THE FACTS**

2 On January 29, 2019, the Alternative to Incarceration Office received a phone call from
3 the brother and sister in law of Defendant. They requested for an officer to conduct a random
4 Urinalysis test to determine if Defendant was under the influence of a controlled substance as
5 he was acting bizarre.

6 Officers arrived at the residence and Defendant opened the door, he was acting bizarre
7 and officers attempted to place him in handcuffs. Once the left handcuff was placed, he started
8 questioning and challenging officers asking why he was going back to jail. He then physically
9 resisted, pulling away from officers and throwing his body weight and right closed fist striking
10 the officer, Victim #1 on his chest and leg. He struck Victim #1 and #2 another officer several
11 times with a closed fist and hitting Victim #1 in the abdomen and leg area. During the struggle
12 Victim #2 was thrown into a table causing the table to break on his back. The victim called for
13 backup and the fight continued outside of the apartment on the balcony, where Victim #2 was
14 rushed by Defendant attempting to push him over the railing of the 2nd floor. However Victim
15 #1 was able to prevent this from happening by placing Defendant in a restraint and giving
16 verbal commands. Defendant continued to be physical with the victims ignoring the
17 commands. A physical restraint rendered Defendant unconscious and subdued for a short
18 period of time, being placed in handcuffs. When Defendant woke up he began yelling an
19 attempting to fight officers. Defendant showed signs of being under the influence and was
20 transported to the hospital for further evaluation.

21 While being transported to the Clark County Detention Center he attempted to kick the
22 window out of the vehicle. He was booked accordingly.

23 **ARGUMENT**

24 **I. DEFENDANT IS NOT ENTITLED TO A MODIFICATION OF HIS**
25 **SENTENCE.**

26 Defendant claims that his sentence should be modified because this Court based its
27 sentencing decision on a murder conviction which does not exist. Motion at 2-3. In general, a
28 district court lacks jurisdiction to modify a sentence once the defendant has started serving it.

1 Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992). However, a district court
2 has inherent authority to correct, vacate, or modify a sentence that violates due process where
3 the defendant can demonstrate the sentence is based on a materially untrue assumption or
4 mistake of fact about the defendant's criminal record that has worked to the *extreme detriment*
5 of the defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321, 324 (1996) (emphasis
6 added); see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373.

7 Not every mistake or error during sentencing gives rise to a due process violation. State
8 v. Eighth Judicial Dist. Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). A district court
9 has jurisdiction to modify a defendant's sentence "only if (1) the district court actually
10 sentenced appellant based on a materially false assumption of fact that worked to appellant's
11 extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the
12 level of a violation of due process." Passanisi, 108 Nev. at 322-23, 831 P.2d at 1373-74.

13 Here, Defendant claims that the Court relied upon a materially untrue assumption or
14 mistake of fact when it allegedly based his sentence on a murder conviction which does not
15 exist. Motion at 2-3. However, Defendant's claim is belied by the record. While from the
16 record it appears the Court misspoke by referring to Defendant's attempt murder charge as
17 murder, it does not appear that any belief that Defendant committed murder was the primary
18 consideration in imposing Defendant's sentence. The Court indicated that it spent a great deal
19 of time looking at the underlying police reports and reviewing the PSI in Defendant's case.
20 Reporter's Transcript of Hearing: Sentencing, July 15, 2019 ("Transcript"), p. 20. The Court
21 noted that it believed Defendant had a drug problem and mental health issues, but ultimately
22 had to balance that against the safety of the community. Id. The Court determined that
23 Defendant's violent history, including his "constant attack on police officers, and even
24 violence on people who are – lay people" warranted a sentence of ten (10) years to Life under
25 the habitual criminal statute. Id. at 20-21. The Court also based its determination on the fact
26 that Defendant continued to commit acts of violence while in custody. Id. at 21. Clearly the
27 Court's decision was not based on a materially untrue assumption or mistake of fact and
28 Defendant's claim fails.

1 Further, the Court specifically noted that it was more heavily weighing the cases
2 contained in the PSI and the JOCs presented in support of habitual criminal status over the
3 other cases mentioned by the State. Transcript at 4. The Court clearly reviewed Defendant's
4 PSI prior to sentencing and could see that Defendant was charged with Attempt Murder with
5 Use of a Deadly Weapon in 2008 and not Murder. PSI at 4. Additionally, the State specifically
6 noted in its argument that Defendant had been charged with Attempt Murder. Transcript at 6.
7 The Court also based its sentence on the fact that Defendant made excuses to the Court and
8 tried to blame his violent and dangerous behavior on "getting a bad deal." Transcript at 14.
9 The Court did not based its decision on a materially untrue assumption or mistake of fact and
10 Defendant's Motion must be denied.

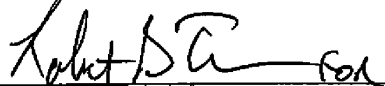
11 **CONCLUSION**

12 For the foregoing reasons, Defendant's Motion must be denied.

13 DATED this 4th day of March, 2021.

14 Respectfully submitted,

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

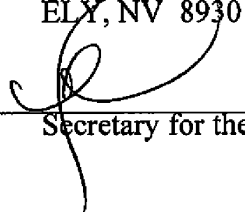
17 BY 
18

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

19
20
21 **CERTIFICATE OF MAILING**

22 I hereby certify that service of the above and foregoing was made this 4th day of March,
23 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

24 SEAN MCKENDRICK, BAC #84624
25 ELY STATE PRISON
PO BOX 1989
ELY, NV 89301

26
27 BY 

Secretary for the District Attorney's Office

28 KM/mah/L3



1 **RSPN**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

CASE NO: C-19-338224-1

12 SEAN MICHAEL MCKENDRICK,
13 #7068215

DEPT NO: VI

14 Petitioner.

15 **STATE'S RESPONSE TO DEFENDANT'S MOTION FOR MODIFICATION OF**
16 **SENTENCE**

17 DATE OF HEARING: MARCH 22, 2021
18 TIME OF HEARING: 11:00AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Response to Defendant's Motion for
22 Modification of Sentence.

23 This Response is made and based upon all the papers and pleadings on file herein, the
24 attached points and authorities in support hereof, and oral argument at the time of hearing, if
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26 //

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27 The State responds as follows:

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15 exist. Motion at 2-3. However, Defendant's claim is belied by the record. While from the
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20 Reporter's Transcript of Hearing: Sentencing, July 15, 2019 ("Transcript"), p. 20. The Court
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22 had to balance that against the safety of the community. Id. The Court determined that
23 Defendant's violent history, including his "constant attack on police officers, and even
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26 that Defendant continued to commit acts of violence while in custody. Id. at 21. Clearly the
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28 Defendant's claim fails.

1 Further, the Court specifically noted that it was more heavily weighing the cases
2 contained in the PSI and the JOCs presented in support of habitual criminal status over the
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4 PSI prior to sentencing and could see that Defendant was charged with Attempt Murder with
5 Use of a Deadly Weapon in 2008 and not Murder. PSI at 4. Additionally, the State specifically
6 noted in its argument that Defendant had been charged with Attempt Murder. Transcript at 6.
7 The Court also based its sentence on the fact that Defendant made excuses to the Court and
8 tried to blame his violent and dangerous behavior on "getting a bad deal." Transcript at 14.
9 The Court did not based its decision on a materially untrue assumption or mistake of fact and
10 Defendant's Motion must be denied.

11 **CONCLUSION**

12 For the foregoing reasons, Defendant's Motion must be denied.

13 DATED this 4th day of March, 2021.

14 Respectfully submitted,

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

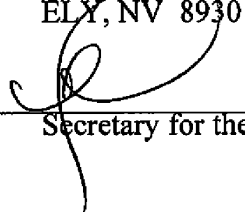
17
18 BY 

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

19
20
21 **CERTIFICATE OF MAILING**

22 I hereby certify that service of the above and foregoing was made this 4th day of March,
23 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

24 SEAN MCKENDRICK, BAC #84624
25 ELY STATE PRISON
PO BOX 1989
ELY, NV 89301

26
27 BY 

Secretary for the District Attorney's Office

28 KM/mah/L3

Andrew Shinn
CLERK OF THE COURT

Case No. C-19-338-224

Dept. No. 6th

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

Sean McKendrick

Petitioner/Plaintiff,

vs.

Respondent/Defendant.

NOTICE OF APPEAL

Notice is hereby given that Sean McKendrick, Petitioner/Defendant
above named, hereby appeals to the Court of Appeals for the State of Nevada from the final
judgment / order Modification of sentence appeal.

Entered in this action on the 5 day of 4th, 20 21.

Dated this 5 day of May, 20 21.

Sean McKendrick

NDOC # 84624
Appellant - Pro Per
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

RECEIVED

MAY 11 2021

CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAIL

I, Sean McKendrick, hereby certify pursuant to Rule 5(b) of the NRCP, that on this 5 day of 4, 2021, I served a true and correct copy of the above-entitled _____ postage prepaid and addressed as follows:

200 Lewis Ave
Las Vegas, N.V. 89101

Signature Sean McKendrick

Print Name Sean McKendrick

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301-1989

AFFIRMATION PURSUANT TO NRS 239B.030

I, Sean McKendrick, NDOC# 84624,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED Sentence Modification
appeal.

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 5 DAY OF May, 2021.

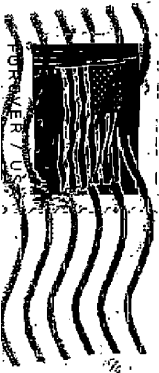
SIGNATURE: Sean McKendrick

INMATE PRINTED NAME: Sean McKendrick

INMATE NDOC # 84624

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

Sean McKendrick 84624
P.O. Box 1989
Ely, NV 89301



7 MAY 2021 PM 3 L

Clerk of the Court
200 Lewis Ave.
Las Vegas, NV 89101

66101-630000

ELY STATE PRISON
MAY 06 2021
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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

SEAN MICHAEL MCKENDRICK,

Defendant(s),

Case No: C-19-338224-1

Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): Sean McKendrick

2. Judge: Jacqueline M. Bluth

3. Appellant(s): Sean McKendrick

Counsel:

Sean McKendrick #84624

P.O. Box 1989

Ely, NV 89301

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney

200 Lewis Ave.

Las Vegas, NV 89101

(702) 671-2700

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

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

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

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

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

9. Date Commenced in District Court: February 20, 2019

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

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79372, 82466

12. Child Custody or Visitation: N/A

Dated This 13 day of May 2021.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

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

cc: Sean McKendrick

Heavenly
CLERK OF THE COURT

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ROBERT TURNER
6 Chief Deputy District Attorney
7 Nevada Bar #006526
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 SEAN MCKENDRICK,
14 #84624

15 Defendant.

CASE NO: C-19-338224-1

DEPT NO: VI

16 **ORDER DENYING DEFENDANT'S MOTION TO MODIFY SENTENCE**

17 DATE OF HEARING: March 18, 2021

18 TIME OF HEARING: 3:00 A.M.

19 THIS MATTER having come on for hearing before the above-entitled Court on the
20 18th day of March, 2021, the Defendant not being present, IN PROPER PERSON, the
21 Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through ROBERT
22 TURNER, Chief Deputy District Attorney, without argument, based on the pleadings and
23 good cause appearing therefor,

24 ///

25 ///

26 ///

27 ///

1 IT IS HEREBY ORDERED that the Defendant's Motion for Modification of Sentence,
2 shall be, and it is DENIED. In general, a district court lacks jurisdiction to modify a sentence
3 once the defendant has started serving it. *Passainisi v. State*, 108 Nev. 318, 322 (1992).
4 However, a district court does have inherent authority to correct, vacate, or modify a sentence
5 where the defendant can demonstrate the sentence violates Due Process because it is based
6 on a materially untrue assumption or mistake of fact that has worked to the defendant's
7 extreme detriment. *Edwards v. State*, 112 Nev. 704, 707 (1996).

8 Here, Defendant claims that the court relied on a materially untrue assumption or
9 mistake of fact when it allegedly based his sentence on a murder conviction which does not
10 exist. However, defendant's claim is belied by the record. While from the record it illustrates
11 that the court misspoke by referring to defendant's attempt murder charge as murder, the Court
12 did not believe that defendant committed murder or that this reason was the primary
13 consideration in imposing Defendant's sentence. The Court indicated that it spent a great deal
14 of time looking at the underlying police reports and reviewing the PSI in defendant's case.
15 (Sentencing Transcript at 20). The Court noted that it believed Defendant had a drug problem
16 and mental health issues, but ultimately had to balance that against the safety of the
17 community. *Id.* The court determined that Defendant's violent history, including his constant
18 attack on police officers, and even violence on people who are lay people warranted a
19 sentence of 10 years to life under the habitual criminal statute. *Id.* The Court also based its
20 determination on the fact that Defendant continued to commit acts of violence while in
21 custody. *Id.* at 21. Clearly the court's decision was not based on a materially untrue
22 assumption or mistake of fact and Defendant's claim fails.

23 Further, the Court specifically noted that it was more heavily weighing the cases
24 contained in the PSI and the JOCs presented in support of habitual criminal status over the
25 other cases mentioned by the state. *Id.* at 4. The court clearly reviewed Defendant's PSI prior
26 to sentencing and could see that Defendant was charged with attempt murder with use of a
27 deadly weapon in 2008 and not murder. (PSI at 4). Additionally, the state specifically noted
28 in its argument that the Defendant had been charged with attempt murder. (Sentencing

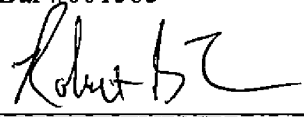
1 Transcript at 6). The court did not base its decision on a materially untrue assumption or
2 mistake of fact and therefore defendant's motion IS DENIED.

3 ~~DATED this _____ day of June, 2021.~~ Dated this 16th day of June, 2021

4 
5 DISTRICT JUDGE

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

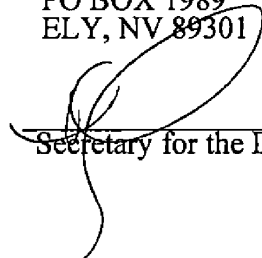
FFB 67F 47CB 3ED6
Jacqueline M. Bluth
District Court Judge

9 BY 
10 ROBERT TURNER
11 Chief Deputy District Attorney
12 Nevada Bar #006526

13
14
15 CERTIFICATE OF SERVICE

16 I certify that on the 14th day of June, 2021, I mailed a copy of the foregoing
17 Order to:

SEAN MCKENDRICK, BAC #84624
ELY STATE PRISON
PO BOX 1989
ELY, NV 89301

18
19
20
21 BY 
22 Secretary for the District Attorney's Office

23
24
25
26
27
28 mah/L3

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-19-338224-1

7 vs

DEPT. NO. Department 6

8 Sean McKendrick

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/16/2021

15 Nancy Lemcke	lemckenl@clarkcountynv.gov
16 Dept 06 Law Clerk	Dept06LC@clarkcountycourts.us
17 Kara Simmons	Kara.Simmons@ClarkCountyNV.gov
18 Erin Prisbrey	erin.prisbrey@clarkcountynv.gov
19 Carrie Connolly	connolcm@ClarkCountyNV.gov
20 De'Awna Takas	takasd@clarkcountycourts.us
21 PD Motions	PDMotions@clarkcountyda.com
22 Jennifer Garcia	Jennifer.Garcia@clarkcountyda.com
23 Eileen Davis	Eileen.Davis@clarkcountyda.com

DOCUMENTARY EXHIBITS

Grand Jury Case # 18AGJ225X
Exhibit # 1
Date 2-19-19

1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #14158
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO:

11 -vs-

DEPT NO:

12 SEAN MICHAEL MCKENDRICK,
13 #7068215

14 Defendant.

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, SEAN MICHAEL MCKENDRICK, accused by the
18 Clark County Grand Jury of the crime(s) of BATTERY BY PRISONER (Category B Felony
19 - NRS 200.481(2)(F) - NOC 50229); ATTEMPT MURDER (Category B Felony - NRS
20 200.010, 200.030, 193.330 - NOC 50029); and ATTEMPT BATTERY WITH
21 SUBSTANTIAL BODILY HARM (Category D Felony/Gross Misdemeanor - NRS 200.481,
22 193.330 - NOC 50244/50245); committed at and within the County of Clark, State of Nevada,
23 on or about the 29th day of January, 2019, as follows:

24 COUNT 1 - BATTERY BY PRISONER

25 did willfully, unlawfully, feloniously, and knowingly use force or violence upon the
26 person of another, to wit: D. WEBB, by punching the said D. WEBB, Defendant at the time
27 of the offense, being a prisoner in lawful custody.

28 //

1 COUNT 2 - BATTERY BY PRISONER

2 did willfully, unlawfully, feloniously, and knowingly use force or violence upon the
3 person of another, to wit: D. COYNE, by punching the said D. COYNE, Defendant at the time
4 of the offense, being a prisoner in lawful custody.

5 COUNT 3 - ATTEMPT MURDER

6 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill D.
7 WEBB, a human being, by attempting to push D. WEBB off of a 2nd story balcony.

8 COUNT 4 - ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM

9 did willfully, unlawfully, and feloniously attempt to use force or violence upon the
10 person of another, to wit: D. WEBB, by attempting to push D. WEBB off of a 2nd story
11 balcony, resulting in substantial bodily harm to D. WEBB.

12 DATED this _____ day of February, 2019.

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

16 BY

17 BRANDON ALBRIGHT
18 Deputy District Attorney
19 Nevada Bar #14158

20
21
22 ENDORSEMENT: A True Bill

23
24 Foreperson, Clark County Grand Jury

1 Names of Witnesses and testifying before the Grand Jury:

2

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

4 CUSTODIAN OF RECORDS - CCDC

5 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

6 CUSTODIAN OF RECORDS - LVMPD RECORDS.

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18AGJ225X/19F01767X/cl-GJ
LVMPD EV# 190100136881
(TK7)

Grand Jury Case # 18AGJ225X

Exhibit # 2

Date 02.19.19

1 INST

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6 DISTRICT COURT
CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 SEAN MICHAEL McKENDRICK,
#7068215

12 Defendant.
13

14 GRAND JURY INSTRUCTIONS
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Battery

Battery means any willful and unlawful use of force or violence upon the person of another.

The force used by the defendant need not be violent or severe, and need not cause bodily pain or bodily harm. Any slight touching by the defendant upon the person of another suffices, as long as the touching was intentional and unwanted.

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Prisoner

“Prisoner” includes any person held in custody under process of law, or under lawful arrest.

Attempt Murder

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

It is not necessary to prove the elements of premeditation and deliberation in order to prove Attempt Murder.

Substantial Bodily Harm

"Substantial bodily harm" means:

1. Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or
2. Prolonged physical pain.

1 CODE NO. 1850

ORIGINAL

FILED

JAN 25 2005

RONALD A. LONGSTIN, JR., CLERK

By: [Signature]
DEPUTY CLERK

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR04-1800

11 vs.

Dept. No. 1

12 SEAN MICHAEL MCKENDRICK,

13 Defendant.

14 JUDGMENT

15 The Defendant having entered a plea of Guilty, and no sufficient cause being
16 shown by Defendant as to why judgment should not be pronounced against him, the Court
17 rendered judgment as follows:

18 That Sean Michael McKendrick is guilty of the crime of Assault Upon an
19 Officer, a violation of NRS 200.471, a felony, as charged in the Information, and that he be
20 punished by imprisonment in the Nevada State Prison for the minimum term of twelve (12)
21 months to a maximum term of forty-eight (48) months, to run concurrently with the sentence
22 imposed in CR04-1799. The Defendant is further ordered to pay the statutory Twenty-Five
23 Dollar (\$25.00) administrative assessment fee, a One Hundred Fifty Dollar (\$150.00) DNA
24 testing fee and reimburse the County of Washoe the sum of Five Hundred Dollars (\$500.00)
25 for legal representation by the Washoe County Public Defender's Office. The Defendant is
26 given credit for one hundred eighty-four (184) days time served.

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MARK
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The Court hereby affirmatively recommends the Defendant be classified into a dual diagnosis treatment program within the Department of Prisons.

DATED this 25th day of January, 2005.


DISTRICT JUDGE

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: 6/25/19

JACQUELINE BRYANT, Clerk of the Second Judicial District Court, in and for the County of Washoe, State of Nevada.

By *[Signature]* Deputy

no
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ORIGINAL

FILED

1 CODE 1850

JUL 15 2008

HOWARD W. CONYERS, CLERK
By: *[Signature]*
DEPUTY CLERK

CR08-1349 DC-9900003817-001
STATE VS. SEAN MICHAEL MCKEN 2 Pages
District Court 07/15/2008 09:00 AM
Washoe County 1850
no

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR08-1349

11 vs.

Dept. No. 1

12 SEAN MICHAEL MCKENDRICK,

13 Defendant.

14
15 JUDGMENT

16 The Defendant having entered a plea of Guilty, and no sufficient cause being
17 shown by Defendant as to why judgment should not be pronounced against him, the Court
18 rendered judgment as follows:

19 That Sean Michael Mckendrick is guilty of the crime of Battery by a Prisoner, a
20 violation of NRS 200.481 (2) (f), a felony, as charged in the Information, and that he be
21 punished by imprisonment in the Nevada Department of Corrections for the minimum term
22 of sixteen (16) months to a maximum term of forty-eight (48) months, to run consecutively to
23 the sentence imposed in CR08-0323. The Defendant is further ordered to pay the statutory
24 Twenty-Five Dollar (\$25.00) administrative assessment fee and reimburse the County of
25 Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe
26 County Public Defender's Office. The Defendant is given credit for zero (0) days time
27 served.

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ICATION
EXHIBIT

It is further ordered the Defendant is not eligible to receive any credit time served for house arrest and must be confined in the Nevada Department of Corrections pursuant to State vs. Second Judicial District Court, et al., 121 Nev. 413, 116 P.3d 834 (2005).

DATED this 15th day of July, 2008.

Janet Berry
DISTRICT JUDGE

CERTIFIED COPY
The document to which this certificate is
attached is a full, true and correct copy of
the original on file, and of record in my office.

DATE: 6/25/19
JACQUELINE BRYANT, Clerk of the Second Judicial
District Court, in and for the County of
Washoe, State of Nevada.

By *[Signature]* Deputy

CR08-0323
STATE VS. SEAN MICHAEL MCKENDRICK
District Court
Washoe County
1850
KNOTTED

ORIGINAL

CODE 1850

FILED

JUN - 3 2008

HOWARD W. CONYERS, CLERK
By: *[Signature]*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No. CR08-0323

vs.

Dept. No. 1

SEAN MICHAEL MCKENDRICK,

Defendant.

JUDGMENT

The Defendant having entered a plea of Guilty, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Sean Michael Mckendrick is guilty of the crime of Battery With a Deadly Weapon Causing Substantial Bodily Harm, a violation of NRS 200.481 (2) (e), a felony, as charged in the Information, and that he be punished by imprisonment in the Nevada Department of Corrections for the minimum term of seventy-two (72) months to a maximum term of one hundred eighty (180) months. The Defendant is further ordered to pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, restitution in the amount of One Hundred Seven Thousand One Hundred Twenty-Four Dollars and Ten Cents (\$107,124.10) and reimburse the County of Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public Defender's Office. The Defendant is given credit for one hundred forty-nine (149) days time served.



1 It is further ordered the Defendant is not eligible to receive any credit time
2 served for house arrest and must be confined in the Nevada Department of Corrections
3 pursuant to State vs. Second Judicial District Court, et al., 121 Nev. 413, 116 P.3d 834
4 (2005).

5 DATED this 3rd day of June, 2008.

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8 DISTRICT JUDGE
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CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: 6/25/19

JACQUELINE BRYANT, Clerk of the Second Judicial District Court, in and for the County of Washoe, State of Nevada.

By *[Signature]* Deputy

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 20, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

February 20, 2019 11:00 AM Grand Jury Indictment

HEARD BY: Adair, Valerie; Jones, Tierra **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Kimberly Estala

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Dickerson, Michael Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Russell Walker, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 18AGJ225X to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-19-338224-1, Department VI.

State requested a warrant, argued bail, and advised Deft is in custody. COURT ORDERED, \$100,000.00 BAIL with High Level Electronic Monitoring; INDICTMENT WARRANT ISSUED, and matter SET for Arraignment.

COURT FURTHER ORDERED, Exhibits 1-3 to be lodged with the Clerk of the Court; Las Vegas Justice Court case no. 19F01767X DISMISSED per the State's request. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done.

I.W. (CUSTODY)

02/27/19 8:30 A.M. INITIAL ARRAIGNMENT (DEPT VI)

PRINT DATE: 07/13/2021

Page 1 of 17

Minutes Date: February 20, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 27, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

February 27, 2019 8:30 AM All Pending Motions

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Clowers, Shanon Attorney
 McKendrick, Sean Michael Defendant
 Simmons, Kara M. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- INDICTMENT WARRANT RETURN...INITIAL ARRAIGNMENT.

Ms. Simmons noted the background of the case, advising an offer was made by Mr. Albright, she's reached out to the District Attorney and hopes it will be negotiated as it provisionally was. Ms. Clowers advised the Court of the offer. Statement by Defendant requesting a bail reduction. Colloquy regarding negotiations and Defendant's custody status. Ms. Simmons requested a status check on negotiations in 2 weeks and a trial setting. Defendant MCKENDRICK ARRAIGNED, PLED NOT GUILTY AND INVOKED THE SIXTY(60) DAY RULE. COURT ORDERED, matter SET for trial and status check.

CUSTODY

3-13-19 8:30 AM STATUS CHECK NEGOTIATIONS

4-22-19 9:30 AM CALENDAR CALL

PRINT DATE: 07/13/2021

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Minutes Date: February 20, 2019

C-19-338224-1

4-29-19 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 13, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

March 13, 2019 8:30 AM Status Check

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: McKendrick, Sean Michael Defendant
 Peterson, Christopher Attorney
 State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- Mr. Peterson advised he's standing in for Ms. Simmons and requested a continuance. Mr. Turner stated there's no need to continue, matters can be re-calendared if negotiated. Mr. Peterson stated Ms. Simmons would like a 2 week continuance for this to get worked out. Defendant stated he would like to plead guilty to battery by prisoner. Court informed the Defendant the Court does not get involved in the negotiations and ORDERED, proceedings CONTINUED. Defendant requested a bail reduction. COURT ORDERED, request DENIED, and directed the Defendant to have counsel file the motion in writing. Defendant stated he's not spoken with counsel once. Mr. Peterson advised he will speak with Ms. Simmons. Court directed counsel to go and see the Defendant.

CUSTODY

3-27-19 8:30 AM STATUS CHECK; NEGOTIATIONS

4-22-19 9:30 AM CALENDAR CALL

PRINT DATE: 07/13/2021

Page 4 of 17

Minutes Date: February 20, 2019

C-19-338224-1

4-29-19 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 27, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

March 27, 2019 8:30 AM Status Check

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 10C

COURT CLERK: Louisa Garcia

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	McKendrick, Sean Michael	Defendant
	Simmons, Kara M.	Attorney
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Simmons stated the District Attorney attached a copy of the indictment on the back of the plea agreement versus an amended information. The Defendant will be pleading to one Count of battery by prisoner and, for efficiency sake, suggested all the Counts be stricken but Count 1. COURT SO NOTED.

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. MCKENDRICK ARRAIGNED AND PLED GUILTY TO BATTERY BY PRISONER (F). Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. Ms. Simmons requested the bail be modified to reflect the charge Deft. currently pled to. Opposition by State. Statement by Ms. Simmons regarding criminal history. COURT ORDERED, Bail REDUCED to \$10,000.00.

CUSTODY

5/13/19 8:30 AM SENTENCING (COUNT 1)

PRINT DATE: 07/13/2021

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Minutes Date: February 20, 2019

C-19-338224-1

PRINT DATE: 07/13/2021

Page 7 of 17

Minutes Date: February 20, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 10, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

June 10, 2019 9:30 AM Sentencing

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Alan Castle

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Public Defender	Attorney
	Simmons, Kara M.	Attorney
	State of Nevada	Plaintiff
	Wolfson, Steven B	Attorney

JOURNAL ENTRIES

- Defendant NOT BEING PRESENT, Upon Court's inquiry, counsel unable to make representation.
At the request of the State, COURT ORDERED, BENCH WARRANT WILL ISSUE, NO BAIL.

B.W. (BOND)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 01, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

July 01, 2019 9:30 AM Bench Warrant Return

HEARD BY: Jones, Tierra

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	McKendrick, Sean Michael	Defendant
	Simmons, Kara M.	Attorney
	Sisolak, Ashley L.	Attorney
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Sisolak advised the case is Ms. Simmons who's in Justice Court; the intention is to ask for 2/48 recommended by Parole and Probation with the 184 program; if inclined to follow that the case can be handled, or swapped out. Court noted the intention of the State to file for habitual treatment and at the request of Ms. Sisolak ORDERED, proceedings TRAILED for the presence of Ms. Simmons.

MATTER RECALLED:

Court noted the intention of the State to seek habitual treatment. Ms. Simmons requested a sentencing date, inquiring as to the date of notice as she did not see it. Court stated it's been filed and seen in Odyssey, the date is unknown and ORDERED, matter SET for sentencing.

CUSTODY

PRINT DATE: 07/13/2021

Page 9 of 17

Minutes Date: February 20, 2019

C-19-338224-1

7-15-19 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 15, 2019**

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

July 15, 2019 9:30 AM Sentencing

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Albright, Brandon B.	Attorney
	McKendrick, Sean Michael	Defendant
	Simmons, Kara M.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Argument by Ms. Simmons in regards to her objection to the Court's review of Police Reports for sentencing. Argument in support of Court's review of Police Reports and in support of habitual criminal treatment by Mr. Albright. Court stated all has been read and considered. Argument and exhibits in support of large habitual criminal treatment by Mr. Albright. Exhibits Presented (See Worksheet). Statement by Defendant. Argument in opposition of habitual criminal treatment by Ms. Simmons. Pursuant to Habitual Statute NRS 207.010, Defendant MCKENDRICK ADJUDGED GUILTY OF BATTERY BY PRISONER (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic markers, \$3.00 DNA Collection fee and \$250.00 Indigent Defense Civil Assessment fee, Defendant SENTENCED TO LIFE in the Nevada Department of Corrections WITH MINIMUM PAROLE ELIGIBILITY AFTER TEN (10) YEARS; FIFTY-NINE (59) DAYS credit for time served. Court recommends the Defendant for the 184 Program.

NDC

PRINT DATE: 07/13/2021

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Minutes Date: February 20, 2019

C-19-338224-1

PRINT DATE: 07/13/2021

Page 12 of 17

Minutes Date: February 20, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 19, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

**August 19, 2019 9:30 AM Hearing on Credit For Time
Served**

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Albright, Brandon B. Attorney
 Sisolak, Ashley L. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present.

Argument in support of motion by Ms. Sisolak requesting 108 days credit for time served. Argument by Mr. Albright stating it was believed an additional 23 days were sought. Colloquy regarding credit for time served. Court stated findings and ORDERED, Defendant's Motion For Additional Credit For Time Served GRANTED; Amended Judgment of Conviction to reflect NINETY-EIGHT (98) DAYS credit for time served as of July 15, 2019

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 16, 2019

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

September 16, 2019 9:30 AM Appointment of Counsel

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed
 Shannon Reid

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Albright, Brandon B.	Attorney
	Brooks, Howard S.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present.

Mr. Brooks CONFIRMED the Public Defender as counsel. COURT SO ORDERED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 18, 2021**

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

March 18, 2021 3:00 AM Minute Order

HEARD BY: Bluth, Jacqueline M.**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Keith Reed**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant's Motion to Modify Sentence IS DENIED. In general, a district court lacks jurisdiction to modify a sentence once the defendant has started serving it. *Passainisi v. State*, 108 Nev. 318, 322 (1992). However, a district court does have inherent authority to correct, vacate, or modify a sentence where the defendant can demonstrate the sentence violates Due Process because it is based on a materially untrue assumption or mistake of fact that has worked to the defendant's extreme detriment. *Edwards v. State*, 112 Nev. 704, 707 (1996).

Here, Defendant claims that the court relied on a materially untrue assumption or mistake of fact when it allegedly based his sentence on a murder conviction which does not exist. However, defendant's claim is belied by the record. While from the record it illustrates that the court misspoke by referring to defendant's attempt murder charge as murder, the Court did not believe that defendant committed murder or that this reason was the primary consideration in imposing Defendant's sentence. The Court indicated that it spent a great deal of time looking at the underlying police reports and reviewing the PSI in defendant's case. (Sentencing Transcript at 20). The Court noted that it believed Defendant had a drug problem and mental health issues, but ultimately had to balance that against the safety of the community. *Id.* The court determined that Defendant's violent history, including his constant attack on police officers, and even violence on people who are lay people warranted a sentence of 10 years to life under the habitual criminal statute. *Id.* The Court also based its determination on the fact that Defendant continued to commit acts of violence while in

PRINT DATE: 07/13/2021

Page 15 of 17

Minutes Date: February 20, 2019

custody. Id. at 21. Clearly the court's decision was not based on a materially untrue assumption or mistake of fact and Defendant's claim fails.

Further, the Court specifically noted that it was more heavily weighing the cases contained in the PSI and the JOCs presented in support of habitual criminal status over the other cases mentioned by the state. Id. at 4. The court clearly reviewed Defendant's PSI prior to sentencing and could see that Defendant was charged with attempt murder with use of a deadly weapon in 2008 and not murder. (PSI at 4). Additionally, the state specifically noted in its argument that the Defendant had been charged with attempt murder. (Sentencing Transcript at 6). The court did not base its decision on a materially untrue assumption or mistake of fact and therefore defendant's motion IS DENIED.

State to prepare an order consistent with this ruling.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 22, 2021

C-19-338224-1 State of Nevada
 vs
 Sean McKendrick

March 22, 2021 11:00 AM Motion to Modify Sentence

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 10C

COURT CLERK: Natalie Ortega

RECORDER: Toshiana Pierson

REPORTER:

PARTIES

PRESENT: Gullo, Robert J. Attorney
 Overly, Sarah Attorney

JOURNAL ENTRIES

- Defendant not present; incarcerated in the Nevada Department of Corrections (NDC). COURT NOTED this matter was a Pro-Se Motion for Modification of Sentence and was handled by the way of a Minute Order on March 18, 2021 in which the Motion was denied.

NDC

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated June 23, 2021, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 214.

THE STATE OF NEVADA,

Plaintiff(s),

vs.

SEAN MICHAEL MCKENDRICK,

Defendant(s),

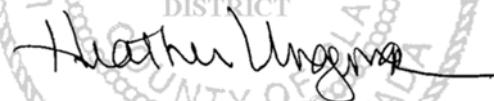
Case No: C-19-338224-1

Dept. No: VI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 13 day of July 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk