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1. INDICTMENT 9/19/18.....0001-0003

2. MOTION TO WITHDRAW GUILTY PLEA 3/2/20.....0004-0008

3. DEFENDANT’S BRIEF IN SUPPORT OF MOTION TO WITHDRAW
GUILTY PLEA 12/10/20.....0009-00014

4. ORDER GRANTING MOTION TO WITHDRAW AS ATTORNEY OF
RECORD FOR DEFENDANT 7/28/21.....00015-00017

5. ORDER DENYING MOTION 08/06/21.....00018-00019

6. RECORDER’S TRANSCRIPT OF HEARING: ARGUMENT AND
STATE’S OPPOSITION TO DEFENDANT’S MOTION TO WITHDRAW
GUILTY PLEA 01/28/21.....00020-00027

7. NOTICE OF APPEAL 07/14/2021.....00028-00029

8. APPELLANT’S CORRESPONDENCE 12/14/21.....00030-00033

9. APPELLANT’S CORRESPONDENCE 1/2/22.....00034-00036

10.APPELLANT’S CORRESPONDENCE 1/2/22.....00037

11.APPELLANT’S CORRESPONDENCE 1/24/2022.....00038-00042

12.RECORDER’S TRANSCRIPT OF PROCEEDINGS: EVIDENTIARY
HEARING; MOTION TO WITHDRAW PLEA – DAY 1 -
8/13/20.....00043-00064

13.RECORDER’S TRANSCRIPT OF PROCEEDINGS: EVIDENTIARY
HEARING; MOTION TO WITHDRAW PLEA – DAY 2 -
10/13/20.....00065-00098

ORIGINAL

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

SEP 19 2018

BY 
KIMBERLY ESTALA, DEPUTY

1 IND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JACOB VILLANI
6 Chief Deputy District Attorney
7 Nevada Bar #11732
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-18-334955-1

11 -vs-

DEPT NO: IX

12 BRYAN WARREN DRYDEN, aka,
13 Bryan Dryden, #2585083

14 Defendant.

INDICTMENT

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

17 The Defendant above named, BRYAN WARREN DRYDEN, aka, Bryan Dryden,
18 accused by the Clark County Grand Jury of the crime(s) of SEXUAL ASSAULT WITH USE
19 OF A DEADLY WEAPON (Category A Felony - NRS 200.364, 200.366, 193.165 - NOC
20 50097), committed at and within the County of Clark, State of Nevada, on or about the 29th
21 day of August, 2007, as follows: did then and there willfully, unlawfully, and feloniously
22 sexually assault and subject K.S., to sexual penetration, to wit: sexual intercourse: by placing
23 his penis into the genital opening of the said K.S., against her will, or under conditions in

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C-18-334955-1
IND
Indictment
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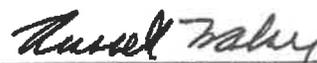
which Defendant knew, or should have known, that K.S. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct, with use of a deadly weapon, to wit: a firearm.

DATED this 18th day of September, 2018.

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

BY 
JACOB VILLANI
Chief Deputy District Attorney
Nevada Bar #11732

ENDORSEMENT: A True Bill


Foreperson, Clark County Grand Jury

1 Names of Witnesses and testifying before the Grand Jury:

2 DETWEILER II, WALTER – LVMPD #5460

3 HUSEBY, BRIANNE – LVMPD

4 K.S. – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

5

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

7 ALMAZAN, DAKOTA – LVMPD #9333

8 CHAVEZ, ARTURO – LVMPD #4048

9 CUSTODIAN OF RECORDS - CCDC

10 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

11 CUSTODIAN OF RECORDS - LVMPD RECORDS

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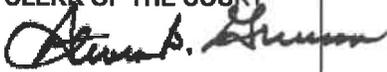
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27 18AGJ051X/18F12046X/cl-GJ

LVMPD EV# 0708290466

28 (TK3)



1 **MOT**
2 **MARISA BORDER, ESQ.**
3 Nevada Bar No. 8381
4 400 South 4th Street, Suite 650
5 Las Vegas, Nevada 89101
6 Telephone: (702) 900-5114
7 Facsimile: (702) 577-2304
8 Email: mborderlaw@gmail.com
9 Attorney for Defendant
10 **BRYAN DRYDEN**

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 STATE OF NEVADA,)
10)
11 Plaintiff,) Case No.: C-18-334955-1
12 vs.)
13 BRYAN DRYDEN,) Dept. No.: XVIII
14 Defendant.)

15 **MOTION TO WITHDRAW GUILTY PLEA (PRIOR TO SENTENCING)**

16 COMES NOW Defendant, BRYAN DRYDEN, by and through his attorney of record,
17 MARISA BORDER, ESQ., and moves this Honorable Court to grant his Motion to Withdraw
18 Guilty Plea. This Motion is made and based upon the attached points and authorities, any and all
19 pleadings on file herein, and any oral argument deemed necessary by this Court.

20 DATED this ___ day of February, 2020.

21 Respectfully submitted:

22
23
24 By: /s/ Marisa Border
25 MARISA BORDER, ESQ.
26 Attorney for Defendant
27 BRYAN DRYDEN
28

1 entered the plea voluntarily, knowingly, and intelligently. State v. Freese, 116 Nev. 1097,
2 1104, 13 P.3d 442, 448 (2000).

3 The decision to allow a defendant to withdraw his guilty plea is within the discretion of
4 the district court. United States v. Alber, 56 F.3d 1106, 1111 (9th Cir. 1995). This decision will
5 not be disturbed absent an abuse of discretion. Riker v. State, 111 Nev. 1316, 1322, 905 P.2d
6 706, 710 (1995). “[T]he district court must consider the totality of the circumstances to
7 determine whether permitting withdrawal of a guilty plea before sentencing would be fair and
8 just.” Stevenson v. State, 354 P.3d 1277, 1281, 131 Nev. Adv. Rep. 61, *8 (2015).

9
10 A defendant has the right to make a reasonably informed decision whether to accept a
11 plea offer. See Hill v. Lockhart, 474 U.S. 52, 56-57, 106 S.Ct. 366, 369, 88 L.Ed.2d 203 (1985)
12 (voluntariness of guilty plea depends on adequacy of counsel's advice); Von Moltke v. Gillies,
13 332 U.S. 708, 721, 68 S.Ct. 316, 322, 92 L.Ed. 309 (1948) (“Prior to trial an accused is entitled
14 to rely upon his counsel to make an independent examination of the facts, circumstances,
15 pleadings and laws involved and then to offer his informed opinion as to what plea should be
16 entered.”).

17
18 In this case, Mr. Dryden asserts that he was not able to make a capable decision at the
19 time of his plea due to a delay in being given his numerous psychiatric medications. He
20 specifically alleges that the jail withheld his medications for five (5) days and only started
21 supplying him with them the two days before he entered his plea. While his court appointed
22 attorney was discussing the offer with him, Mr. Dryden did not fully understand and
23 comprehend what was being explained to him due to being deprived of his necessary
24 medications.

25
26
27 Additionally, Mr. Dryden also felt coerced by his attorney to accept the negotiations and
28 he did not do so freely and voluntarily. According to him, he was offered \$330 from Mr.

1 Abbatangelo to buy a television and tennis shoes in prison if he pled. He felt obligated to
2 accept the plea even though he actually wanted to exercise his right to have a jury trial. Also,
3 Mr. Dryden alleges that his attorney did not properly explain the sentencing structure to him
4 before entering his plea. He states that he was informed that the “back number” of the
5 sentencing range would mathematically equate to eight (8) years but has since learned it is, in
6 fact, higher.
7

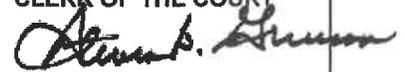
8 Lastly, Mr. Dryden feels that his attorney did not spend adequate time with him prior to
9 entering into the GPA. Mr. Dryden was confined to “the hole” while in CCDC but Mr.
10 Abbatangelo promised to come see him in person the weekend before trial was to start. Instead,
11 there was only one attorney visit on Monday and it was through video. It is for these reasons
12 that Mr. Dryden wishes to withdraw his guilty plea.
13

14 CONCLUSION

15 Based upon the foregoing Motion and arguments set forth, Mr. Dryden respectfully
16 requests that this Court grant the instant Motion to Withdraw Guilty Plea. Alternatively, Mr.
17 Dryden requests an evidentiary hearing to determine whether his plea was freely and voluntarily
18 entered into, and whether there was any manifest injustice warranting withdrawal of his plea.
19

20 DATED this 2nd day of March, 2020.
21

22 By: /s/ Marisa Border
23 MARISA BORDER, ESQ.
24 Nevada Bar No.: 8381
25 Attorney for Defendant
26 BRYAN DRYDEN
27
28



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7 Email: mborderlaw@gmail.com
8 Attorney for Defendant
9 **BRYAN DRYDEN**

DISTRICT COURT
CLARK COUNTY, NEVADA

8 STATE OF NEVADA,)
9)
10 Plaintiff,)
11 vs.)
12 BRYAN DRYDEN,)
13 Defendant.)

Case No.: C-18-334955-1
Dept. No.: XVIII

DEFENDANT'S BRIEF IN SUPPORT OF MOTION TO WITHDRAW GUILTY PLEA

15 COMES NOW Defendant, BRYAN DRYDEN, by and through his attorney of record,
16 MARISA BORDER, ESQ., and hereby submits this Brief in Support of Motion to Withdraw
17 Guilty Plea.

19 DATED this 10th day of December, 2020.

20 Respectfully submitted:

21
22
23 By: /s/ Marisa Border
24 MARISA BORDER, ESQ.
25 Attorney for Defendant
26 BRYAN DRYDEN
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I.

INTRODUCTION

The defendant, Bryan Dryden (hereinafter “Mr. Dryden”) entered into a Guilty Plea Agreement on November 5, 2019. Pursuant to the Guilty Plea Agreement signed by Mr. Dryden, he plead guilty to one count of Attempt Sexual Assault, a category B Felony. At time of sentencing, both parties were stipulating to a sentence of five (5) to twenty (20) years in prison to run concurrently to 09C258241. Prior to his sentencing, Mr. Dryden indicated his desire to withdraw his plea. After filing a Motion to Withdraw the Guilty Plea, this Honorable Court granted a hearing on the matter. The hearing was conducted over the course of multiple days and included testimony from Mr. Dryden’s former counsel, Anthony Abbatangelo, as well as Mr. Dryden himself. This Brief now comes in support of the underlying Motion and testimony provided to Your Honor.

II.

TESTIMONY SUPPORTING MOTION TO WITHDRAW GUILTY PLEA DUE TO INCORRECT INFORMATION OF SENTENCING RANGE AND STRUCTURES

One of Mr. Dryden’s basis of wanting to withdraw his plea was because Tony Abbatangelo (hereinafter “Mr. Abbatangelo”), his attorney at the time, did not properly explain the sentencing structure to him. This fact is supported by Mr. Abbatangelo’s testimony on August 13, 2020. On that hearing date, Mr. Abbatangelo testified that the offer extended to Mr. Dryden was to serve four (4) to ten (10) years in this case to run concurrent to another criminal case wherein he was already serving a prison sentence. Transcripts from August 13, 2020, page 14, lines 23-25 and page 15, lines 1-4. In fact, the negotiation contained in the Guilty Plea Agreement was for Mr. Dryden to serve a five (5) to twenty (20) year prison sentence.

Mr. Dryden further alleges that he was informed by Mr. Abbatangelo that the “back number” of the sentencing range would mathematically equate to eight (8) years but has since

1 learned it is, in fact, twelve (12) years. If he had been aware of this misinformation, Mr.
2 Dryden testified that he would never have accepted the negotiation. Id. Page 27, lines 22-25.
3 Mr. Dryden detrimentally relied on the advice of his attorney that he would expire his prison
4 sentence in eight (8) years when, in actuality, it takes twelve (12) years. Id. Page 28, Lines 14-
5 19. The expiration date of this charge is a huge determining factor to Mr. Dryden as he is
6 serving a life sentence. Becoming parole eligible is the only opportunity of freedom he has.
7

8 III.

9 TESTIMONY SUPPORTING MOTION TO WITHDRAW GUILTY PLEA DUE TO 10 COERCION AND BRIBERY BY MR. ABBATANGELO

11 Mr. Dryden also asserts as a basis to withdraw his plea, that he felt coerced by his
12 attorney to accept the negotiations and he did not do so freely and voluntarily. Mr. Dryden felt
13 that way based on the fact that he was offered \$330 from Mr. Abbatangelo to buy a television
14 and tennis shoes in prison if he pled. That assertion is supported by Mr. Abbatangelo's
15 testimony again on August 13, 2020, wherein he testified that "I'll buy you a TV" in
16 recognizing that four years is a long time to be in prison without a television. Transcripts from
17 August 13, 2020, page 15, line 13.
18

19 Mr. Dryden elaborated on the conversation he had with Mr. Abbatangelo stating, "And I
20 said, are you going to buy me a TV if I take this deal? And he says, yes, I'll get you a TV if
21 you take this deal." Id. Page 22, lines 13-14. The claim that Mr. Dryden was coerced into
22 accepting a negotiation in exchange for money by Mr. Abbatangelo is abundantly clear.
23

24 IV.

25 TESTIMONY SUPPORTING MOTION TO WITHDRAW GUILTY PLEA DUE TO A 26 LACK OF TIME AND EXPLANATION OF GUILTY PLEA AGREEMENT BEFORE 27 SIGNING

28 Mr. Dryden feels he is entitled to withdraw his guilty plea due to the fact that his
attorney did not spend adequate time with him prior to entering into the GPA. At a continued

1 hearing date on October 13, 2020, Mr. Abbatangelo proffered testimony that when he went to
2 the jail on Monday night before trial was supposed to start that Mr. Dryden had decided he
3 would like to accept the State's offer. It was his specific testimony that "He said he wanted to
4 take the deal. I did not have a guilty plea agreement." Transcripts from October 13, 2020, page
5 13, lines 23-24. Mr. Abbatangelo went on to testify that the next day, Tuesday, the guilty plea
6 was signed. *Id.* Page 14, line 1. It is clear that the Guilty Plea was not read to nor provide to
7 Mr. Dryden prior to coming to court that Tuesday to enter his plea.
8

9 Mr. Dryden testified more thoroughly about the lack of time spent with him by his
10 attorney going through the Guilty Plea Agreement. "...we never really read over any of it. It
11 was just a once over glancing at it." *Id.* Page 20, lines 19-20. Mr. Dryden provided more detail
12 to the Court regarding being given the GPA in court and not going through the Guilty Plea
13 Agreement with Mr. Abbatangelo on the subsequent hearing date of October 29, 2020. It was
14 on that date that he testified, "I didn't read it until after I got back to my cell, after I had taken
15 the deal. Transcripts from October 29, 2020, page 23, line 1. Without being provided sufficient
16 time and access to Counsel to go through the GPA, Mr. Dryden should be allowed to withdraw
17 his plea.
18
19

20 V.

21 **TESTIMONY SUPPORTING MOTION TO WITHDRAW GUILTY PLEA DUE TO**
22 **NOT BEING PROPERLY MEDICATED AND INCAPABLE OF KNOWINGLY AND**
23 **VOLUNTARILY ENTERING INTO THE NEGOTIATION**

24 In this case, Mr. Dryden asserts that he was not able to make a capable decision at the
25 time of his plea due to a delay in being given his numerous psychiatric medications. He
26 specifically alleges that the jail withheld his medications for five (5) days. This claim is
27 supported by Mr. Dryden's testimony on October 13, 2020. In response to being asked if he
28 was being provided his medication while being booked into the jail, Mr. Dryden answered he

1 was not. Between the dates of November 1, 2019 and November 4, 2019 he was not given any
2 medication and alerted his attorney to that fact. Transcript from October 13, 2020, page 18,
3 lines 1-7. Later, Mr. Dryden clarified that he actually went from October 29, 2019 to
4 November 4, 2019 without getting his medications. Id. Page 18, lines 23-24.

5 In detailing for the Court what physical and mental symptoms he underwent as a result
6 of not being provided medication, he testified that it was “sever pain and mental anguish” that it
7 felt like his “bones were crushing.” Id. Page 19, lines 18-20. When asked point blank, if being
8 without his medications impairs his judgement, decision-making and ability to understand
9 complex issues, Mr. Dryden responded, “Well yes.” Id. Page 20, lines 9-12. Mr. Dryden
10 equated being in jail and not receiving his medications before entering his plea to psychological
11 coercion used as a war tactic. Id. Page 26, lines 7-11.

12
13
14 Mr. Dryden was clear and honest with the Court that he was not receiving and taking his
15 medication when being canvassed as he entered into the Guilty Plea Agreement. The State
16 verified this information at the hearing on October 29, 2020. Reading from transcripts on the
17 date of the entry of plea, DA Bryan Schwartz read, “The Judge asked you: are you currently
18 under the influence of any drug, medication or alcoholic beverage? You answered: no,
19 ma’am.” Transcripts from October 29, 2020, Page 7, lines 3-6. Mr. Dryden further clarified by
20 responding, “If I said no ma’am that I’m not on any medication is – would be correct. That – I
21 was supposed to be on medication, but I wasn’t.” Id. Page 7, lines 12-13. Mr. Dryden did not
22 fully understand and comprehend what was being explained to him due to being deprived of his
23 necessary medications and should therefore be granted his Motion to Withdraw his Guilty Plea.
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CONCLUSION

Based upon the foregoing Brief, hearing transcripts and the underlying Motion, Mr. Dryden respectfully requests that this Court grant the Motion to Withdraw Guilty Plea.

DATED this 10th day of December, 2020.

By: /s/ Marisa Border
MARISA BORDER, ESQ.
Nevada Bar No.: 8381
Attorney for Defendant
BRYAN DRYDEN

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that electronic service of the foregoing Brief in Support of Motion to Withdraw Guilty Plea was made on the 10th day of December, 2020 to:

Clark County District Attorney
Email: motions@clarkcountyda.com

By: /s/Marisa Border
MARISA BORDER, ESQ.
Nevada Bar No.: 8381
Attorney for Defendant
BRYAN DRYDEN

THE VEGAS LAWYERS
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 707-7000 • Fax (702) 366-1940

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OGM
TONY L. ABBATANGELO, ESQ. (NV Bar #3897)
Email: Tony@thevegaslawyers.com
THE VEGAS LAWYERS
BY PAUL PADDA LAW, PLLC
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 707-7000
Fax: (702) 366-1940

Mailing Address:
4030 S. Jones Boulevard, Unit 30370
Las Vegas, Nevada 89173

Attorney for Defendant

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

STATE OF NEVADA,

Plaintiff,

vs.

DRYDEN, BRYAN WARREN,

Defendant.

CASE NO.: C-18-334955-1

DEPT.: XXI (21)

**ORDER GRANTING MOTION TO
WITHDRAW AS ATTORNEY OF
RECORD FOR DEFENDANT**

Date of Hearing: July 27, 2021
Time of Hearing: 1:30 p.m.

The above-entitled matter having come before the Court on the 27th day of July, 2021, Defendant not being present with Counsel, TONY L. ABBATANGELO, ESQ., attorney of record for Defendant, BRYAN WARREN DRYDEN, and the State of Nevada being represented by the Clark County District Attorney's Office; the Court having considered the pleadings and papers already on file in this matter and having heard the argument of counsel, and

1
Order Granting Motion to Withdraw as Attorney of Record Defendant
State of Nevada v. Bryan Warren Dryden
Case No. C-18-334955-1, Dept. XXI
PPL 201161-10-10

THE VEGAS LAWYERS
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 707-7000 • Fax (702) 366-1940

1 GOOD CAUSE appearing therefore,

2 IT IS HEREBY ORDERED that Counsel, TONY L. ABBATNGELO, ESQ., shall be and
3 is hereby withdrawn as attorney of record for Defendant, BRYAN WARREN DRYDEN, in the
4 above-entitled matter;

5 IT IS FURTHER ORDERED that the Clark County Public Defender's Office is hereby
6 appointed to represent Defendant in all further proceedings in this matter.
7

8 DATED this ___ day of _____, 2021.
9

10 Dated this 28th day of July, 2021

11 
12 _____
13 DISTRICT COURT JUDGE

14 819 9F9 71E9 9E14
15 Tara Clark Newberry
16 District Court Judge

17 Respectfully Submitted:

18 
19 Tony L. Abbatangelo, Esq.
20 Nevada Bar No. 3897

21 *Attorney for Defendant*
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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada
vs
Bryan Dryden

CASE NO: C-18-334955-1
DEPT. NO. Department 21

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 7/28/2021

- | | |
|------------------|--------------------------------------|
| Stephen Wolfson | Motions@clarkcountyda.com |
| Tony Abbatangelo | Tony@thevegaslawyers.com |
| Marissa Border | mborderlaw@gmail.com |
| Genevieve Craggs | genevieve.c.craggs@clarkcountyda.com |

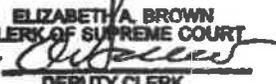
IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN WARREN DRYDEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83233

FILED

AUG 06 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING MOTION

This is a direct appeal from a judgment of conviction. Appointed attorney Tony Abbatangelo has filed a motion to withdraw as counsel for appellant. In support of the motion, Mr. Abbatangelo indicates that appellant has repeatedly expressed dissatisfaction with Mr. Abbatangelo, and that there has been a complete breakdown in communication between himself and appellant. As a result, Mr. Abbatangelo claims that he can no longer effectively represent appellant in this appeal.

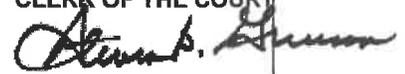
The removal of appointed counsel on direct appeal is not warranted absent a showing of good cause. *See Thomas v. State*, 94 Nev. 605, 584 P.2d 674 (1978); *cf. Thomas v. Wainwright*, 767 F.2d 738, 742 (11th Cir. 1985) (appellant's general loss of confidence or trust in counsel alone is not adequate cause for appointment of new counsel). Although appellate counsel in a criminal case should communicate with the defendant as necessary, *see Nevada Indigent Defense Standards of Performance*, Standard 3-5, 9, the decision as to what issues to raise in an appeal rests within counsel's professional judgment. *Jones v. Barnes*, 463 U.S. 745, 751-54 (1983). Accordingly, this court concludes that Mr. Abbatangelo does not

demonstrate good cause warranting his withdrawal as counsel, and the motion is denied.

It is so ORDERED.

J. Gardner, C.J.

cc: Paul Padda Law, PLLC
Attorney General/Carson City
Clark County District Attorney



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

BRYAN WARREN DRYDEN,
Defendant.

CASE#: C-18-334955-1
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS,
DISTRICT COURT JUDGE
THURSDAY, JANUARY 28, 2021

**RECORDER'S TRANSCRIPT OF HEARING:
ARGUMENT AND STATE'S OPPOSITION TO DEFENDANT'S
MOTION TO WITHDRAW GUILTY PLEA**

APPEARANCES: [All appearances via videoconference]

For the State: GENEVIEVE CRAGGS, ESQ.
Deputy District Attorney

For the Defendant: MARISA BORDER, ESQ.

RECORDED BY: YVETTE SISON, COURT RECORDER

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Las Vegas, Nevada, Thursday, January 28, 2021

[Case called at 12:26 p.m.]

THE CLERK: State of Nevada versus Bryan Dryden,
C334955.

THE COURT: All right. Do we have Ms. Border?

MS. BORDER: Yes, Your Honor, I'm here.

THE COURT: All right. This is defendant's motion to
withdraw guilty plea. I've read everything. Anybody want to add
anything?

MS. CRAGGS: No, [audio distortion] I'll submit on the
pleadings and hearing.

THE DEFENDANT: Can I --

THE COURT: Ms. Border, anything?

MS. BORDER: Your Honor, I would feel comfortable if Mr.
Dryden would like to address the Court. I would submit it on the
pleadings that I've previously filed.

THE COURT: Okay. Mr. Dryden.

THE DEFENDANT: Yes, ma'am. I don't see you anywhere
on this screen here. I would like to address the Court about the petition
that was filed by Mrs. Border. I would like to inform the Court that I did
write her and ask her to send me a copy of the petition so I could go
over it with her. I haven't received any correspondence back from Mrs.
Border. And I know Mrs. Border is working hard on my case. I'm not
trying to dog her out.

1 But the briefs that have been gone back and forth with the
2 District Attorney and Mrs. Border over the last couple of months, I
3 haven't seen anything. I was given the chance to -- I was actually asked
4 if I would like to sit in with the back and forth briefs and I declined. But I
5 assumed and actually had informed Mrs. Border that I would like to be
6 able to get copies of these briefs that are going back and forth. And like
7 I said, I've never even got the petition that she filed on this. And I would
8 just like to inform the Court of this situation and a lot of other things. My
9 rights have been violated, but that's the main thing for right now.

10 THE COURT: All right. Ms. Border.

11 MS. BORDER: Your Honor, for the record I have not received
12 any correspondence from Mr. Dryden. I don't know which address those
13 were going to, but I haven't certainly not received any letters. But I can
14 forward him all the pleadings and motions that have been filed on his
15 behalf.

16 THE DEFENDANT: I've sent --

17 THE COURT: Do you want an opportunity to do that before I
18 rule?

19 MS. BORDER: I don't think that would change the ruling.
20 There would be -- we've both had our opportunity to file the arguments
21 and in preparation for today's hearing, so I don't know that it necessarily
22 needs to be continued for that. But just for Mr. Dryden to know that I will
23 certainly mail those to him.

24 THE DEFENDANT: Mrs. Holthus, I -- Mrs. Border, I wrote to
25 both addresses I've got for Mrs. Border. I've repeatedly called her 100

1 times over the last 6 months. I've called both her phone numbers I've
2 got. I've written both addresses. I've never received the mail back. I've
3 got [indiscernible] slips on these and specifically outlining that I would
4 like to see that petition and be able to talk to her. She actually told us in
5 the last hearing that she did receive my mail. And so this is a
6 contradiction now that she's saying that she did not receive my mail.

7 MS. BORDER: Your Honor, I'm not going to argue with Mr.
8 Dryden. I have his whole file here. I have in the past received letters
9 from him. They were addressed to an old address in Henderson where I
10 used to work. Those take time to be forward on to my new address if
11 that's the address that you're using. I don't think that this has any
12 implication into going forward with today's hearing or today's ruling.
13 Nothing else is going to be filed. It's a matter of just sharing with him
14 what has been filed based on the testimony that he was present for at
15 each and every court date where we had testimony.

16 THE COURT: Okay.

17 THE DEFENDANT: I'm not trying to be disrespectful to Mrs.
18 Border, Mrs. -- Your Honor Holthus. Is this a good time for me to say
19 something to the Court in defense of my ruling or is it going to change
20 your ruling to withdraw this plea?

21 THE COURT: Probably not.

22 THE DEFENDANT: I feel that I should be able to address the
23 Court right now.

24 THE COURT: You actually technically aren't, because you
25 have represented by counsel. I'll give you a little bit of leeway, but it's

1 got to be quick. We have a lot of cases yet.

2 THE DEFENDANT: I would just like to point out that my rights
3 to the speedy trial were violated in front of the --

4 THE COURT: Okay, now you're --

5 THE DEFENDANT: -- presiding judge before you.

6 THE COURT: -- raising issues. Mr. Dryden, you're raising
7 issues that are outside the petition, so I'm not going to hear those, all
8 right?

9 THE DEFENDANT: I was just going to build up to that
10 petition. Just that --

11 THE COURT: If you have anything to add on the petition --

12 THE DEFENDANT: -- I appreciate you guys.

13 THE COURT: -- you can add that right now.

14 THE DEFENDANT: And, Your Honor, I just want you to know
15 that the -- this is a railroad job. I am about to have my murder conviction
16 overturned. I've been down for 12 years and now for the District
17 Attorney to be bringing an assault with a deadly weapon from 2007 that
18 has absolutely no merit to it by a prostitute 10 years my senior that
19 accosted me at 2 o'clock in the morning behind MGM Grand is total BS.
20 This is bullshit.

21 THE COURT: Okay.

22 THE DEFENDANT: Excuse my language, but this is bullshit.

23 THE COURT: All right.

24 THE DEFENDANT: I don't deserve any -- all through this
25 situation like this. This is absolute ludicrous what this Court is doing to

1 me, because I'm about to have murder conviction overturned. And now
2 a prostitute that didn't get paid is accusing me from 2007 when they had
3 my name back then and now they are bringing these charges against
4 me. I've been working for 12 years to have this murder conviction
5 overturned. I'm actually innocent. And to have this done to me is
6 ridiculous.

7 THE COURT: All right. Thank you, Mr. Dryden. I did sit
8 through the --

9 THE DEFENDANT: Thank you.

10 THE COURT: I did sit through the hearing and observed all
11 the testimony and I do not find a basis to withdraw the guilty plea. It's
12 going to be denied as set forth in the State's brief and opposition.

13 If the State will please prepare the findings --

14 MS. CRAGGS: Yes, we will Your Honor, thank you.

15 THE COURT: -- and have it signed off by Ms. Border. Thank
16 you.

17 THE DEFENDANT: I mean, this is crazy that there's no
18 merit, that my counsel paid me to take the guilty plea and then told me to
19 lie through the plea canvass.

20 THE COURT: I sat, I observed, and I don't believe that for a
21 minute, Mr. Dryden.

22 THE DEFENDANT: Well that's the God honest truth on these
23 nails scared hands.

24 THE COURT: So --

25 THE CORRECTIONS OFFICER: Your Honor, are we done?

1 THE COURT: We're done. Good luck to you, Mr. Dryden.

2 THE DEFENDANT: I've already been proven innocent --

3 THE CORRECTIONS OFFICER: Let's go.

4 THE DEFENDANT: -- supernaturally.

5 THE CORRECTIONS OFFICER: Go.

6 [Hearing concluded at 12:34 p.m.]

7 [Case recalled at 12:39 p.m.]

8 THE CLERK: Recall page 4, State of Nevada versus Bryan
9 Dryden, C334955.

10 THE CORRECTIONS OFFICER: He's already gone, Your
11 Honor.

12 MS. CRAGGS: Your Honor, I just asked for it to be recalled,
13 because I do think we need a sentencing date as he was never actually
14 sentenced in this case.

15 THE COURT: Oh.

16 THE CLERK: It has it on a sentencing recent trial on the 11th.

17 THE COURT: We have it on for the 11th.

18 THE CLERK: For sentencing for the [indiscernible]

19 MS. CRAGGS: Oh, okay. I'm sorry. Thank you.

20 THE COURT: Why don't we go ahead and make that the
21 sentencing date, yeah?

22 MS. CRAGGS: For Mr. Dryden?

23 THE COURT: Yeah.

24 MS. CRAGGS: Well I thought Mr. -- my other case was on for
25 the 11th, but that would be great for the State for the sentencing date.

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THE COURT: Is Ms. Border still out there?

MS. CRAGGS: I think she had to jump off, Your Honor.

THE COURT: All right. Well, --

THE CLERK: It was already set for a status check.

THE COURT: Let's set that -- we'll circulate an email and see if we can go ahead and do sentencing on that date.

MS. CRAGGS: Thank you.

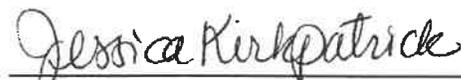
THE COURT: Thank you.

THE CLERK: February 11th at 11 a.m.

[Hearing concluded at 12:40 p.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.



Jessica Kirkpatrick
Court Recorder/Transcriber



1 NOASC
2 TONY L. ABBATANGELO, ESQ. (NV Bar #3897)

3 Email: Tony@thevegaslawyers.com

4 **THE VEGAS LAWYERS**

5 **BY PAUL PADDA LAW, PLLC**

6 4560 South Decatur Boulevard, Suite 300

7 Las Vegas, Nevada 89103

8 Tele: (702) 707-7000

9 Fax: (702) 366-1940

10 Mailing Address:

11 4030 S. Jones Boulevard, Unit 30370

12 Las Vegas, Nevada 89173

13 *Attorney for Defendant*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 THE STATE OF NEVADA,

CASE NO.: C-18-334955-1

17 Plaintiff,

DEPT.: 18 (3F)

18 vs.

19 DRYDEN, BRYAN WARREN,

NOTICE OF APPEAL

20 Defendant.

21 NOTICE IS HEREBY GIVEN that BRYAN WARREN DRYDEN, Petitioner, by and
22 through his attorney, TONY L. ABBATANGELO, ESQ., does hereby appeal to the Supreme
23 Court of the State of Nevada from the guilty finding entered in this action on the 8th day of July,
24 2021.

25 DATED this 14th day of July, 2021.

26 
27 Tony L. Abbatangelo, Esq.
28 Nevada Bar No. 3897

Attorney for Petitioner/Defendant

THE VEGAS LAWYERS
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 707-7000 • Fax (702) 366-1940

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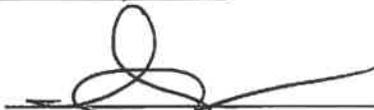
CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that service of the above and foregoing **NOTICE OF APPEAL**

was made this 14th day of July, 2021 to:

Office of the District Attorney
200 Lewis Avenue, Third Floor
Las Vegas, Nevada 89101
Motions@clarkcountyda.com



An Employee of Paul Padda Law, PLLC

THE VEGAS LAWYERS
TONY L. Abbatangelo, Esq.
4560 S. Decatur Blvd. #300
Las Vegas, NV. 89103

Present
Jan. 2nd
after being
R.T.S. from the
Decatur address
"oops"

Re: State of NV v. Bryan Dyden
District Court case #: C-18-334955-1
Dept. XXI
Supreme Court Case #: 83233

Dear Tony, 12-14-21

Seasons greetings ☺

I got your letter yesterday addressing
our appeal for credit for time served.

My direct appeal is centered around
& titled: "Defendants Direct Ap-
peal to Withdraw Plea" before

Bryan Dyden 1070536
P.O. Box 650
Indian Springs, NV. 89070

Carbon Copies on File

✓
 Sentencing on the grounds of "inf-
 factive assistance of counsel" ²
 both court appointed counsel ³ on
 grounds of coercion ⁴ instead -
 ing / False pretenses & many
 other grounds I will go over
 in a future (near) letter ad -
 addressing these matters.

Please file this direct ap -
 Peel as soon as possible.
 The check is ticking on our window
 to get this done.
 Please research this window
 we have to file our direct ap -
 Peel to withdraw my plea.

3/

You need to point out that the Court (Dist.) had dismissed you already & appointed a new lawyer & you were ordered to send the new lawyer as Defendant my entire case file.

The lower court erred in its reappointing you as Counsel!
I have the filed & stamped motion to dismiss you as Counsel! For Judge Holthus to reappoint you is ludicrous!

You cant defend me against Yourself.

Holthus is OUTOFLINE!!

4
So start filing these motions on these issues, mainly: "Defendants Direct Appeal to withdraw Plea" before sentencing on grounds of ineffective assistance of

Counsel. Mainly the...

~~_____~~ fill in attorney for failing to send me the petition & briefs & failing to respond to letters/calls.

Please send this letter back acknowledging you are in receipt of this letter & what our deadlines are.

Thank you
B. Replew

Tony Abbatangelo, Esq.
THE VEGAS LAWYERS
4030 S. Jones Blvd. Unit 30370
Las Vegas, NV. 89173

Re: Bryan Warren Dryden v. State of NV,
Supreme Court of NV. Case # 83233

Dear Tony, Jan. 2, 2022

Happy New Year! 😊

Hey, I've been writing you at the
Decatur address & all this mails
been R.T.S.

I found the motion granted to
withdraw Counsel, Filed Jan. 6, 2020
where a hearing on Jan. 30, 2020 granted
appointment of Counsel to Marisa Border,
pursuant to NRS 7.055 You were
terminated & ordered to transfer entire
Case File. Signed by me December 30,
2019

Judge Holtthus erred by reappointing you
as Counsel for me when my main grounds

are Coercion & ineffective assistance
of Counsel.

This is ridiculous!

Anyways, Hope this letter finally
reaches you.

I also wrote the Supreme Court
Clerk to make note of my decision
to go forward with my direct
appeal to withdraw plea deal.

Thank you!

A handwritten signature in blue ink, appearing to read "Bryan Bough". The signature is stylized with a large, sweeping initial 'B' and a long, horizontal flourish extending to the right.

Bryan Dryden # 1070536
P.O. Box 650 (HDSP)
Indian Springs, NV,
89070

HIGH DESERT STATE PRISON

JAN 02 2022

UNIT 10

RECEIVED
JAN 05 2022

LAS VEGAS NV 890

JAN 2022 PM 5 L



BY:

Tony L. Abbataangelo, Esq.
THE Vegas Lawyers ...
4030 S. Jones Blvd. Unit # 30370
Las Vegas, NV. 89173

89173-881735



BD00036

FILED

JAN 05 2022

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

Supreme Court of Nevada
Office of the Clerk
201 S. Carson St. # 201
Carson City, NV. 89701

Re: BRYAN WARREN DRYDEN v. State of Nevada
Case # 83233 (District Court # C-18-334955-1)

Attn. Court Clerk, Jan. 2, 2022

I am writing to inform the Court that I have repeatedly called & wrote Tony Abbatangelo to proceed in the titled motion: "Direct Appeal to withdraw Plea" all to No avail.

Letters sent to the DeCATUR address have been sent back "Return to Sender".

This morning I found Tony's mailing address on Jones Blvd. & am also sending a letter to Tony to proceed with the Appeal to withdraw Plea.

~~Thank You!~~
JAN 05 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

Bryan Dryden 1070536
P.O. Box 650
Indian Springs, NV, 89070

23-0037427
BD0003727

Tony Abbatangelo, Esq.
P.O. Box 30370
Las Vegas, NV., 89173

January 24, 2022

Re: Supreme Court Case No.: 83233
Appeal (Direct) to Withdraw Plea

Dear Tony,

I just received a 14 day notice from the Supreme Court to file opening appeal briefs & appendix, dated Jan. 17th.

I want this direct appeal to withdraw/plea deal to reflect "Ineffective assistance of counsel, both on your part for forcing me into a plea deal through lies & coercion, as revealed at the evidentiary hearing, but also by substitute counsel Marissa Border, where she lied on record & said she had not been receiving any of my letters

c.c.
on file &
sent to
NV.S.Ct.

Turnover }
}

2/

financial

telling her to submit the financial statement as an exhibit showing the receipt of funds on my account by you before sentencing & to send me copies of the petition to prove she did this. Also all briefs, I wanted copies of this petition to withdraw plea deal & all briefs that never came.

Marissa Border, lied on record that she had never received any of these letters, then showed 'em on camera!

This is ineffective assistance of Counsel!

She never took any of my calls either!

You swore up & down I'd get my parole or only do 8yrs on a 5-20yrs.

Remember? Craig & you, promising me this would all be over with "IF you take this deal, you'll be out by 2025 at the latest!"

You & Craig misled me into a plea deal I did not fully understand.

Come to find out a 5-20yrs, Cleans up in 12 yrs - Not 8yrs as you said!

3/

I have been telling you to appeal the withdraw of plea since July 2021. In your letter you state that I was sentenced in "2018". It was in July (8th) 2021, after multiple rescheduling dates through all phases of this shame.

The lower court erred by reappointing you as Counsel after I was granted permission to withdraw, filed Jan. 6, 2020.

You cant argue against yourself.
This is bull shit!

When you failed to ready me for trial over the weekend back in late 2019, & then lied & coerced me into a bogus plea deal; You messed up! I told you over & over: NO!, Go to trial! Then you failed to show up! Now you have to have this plea deal withdrawn & get me a new trial with new Counsel who'll get Kala on the witness stand & admit to being a scorned prostitute, who was

4
not paid drugs for her services;
I never promised to pay after
she interrupted my drug deal with
Charlie.

If I'm found guilty, I'll appeal
& win! That's what I told you to do.
All that'll take less than 12 yrs.
But now it's cutting all that time
frame down for me by the day.

You lied & coerced me into a
bogus plea deal.
Now you have to clean it up.

Please do your best & get me
a new trial.

Hopefully by that time I'll have
the funds to pay for effective
counsel.

The truth will make me free!

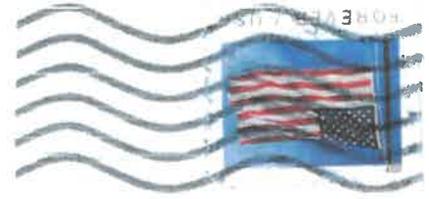
Respectfully, Bryan Dupen

73. Please; don't do me wrong.
I've been through hell already.

Bryan Dryden 1070536
P.O. Box 650 (HDSP)
Indian Springs, NV
89070

Confidential
Legal Mail
JAN 24 2022
UNIT

LAS VEGAS NV 890
25 JAN 2022 PM 4 L



@ Tony Abbatangelo, Esq.
THE Vegas Lawyers

P.O. Box 30370

RECEIVED
Las Vegas, NV.
JAN 27 2022

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BY:

89173-037070





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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
BRYAN DRYDEN,
Defendant.

CASE NO: C-18-334955-1
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE
THURSDAY, AUGUST 13, 2020

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
EVIDENTIARY HEARING; MOTION TO WITHDRAW PLEA - DAY 1**

APPEARANCES:

For the State:

GENEVIEVE CRAGGS, ESQ.,
BRYAN S. SCHWARTZ, ESQ.
Deputy District Attorneys

For the Defendant:

MARISA BORDER, ESQ.
Deputy Public Defender

RECORDED BY: YVETTE SISON, COURT RECORDER

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WITNESS

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ANTHONY ABBATANGELO

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Las Vegas, Nevada; Thursday, August 13, 2020

[Proceeding commenced at 1:15 p.m.]

THE COURT CLERK: Page 4, State of Nevada versus Bryan Dryden, C334955.

MS. BORDER: Your Honor, Marisa Border present with Mr. Dryden who is in the jail, if I could just make a record and also inform Mr. Dryden of a couple things. Where's he going?

MR. SCHWARTZ: He just left.

MS. BORDER: Come back.

THE DEFENDANT: I'm right here.

MS. BORDER: Hello. So, Your Honor --

THE DEFENDANT: Hello.

MS. BORDER: -- there had been an issue as to medical records when we were here in the past. The State had kindly offered to try and reach out and get those. Unfortunately, there were all sorts of roadblocks, and those were not able to be received by the DA's Office. So, then I in turn did a subpoena after finding out the appropriate person to email that to and speak to them. And I also have not received any medical records, that in all fairness with only about two weeks ago that I did attempt to do that.

I don't know if they're coming. We can certainly go forward to the hearing without the medical records. I just want to put that out there for Mr. Dryden to hear and to contemplate.

The other thing is that the State just found out about and

1 provided me with Supreme Court -- it looks like their -- an opening brief
2 and also an order of affirmance of the motion. I want to provide these to
3 Mr. Dryden because they are eerily similar to the facts that we have here
4 in regards to why he wanted to withdraw his plea. So, I want him the
5 opportunity to look through those and be prepared for possible cross-
6 examination by the State before going forward with the hearing.

7 MS. CRAGGS: Your Honor --

8 THE COURT: Here's the problem, guys. Well, go ahead.

9 MS. CRAGGS: Oh, I'm sorry. I just was going to clarify a
10 couple things.

11 THE COURT: Go ahead, go ahead.

12 MS. CRAGGS: Your Honor, so in the past, I've been able to
13 get CCDC records just with a simple subpoena. Apparently since
14 COVID has started, that's a little bit different these days. And we had to
15 get a release by Mr. Dryden, so I did attempt to, in the way I've done it in
16 the past, and they just told me we weren't able to do it that way
17 anymore.

18 I did argue in my response that he did have essentially a lot of
19 experience in the criminal justice system. So, in preparation for today's
20 hearing, I looked up his 2009 murder conviction and I printed out that
21 guilty plea agreement. While I was doing that, I noticed that he had
22 done a motion to withdraw a plea in that case, which I had never seen
23 before. And I started looking through that this morning and it -- he
24 basically makes the same contentions in that case before sentencing as
25 he does in this case.

1 So, I printed all of that off, let Ms. Border know. But I just gave
2 that to her this morning, and I, myself, you know, didn't realize that that
3 had happened in that case until I started prepping and essentially
4 printing out exhibits to bring to the hearing. So that's what Ms. Border's
5 discussing because we certainly would want to, and are planning to, ask
6 him questions about that 2009 motion. And it did go up to the Supreme
7 Court, and they did affirm his conviction and essentially said that there
8 were no grounds to withdraw his plea.

9 THE COURT: Is it the -- it's the one about the medications or
10 the lack thereof?

11 MS. CRAGGS: There's --

12 THE COURT: That's the basis?

13 MS. CRAGGS: -- essentially the same thing regarding the
14 medications. I'm getting -- I'm not sure exactly what he says. I think he
15 says that he was either -- had too many medications and so he was
16 intoxicated and couldn't appropriately enter the plea in the 2009 case.
17 And in ours, he says he wasn't given the medications until two days
18 before. And then additionally in the 2009 case, he also makes reference
19 to the fact that his counsel essentially coerced him into the plea, which
20 in this case he also is obviously saying that Mr. Abbatangelo did that, as
21 well.

22 THE COURT: Here's a suggestion. And -- is Mr. Abbatangelo
23 here?

24 MS. CRAGGS: I think he's on BlueJeans.

25 MS. BORDER: He's on --

1 THE COURT: Can we go ahead and at least do that portion
2 because that's not really impacted by what you -- the problem is getting
3 the time to do this hearing is -- we got ten minutes --

4 MS. CRAGGS: Right, right.

5 MS. BORDER: Yes.

6 THE COURT: -- now. And I hate to waste ten minutes. Mr.
7 Abbatangelo's been kind of waiting.

8 [Colloquy between counsel]

9 MS. BORDER: We can, Your Honor. My thoughts were to
10 have my client provide testimony first so there was some understanding
11 as to what our contention -- or his contention is with Mr. Abbatangelo,
12 but we can certainly do it with --

13 THE COURT: I don't -- are we able to --

14 MS. BORDER: -- Mr. Abbatangelo first.

15 THE COURT: -- set up like an hour evidentiary hearing? Or --

16 MS. CRAGGS: I think if we could do a special setting, Your
17 Honor, and do that, that might be better.

18 THE COURT: I don't know that we can.

19 THE LAW CLERK: We need to find out if the jail -- if the
20 prison can --

21 MS. BORDER: Well --

22 THE LAW CLERK: -- can we just BlueJeans from the prison?

23 MS. BORDER: -- and that's what I was going to say. He's in
24 High Desert. If he didn't have to be transported down, I'm 100 percent
25 sure that that would be his request. I know it's not ideal for him to come

1 down here, and it would probably be --

2 THE COURT: Well --

3 MS. BORDER: -- easier for us.

4 THE COURT: -- you know --

5 MS. BORDER: I understand.

6 THE LAW CLERK: Well, I mean, we can't -- we can't --

7 MS. BORDER: Neither here nor there.

8 THE LAW CLERK: -- do a special session because
9 everybody else is using the room.

10 MS. BORDER: But he --

11 [Colloquy between the Court and the Law Clerk]

12 MS. BORDER: -- could do via video.

13 THE COURT: I'm told we can't do special sessions because
14 everyone's using --

15 THE LAW CLERK: But if he could do it from High Desert, it
16 wouldn't be the rooms they're using at CCDC.

17 MS. BORDER: Are we able to ask if there's a transport officer
18 from High Desert that may know the information?

19 THE COURT: Is there somebody there from High Desert that
20 knows if we can BlueJeans him from High Desert?

21 THE CORRECTIONS OFFICER NO. 1: Not right now, we can
22 call them. But it's going to take a minute. We can page them --

23 THE COURT: Okay, well --

24 THE CORRECTIONS OFFICER NO. 1: -- but it's going to
25 take a minute.

1 THE COURT: -- we have nine. If you don't mind. What?

2 MS. CRAGGS: Oh yeah, no. Sorry, Your Honor. That's fine.

3 MS. BORDER: And are we just -- Mr. Dryden, does this make
4 sense to you? I know that you and I have quite a hurdle in
5 communicating, just not based on anything except for where you are in
6 this, you know, limited form that we have. But do you understand what's
7 happening right now?

8 THE DEFENDANT: Yeah, I'm listening, and I'm
9 understanding what's being said, yes. I'd like to say something about
10 my 2009 case before Judge --

11 MS. BORDER: Well, we will -- hold on. I don't want you to
12 speak as to those facts right now for a number of reasons and also,
13 you're just not under oath. But we can address that and we'll --

14 THE DEFENDANT: Okay.

15 MS. BORDER: -- definitely address that at the hearing. It's
16 just a matter of is that happening today, is that happening at a different
17 time and date?

18 THE COURT: And if you'll -- any exhibits, if you're going to
19 want me to read any of that stuff, get it to me ahead of time because you
20 can't give it to me then.

21 MS. CRAGGS: Okay. Yes, Your Honor.

22 THE COURT: So, email -- both sides, email any exhibits that
23 you're going to want.

24 MS. BORDER: Understood. I apologize, I actually did the
25 exact opposite of that earlier today and provided things to Wes that --

1 THE LAW CLERK: Yes, I got them.

2 THE COURT: Oh, you did?

3 [Colloquy between the Court and the Law Clerk]

4 MS. BORDER: -- I shouldn't have. I'm sorry. I did. You
5 touched them. I'm sorry.

6 [Colloquy between the Court and the Law Clerk]

7 THE COURT: I don't --

8 THE DEFENDANT: I'm still fighting that 2009 case. I'm still
9 fighting the 2009 case. It's before the United States District Court right
10 now.

11 THE COURT: Okay.

12 THE DEFENDANT: And that's about to be overturned.

13 THE COURT: Yeah? All right.

14 THE DEFENDANT: Yeah.

15 THE COURT: Okay.

16 MS. CRAGGS: And I didn't see any -- I didn't look, but I didn't
17 see anything about that. I just saw the order of affirmance.

18 THE COURT: Oh, and I think what your attorney's saying is
19 she wants to be able to address all that and she just got the info.

20 THE DEFENDANT: Right.

21 [Telephonic interruption]

22 MS. BORDER: Was there maybe another case you wanted to
23 try and call in between? I don't know if they're trying to call the --

24 THE COURT: I believe you're the --

25 THE DEFENDANT: All the cases been taken care of.

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MS. BORDER: -- transport officer.

MR. SCHWARTZ: That's it.

MS. BORDER: Are we done? That was it?

MS. CRAGGS: Oh, okay.

MS. BORDER: Nice.

THE COURT: You have our last ten minutes.

MS. BORDER: Okay.

THE COURT: Use it wisely.

MS. BORDER: I could tell jokes.

[Colloquy between counsel]

THE COURT: Do we want to start his testimony or you don't even feel like you can start it without looking at this?

MS. BORDER: Oh, for -- did we want to do Mr. Abbatangelo since he --

THE COURT: Well, you told me you wanted to --

MS. BORDER: -- is on the BlueJeans?

THE COURT: -- do your client first, so I was going to leave you your client first.

MS. BORDER: Because his testimony may be different given the context of the information I was given today, I actually don't want to start there, and I misspoke earlier. But if we wanted to get to Mr. Abbatangelo, I could certainly do that.

THE COURT: Want to do that?

MS. CRAGGS: That's fine with us, Your Honor. Yeah.

THE COURT: All right, go ahead.

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THE COURT CLERK: Do I swear him in?

THE COURT: Yes. Now you got seven minutes though.

MS. BORDER: Okay. I'll speak quickly.

ANTHONY ABBATANGELO

[having been called as a witness and being first duly sworn, testified as follows:]

THE COURT CLERK: Please state your full name and spell your first and last name for the record.

THE WITNESS: Tony Abbatangelo, T-O-N-Y, A-B-B-A-T-A-N-G-E-L-O.

MS. BORDER: May I, Your Honor?

THE COURT: You may.

DIRECT EXAMINATION

BY MS. BORDER:

Q Thank you.

So, Mr. Abbatangelo, I'm going to direct your attention to a case C-18-334955-1 wherein the Defendant is Bryan Dryden. Did you have occasion to represent Mr. Dryden on that case?

A I did.

Q And can you describe just a little bit to the Court how your relationship was throughout that case with Mr. Dryden?

THE COURT: Do we need some sort of a waiver here?

MS. BORDER: I was going to do that with --

MS. CRAGGS: Yes.

MS. BORDER: -- oh -- with my client for the attorney-client,

1 but I guess Mr. Abbatangelo would need that, as well.

2 THE COURT: I'm thinking. Yeah.

3 MS. CRAGGS: I've seen it -- just have it on the record, Your
4 Honor, if --

5 THE COURT: Yeah.

6 MS. CRAGGS: -- we canvas them.

7 THE COURT: Mr. Dryden, you understand by filing this
8 motion and calling this witness, are you willing to waive your attorney-
9 client privilege with respect to Mr. Abbatangelo?

10 THE DEFENDANT: If it's in my best interest to try to --

11 THE COURT: I don't know if it's in your best interest.

12 THE DEFENDANT: If my attorney --

13 THE COURT: But it's necessary in order to call this --

14 THE DEFENDANT: -- if my attorney agrees it's in my best
15 interest, then --

16 THE COURT: -- it's necessary in order to call this witness. If
17 you don't waive it, he can't testify.

18 THE DEFENDANT: Yes, I --

19 THE COURT: Okay.

20 THE DEFENDANT: -- guess -- yeah, I'll waive client-attorney
21 privilege.

22 MS. BORDER: And Your Honor, if I may --

23 THE DEFENDANT: Yes, ma'am.

24 MS. BORDER: -- just ask a follow-up question to Mr. Dryden
25 just to make the record abundantly clear.

1 THE COURT: Yes.

2 MS. BORDER: You understand for the Court to hear this
3 motion that you and Mr. Abbatangelo are both going to have to get into
4 the facts of his representation of you in this case?

5 THE DEFENDANT: Yes, ma'am.

6 MS. BORDER: And you understand that we're going to be
7 asking questions that may have been previously covered under
8 attorney-client privilege but is now going to be testified to on an open
9 record?

10 THE DEFENDANT: Yes, ma'am.

11 MS. BORDER: And --

12 THE DEFENDANT: I understand.

13 MS. BORDER: -- okay, and you --

14 THE DEFENDANT: I'll waive.

15 MS. BORDER: -- you waive that attorney-client privilege
16 then?

17 THE DEFENDANT: I'll waive that client-attorney privilege,
18 yes, ma'am.

19 MS. BORDER: Okay.

20 THE COURT: Thank you. Go ahead.

21 THE DEFENDANT: For -- and to the Court.

22 **DIRECT EXAMINATION CONTINUED**

23 BY MS. BORDER:

24 Q So -- thank you.

25 Back to Mr. Abbatangelo. Are you able to just briefly give your

1 rendition of how you thought your attorney-client communications were
2 with Mr. Dryden?

3 A Sure. I was appointed to represent him by Christiansen's
4 office. I remember meeting him initially in court. And visited him up at
5 the prison by myself. And visits up at the prison with our investigator at
6 the time, Craig Becky. I thought it was a very good relationship, enjoyed
7 each other's company, I guess you would say. We discussed the case,
8 and you know, we were ready to go forward.

9 Q Okay. So, this case was set for trial, and at some point, he
10 was brought down to the Clark County Detention Center, right?

11 A Correct, yes.

12 Q And what happened closer to trial in terms of him being down
13 in Las Vegas at the Clark County Detention Center?

14 A Well, there were a bunch of meetings the following -- the week
15 right before trial. Bryan was adamant that he wanted to go trial. I
16 worked with Genevieve Craggs and Bryan Schwartz regarding offers,
17 what we were going to do at trial. So, offers were conveyed. Bryan still
18 did not want to take any deals.

19 And what I recall most correctly -- the most accurately, I
20 should say, is Friday prior to trial starting was the deadline for the offer.
21 And when I met with Bryan, and I'm very confident but not 100 percent
22 sure, Craig Becky was with me, we had a long, lengthy conversation.
23 The offer was essentially, if I remember correctly, four to ten, and the
24 four to ten was to run concurrent with the case that the Court and
25 everybody else was just referencing, which he was fighting because he

1 had just been [indiscernible] at parole, meaning he did -- was denied
2 parole. And he was going to be [inaudible] four years anyway. So, the
3 time essentially would be concurrent and eaten up by the time he was
4 doing.

5 And then more specifically to the topic that Bryan has raised
6 regarding me is, like I said, I like Bryan. We had a good rapport. One
7 thing he mentioned to me and Craig -- so, I know at that time Craig was
8 there -- is he mentioned, you know, four more years without a TV's a
9 long time. You know, I liked him, he even made crosses, like religious
10 crosses, he gave me one. He had said he changed his ways, very
11 Christian man.

12 And he seemed sincere. We had -- always polite when I met
13 with him. And I said I'll buy you a TV. And I -- because I remember
14 looking at Craig, the investigator, and saying how much does one of
15 those cost? And he's like 400, 450. And he said -- Bryan started
16 laughing and -- you know, we're all joking and laughing.

17 And he said he did not want the negotiation offered, and that
18 was 99 percent sure Friday evening. So, I worked all weekend on the
19 case. And on Monday, I reached out to the prosecutors about, you
20 know, certain evidence, how we're going to conduct trial because trial
21 was going to start on Tuesday. And what they said to me was is Bryan
22 taking the offer? I said no. We're going to trial because I thought the
23 offer's off the table as of Friday. The DA said you know what, if he
24 wants to take the offer, then you know, maybe we won't have a trial.

25 So, I went back down on Monday evening because this was

1 Monday afternoon when I was talking to the prosecutors. And Bryan
2 said he wanted to take the deal at this time, he had changed his mind. I
3 said, that's fine. I let the DAs know the next morning in open court in
4 front of Judge Holthus. I received the GPA, I went over it in -- to the jury
5 box where Bryan was sitting, very quietly [indiscernible] the GPA, he
6 signed it, we turned it in and away we went.

7 MS. BORDER: Your Honor, I don't -- is it going to cut off? I
8 don't know at what time the video just stops for Mr. Dryden.

9 THE COURT: Yeah, officers, do you need to go now?

10 THE CORRECTIONS OFFICER NO. 2: We can probably go
11 off in like another seven or eight minutes because the other court starts
12 at a quarter to.

13 THE COURT: Okay, so you don't mind. Thank you.

14 THE CORRECTIONS OFFICER NO. 2: All right.

15 THE WITNESS: Excuse me.

16 BY MS. BORDER:

17 Q So, Mr. Abbatangelo, you had referenced the conversation
18 you had with Mr. Dryden regarding a television. Did you ultimately
19 purchase or provide money to Mr. Dryden for the television?

20 A Yes because I told him -- I said, look, I'll still get you the TV
21 even if you're taking the deal or not because like I said, I liked Bryan.
22 And then he sent some letters, I'd have to go grab the file, he said, you
23 know, where's the money on my books? And he told us about a link to
24 the NDOC website. And I tried charging the card and it was having
25 problems to put money on his books and all that. And eventually, we got

1 it to him.

2 Q How long after he signed the guilty plea agreement was that
3 done, if you remember?

4 A I don't. I could grab the file again. I'd probably say at least a
5 couple weeks. It wasn't like the next day, I know that. But it was two to
6 four weeks I would say.

7 Q And just as a point of clarification, when you were referencing
8 the offer or a potential negotiation with Mr. Dryden, does 5 to 20 years
9 sound correct rather than 4 to 10?

10 A It could be. Whatever was in the GPA or the court record or
11 [inaudible] would be --

12 Q Okay.

13 A -- accurate.

14 Q And --

15 A I remember it running concurrent with his [indiscernible] being
16 denied parole.

17 Q Okay. And how many times would you say that you met with
18 Mr. Dryden when he was at CCDCC prior to trial?

19 A The week right before trial, I'd say at least three times.

20 Q And do you recall whether he was in just general housing or if
21 he was in the hole?

22 A I think he might have been in the hole if I remember correctly.
23 I'm not 100 percent sure.

24 Q Okay. How did Mr. Dryden appear to you when you would
25 meet with him prior to trial? What was his general demeanor and

1 understanding of everything?

2 A He seemed to be understanding everything. He -- I would say
3 would be a typical client right before jury trial for these types of charges
4 because they're -- you know, if we lose, you're doing ten years
5 minimum. So, he -- there were some times he seemed a little anxious
6 but he seemed to be understanding everything and very lucid.

7 Q Were you aware whether or not he was prescribed and taking
8 any medications?

9 A He may have told me that, I'm trying to remember, because I
10 heard you guys talking about the subpoena and medications. I don't
11 recall off the top of my head if he was prescribed a certain medication or
12 not that he told me of.

13 Q I'm guessing I know the answer to this one as well, but do you
14 recall whether or not he ever specifically said to you, I am not getting the
15 medications I need while I'm in jail?

16 A That may have occurred because I know Bryan had concerns
17 for a variety of issues that were outside of the trial, you know, such as I
18 know people were getting sick up at the prison or like a food poisoning
19 of some sort, people poisoning the food, some inmates doing things
20 inappropriately. So, I know he had some concerns outside of the normal
21 trial concerns.

22 Q When you were -- prior to him signing the guilty plea
23 agreement and reviewing the guilty plea agreement with him, did you get
24 to spend time and go through with him the sentencing and possible
25 sentencing ranges?

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[Telephonic interruption]

A I would have told him as the guilty plea agreement says, you know, technically the Judge does not have to follow this recommendation. The Judge can, you know, vary outside of it.

Q Okay, did you discuss with him the 40 percent that is also mentioned in the guilty plea agreement on page 2, under the first paragraph of consequence of the plea?

[Colloquy between the Court and the Law Clerk]

Q And I apologize, I know you don't have the guilty plea agreement there, but if -- just in your general practice, if you would go through that information because it's standard in the guilty plea agreements that everyone signs.

A That is correct. I go through that with everybody. I explain to them if it's a A or B Felony, you're doing the maximum -- minimum whatever that sentence is. If it's a C, D, or E Felony, you're eligible for 40 percent off the bottom.

MS. BORDER: So, Your Honor, at this point I would typically have my client next to me and ask them if they have any questions that they would like to ask through me of this witness. I can't do that obviously since he's not sitting here. So, would it be okay with the Court if I just ask Mr. Dryden if he has any questions for Mr. Abbatangelo?

THE COURT: Sure.

MS. BORDER: Mr. Dryden, do you have any questions that you would like to ask of Mr. Abbatangelo that I have not covered?

THE DEFENDANT: I would like to say that he -- they only

1 visited me --

2 MS. BORDER: Well, Mr. Dryden --

3 THE DEFENDANT: -- twice.

4 MS. BORDER: -- I'm so sorry to interrupt you. It's just that
5 this is not your chance to testify. This is when we ask --

6 THE DEFENDANT: Okay.

7 MS. BORDER: -- questions of Mr. Abbatangelo, himself. So,
8 do you have any questions for him?

9 THE DEFENDANT: Well, I'd like to add -- I'd like to say
10 something. I guess I don't have --

11 MS. BORDER: And --

12 THE DEFENDANT: -- any questions. Because I would rather
13 --

14 MS. BORDER: -- and you will -- you will most certainly get
15 your opportunity to testify and make statements as to what you'd like to
16 the Court. But we just need to address questions.

17 THE DEFENDANT: Any questions? I guess not at this
18 moment. I guess they're about ready to shut off the video. So --

19 MS. BORDER: Okay, so Your Honor --

20 THE DEFENDANT: -- we don't have that much time anyway.

21 MS. BORDER: -- would there -- I'm sorry, Mr. Dryden. Was
22 there a corrections officer or transport officer that was able to give us
23 information regarding the video at High Desert?

24 THE CORRECTIONS OFFICER NO. 1: I have it.

25 THE CORRECTIONS OFFICER NO. 2: Yeah, we have to

1 shut you guys off. We have to start the next court.

2 THE CORRECTIONS OFFICER NO. 1: Let me tell her real
3 quick then.

4 THE COURT: Okay.

5 THE CORRECTIONS OFFICER NO. 2: All right, hold on one
6 second. We got one thing for you.

7 THE CORRECTIONS OFFICER NO. 1: So, we didn't have
8 that information whether they're -- they have the capabilities or not.
9 They said if you contact District Court IT, Mike Doan --

10 THE COURT: Okay.

11 THE CORRECTIONS OFFICER NO. 1: -- he might have that
12 information.

13 THE COURT: Okay, we'll do that.

14 THE CORRECTIONS OFFICER NO. 1: Okay?

15 THE COURT: In the interim, we'll set this --

16 THE CORRECTIONS OFFICER NO. 1: Thank you.

17 THE COURT: -- we'll set this for two weeks from today for a
18 continuation unless we figure out another way. He didn't have any
19 questions for Mr. Abbatangelo. Did the State have any?

20 MS. CRAGGS: I did, Your Honor.

21 THE COURT: Okay, nevermind then. Mr. Abbatangelo,
22 you're going to have to come back.

23 [Colloquy between the Court and the Law Clerk]

24 [Colloquy between the Defendant and the Corrections Officer]

25 THE CORRECTIONS OFFICER NO. 2: Sorry guys.

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MS. BORDER: Thank you.

THE COURT: Let's go three weeks, unless we can figure out how to do it remotely, then we'll all get together and pick another date, all right?

THE COURT CLERK: September 3rd at 12:00 p.m.

MS. BORDER: Thank you.

THE WITNESS: September 3rd?

THE COURT: We'll pick up with the State's --

MS. BORDER: Yeah, Tony, I'll send you the BlueJeans link again if that's okay.

THE WITNESS: Sounds good.

THE COURT: Thank you.

THE WITNESS: Thank you.

MS. BORDER: Thanks.

THE COURT: Thanks -- well, I guess they're gone already.

MS. CRAGGS: Thank you, Your Honor.

[Proceeding concluded at 1:37 p.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.



Kaihla Berndt
Court Recorder/Transcriber



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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
BRYAN DRYDEN,
Defendant.

CASE NO: C-18-334955-1
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE
TUESDAY, OCTOBER 13, 2020

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
EVIDENTIARY HEARING; MOTION TO WITHDRAW PLEA - DAY 2**

APPEARANCES:

For the State:

GENEVIEVE CRAGGS, ESQ.,
BRYAN S. SCHWARTZ, ESQ.
Deputy District Attorneys

For the Defendant:

MARISA BORDER, ESQ.
Deputy Public Defender

RECORDED BY: YVETTE SISON, COURT RECORDER

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Las Vegas, Nevada; Tuesday, October 13, 2020

[Proceeding commenced at 1:53 p.m.]

THE COURT CLERK: State of Nevada versus Bryan Dryden,
C334955.

[Colloquy between counsel]

THE COURT: Is there a timeline on these hearings on the
time that we have the room, does anybody know?

MS. BORDER: My understanding, I think from earlier
correspondence with the prison is that it was from 1:00 until 3:00.

THE COURT: Okay. All right, well.

MR. SCHWARTZ: That'll be just our luck.

THE COURT: Let's do it.

MS. BORDER: Mr. Dryden, can you hear us?

Is there a mute button on your side that you're able to undo?

MR. SCHWARTZ: That's awesome.

THE DEFENDANT: Oh, okay. There I go.

MS. BORDER: There you are. Okay. So, Your Honor, just
procedurally where we left off was with Mr. Abbatangelo. However,
when we had originally set this hearing, it was set for Thursday, the 15th,
and then we just scheduled it based on the availability of the prison
room to the 13th. Mr. Abbatangelo did not receive that information so he
at this point is not able to call in.

[Colloquy between counsel]

MS. BORDER: However, the parties that were here had

1 agreed to maybe let Mr. Dryden testify at this point. I had just sent a text
2 to Mr. Abbatangelo asking if he could let me know if he became
3 available during this next little bit. So, if the Court's okay with that we
4 were just trying to hop from Mr. Abbatangelo's testimony to Mr. Dryden
5 because obviously we do have him available at this time.

6 THE COURT: Okay.

7 [Colloquy between counsel]

8 MS. BORDER: So, Your Honor, may I proceed?

9 THE COURT: Sure.

10 MS. BORDER: Okay, and Mr. Dryden, if at any point you
11 can't hear me, please let me know, but this is going to be your
12 opportunity to testify in front of the Judge, okay?

13 THE DEFENDANT: Okay.

14 MS. BORDER: So, Mr. Abbatangelo was in the middle of his
15 testimony; however, we are needing to just pass that for a little bit. So,
16 we're going to go forward with yours. So, if you could just state --

17 THE COURT: Can we swear him in?

18 MS. BORDER: Yeah. State and spell your --

19 THE COURT: Oh, are you going to do that? Go ahead.

20 MS. BORDER: No, I would certainly prefer the professionals
21 to do it.

22 THE COURT CLERK: Please raise your right hand.

23 [Telephonic interruption]

24 [Colloquy between counsel]

25 THE COURT: I'm sure it's just a mistake.

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[Colloquy between counsel and the Court]

THE COURT CLERK: Please raise your right hand.

MS. BORDER: Your Honor, if --

BRYAN DRYDEN

[having been called as a witness and being first duly sworn, testified as follows:]

THE COURT CLERK: Please state your full name and spell your first and last name for the record.

THE WITNESS: Bryan Dryden, Bryan, B-R-Y-A-N, Dryden, D-R-Y-D-E-N.

[Colloquy between counsel]

MS. BORDER: Your Honor, I'm sorry I was trying to email Kelly to see if she was able to call the prison to extend the time.

THE COURT: Hang on. Thanks, Max. Go ahead. Are we doing it?

Just a -- we -- I granted this really only as to one issue. Do we all agree on that? The evidentiary hearing itself.

MS. BORDER: I believe that there were --

THE COURT: Or the two, I guess. All right.

MS. BORDER: Correct.

THE COURT: Got it.

MS. BORDER: Did you want me to proceed or wait and see. I just have a feeling he's going to start --

THE COURT: No, you can proceed. But if he goes away, he goes away, I guess.

1 MS. BORDER: Okay.

2 THE COURT: We'll figure it out.

3 MS. BORDER: Okay.

4 **DIRECT EXAMINATION**

5 BY MS. BORDER:

6 Q So, Mr. Dryden, at a previous date, you were -- I apologize,
7 I'm trying to find the proper paperwork -- appointed an attorney by the
8 name of Tony Abbatangelo, is that correct, to represent you?

9 A Yes, ma'am.

10 Q Okay. And can you describe your relationship with Mr.
11 Abbatangelo during the early parts of your meeting with him?

12 A He came a couple times to visit me here at High Desert.
13 Many of the times that he came to visit me here at High Desert and at
14 CCDC after I was remanded. He was unable to visit me under certain
15 circumstances due to prison lockdown. And over there at CCDC when I
16 was being brought in through intake, he came numerous times through
17 October 29th, 2019 to around the 31st or the 1st of November. And
18 CCDC was not allowing him to visit me.

19 Other than that, it was talking about the issues surrounding
20 the case here at High Desert and then over there at CCDC. He was
21 supposed to get me ready for trial, and pretty much the entire time that
22 the visits over there at CCDC were mainly to try to convince me to take
23 a plea deal. It was nothing that -- happened over there at CCDC
24 regarded getting me ready for trial.

25 Q Okay. So, if I could just back up, at some point prior to

1 October 29th while your case was open and pending, you were housed
2 in High Desert, yes?

3 A Yes, ma'am.

4 [Colloquy between counsel]

5 Q And was it your idea or suggestion to be remanded from High
6 Desert to CCDC?

7 A No. Tony is the one who said that that was going to take
8 place. But on the 29th, I said oh, so I'm going to be remanded right now?
9 And that took place without Tony or the Judge saying that I was going to
10 be remanded. I automatically --

11 MS. BORDER: And there he goes.

12 THE COURT: You've got to be kidding me.

13 MS. BORDER: This is the craziest.

14 MS. CRAGGS: I swear it was two hours.

15 MS. BORDER: I do too.

16 MS. CRAGGS: I thought I heard --

17 MR. SCHWARTZ: It's hard not to laugh.

18 MS. CRAGGS: -- 1:00 to 3:00, as well.

19 THE COURT: I don't --

20 MS. BORDER: Are we on the record still?

21 THE COURT RECORDER: Yeah.

22 MS. BORDER: Okay, thank you. I always need to be
23 reminded of that before I start --

24 THE COURT RECORDER: Do you want me to get off?

25 MS. BORDER: No. No, no, no, not for my loud mouth.

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MR. SCHWARTZ: I think you probably can get off.

[Recess began at 2:00 p.m.]

[Recess concluded; proceedings resumed at 2:07 p.m.]

THE COURT: All right. As you were. Are we back on?

MS. BORDER: So, Your Honor, just an update as to Mr. Abbatangelo. He had stated that he'd be free -- oh, I'm free for ten minutes. Court's pleasure, did you want to have Mr. Dryden finish testifying and then try and figure out Mr. Abbatangelo? Or --

THE COURT: Can we get Mr. Abbatangelo done in ten minutes?

MS. BORDER: He said that he --

[Colloquy between counsel]

MS. BORDER: -- was free for ten minutes.

THE COURT: Okay.

[Colloquy between counsel]

THE COURT: We can finish him in time?

MS. CRAGGS: I could definitely -- I just have a few questions for him. I just don't know if we want to get -- does Tony even have BlueJeans?

MS. BORDER: It's not on BlueJeans. I thought Mr. Abbatangelo would have to call in through the phone just because we don't -- we're not using BlueJeans for the link.

THE COURT: Can't he just FaceTime or something? I mean, if everybody agrees that it can be -- not in person.

MR. SCHWARTZ: Sure.

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MS. CRAGGS: I can --

MS. BORDER: I can call him from my phone.

THE COURT: Okay. Why can't he just call in on -- everybody -- like everybody --

MS. BORDER: Yeah, is there a phone number I can give to him to call in, or do you want me to --

THE COURT: Well, he normally -- he calls in on his phone, I think from his car sometimes. So, I'm thinking he has the ability to call into BlueJeans.

MS. BORDER: So, he's ready now, he was just asking for a phone number.

[Colloquy between counsel and the Court Recorder]

THE COURT: Mr. Dryden, we're going to go ahead and get Mr. Abbatangelo on here, okay?

MR. SCHWARTZ: Oh.

[Colloquy between counsel]

[Colloquy between counsel and the Court Recorder]

[Colloquy between the Court and counsel]

THE COURT: And you do -- you understand that we only have until 3:00 though. We do have something else.

MS. BORDER: Okay.

[PAUSE]

[Colloquy between counsel and the Court Recorder]

THE COURT: Oh, he was there for a minute.

MR. SCHWARTZ: There he is.

1 THE COURT: Where is he? Oh, he's up there.
2 MS. BORDER: There he is.
3 THE COURT: There you are. Welcome back.
4 THE DEFENDANT: Yeah.
5 [Colloquy between counsel and the Court]
6 THE COURT: All right. Is --
7 MS. BORDER: Keep going?
8 THE COURT: -- do we have Mr. Abbatangelo?
9 MS. BORDER: I just texted him and he just read the meeting
10 ID, so he should be joining us right now.
11 THE COURT: Okay.
12 [Colloquy between counsel]
13 THE COURT: He's got ten minutes right now, we're down to
14 eight.
15 MS. CRAGGS: I have like five questions.
16 THE COURT: Oh, okay.
17 MS. CRAGGS: Six questions, maybe.
18 MS. BORDER: Yay.
19 MS. CRAGGS: There's Tony.
20 THE COURT: There you go.
21 MS. BORDER: Okay.
22 THE COURT: Okay, Mr. Abbatangelo?
23 THE WITNESS: Yes.
24 THE COURT: Do we want to re-swear him or is he still under
25 oath? What do you want to do?

1 MS. CRAGGS: Probably re-swear him.

2 THE COURT: Go ahead.

3 MS. CRAGGS: Just in case.

4 THE COURT CLERK: Please raise your right hand.

5 **ANTHONY ABBATANGELO**

6 [having been recalled as a witness and being first duly sworn, testified
7 as follows:]

8 THE COURT CLERK: Please state your name. Spell your
9 first and last name for the record.

10 THE WITNESS: Anthony Abbatangelo, A-N-T-H-O-N-Y, I go
11 by Tony. Abbatangelo, A-B-B-A-T-A-N-G-E-L-O.

12 MS. CRAGGS: May I proceed, Your Honor?

13 THE COURT: Mm-hmm.

14 **CROSS-EXAMINATION**

15 BY MS. CRAGGS:

16 Q Thank you.

17 Mr. Abbatangelo, just a few questions for you. How long have
18 you been a criminal defense attorney?

19 A Well, I passed the Bar in 1990, 13 years of practice as an
20 attorney, 17 years [inaudible] --

21 Q I'm sorry, you cut out there at the end. Could you repeat the
22 last thing you said?

23 A Yeah, 17 years as a Judge. Thirteen years I've been a
24 practicing attorney.

25 Q And how many clients have you represented, if you can

1 estimate?

2 A I don't know, hundreds.

3 Q Okay.

4 A Thousand.

5 Q And have you had the opportunity to go through guilty plea
6 agreements and talk with your clients about taking guilty plea
7 agreements throughout that time?

8 A Yes, numerous times.

9 Q Okay, and I want to talk to you specifically about the guilty
10 plea agreement that you went through with Mr. Dryden. Did you have
11 an opportunity to go through that guilty plea agreement with him?

12 A I did.

13 Q And when you were going through that guilty plea agreement
14 with him, did he appear to be lucid and understand the questions that
15 you were asking him, and that he was asking you?

16 A Yes.

17 Q And did he ever complain to you during this time that he was
18 not getting the appropriate amount of medication in order to understand
19 what was going on?

20 A Not during the guilty plea agreement. He had mentioned prior
21 that there was some like food poisoning or something going on up at the
22 prison, prior to him coming down to CCDC. But there was nothing about
23 mental health, medication, or anything like that.

24 Q So, just specifically about a food poisoning issue?

25 A Something along those lines.

1 Q Okay. And did you have an opportunity to go through the
2 guilty plea agreement with Mr. Dryden thoroughly before he entered into
3 the agreement?

4 A I thought I did, yes.

5 Q Okay. Did you answer all of his questions?

6 A Yes, if he had any. I don't recall if he did.

7 Q Okay. And then lastly, did you ever agree to give Mr. Dryden
8 tennis shoes or a TV in exchange for him taking the plea?

9 A No.

10 Q Can you describe what that conversation was, if any?

11 A Yes, that was -- we had met prior to the weekend, I think it
12 was Friday, about taking the negotiation. He brought up that the five he
13 was going to be -- I believe it was five, if not four, for the time to run
14 concurrent to the time he's doing already because that charge, he got
15 denied parole on is a lot of time not to have any TV. And I said well, I
16 like you. I'll get you a TV. That's a long time to be without television
17 and I know Bryan doesn't have family or friends supporting him while
18 he's in custody.

19 And he -- but he didn't want the deal. I said that's fine. We
20 worked all weekend. Monday, I reached out to you and Mr. Schwartz
21 about some preliminary matters to make the trial go efficient. You said -
22 - or one of you two said, hey, the deal is still on the table. I went back
23 with Bryan and my investigator, we met in the evening. He said he
24 wanted to take the deal. I did not have a guilty plea agreement. I
25 explained to him what would be in it, [indiscernible] principles.

1 And then the next day we signed the guilty plea agreement
2 and he asked later about the \$400 and we eventually sent it to him on
3 his books.

4 Q And the reason why you did send him the money for a TV was
5 not in exchange for him taking the plea, it was simply because you were
6 trying to be nice, essentially?

7 A In a nutshell, that's it, yeah. I told him, as I tell all my party
8 clients, the person that benefits the most by going to trial really is me
9 because I get paid more money. You're the one taking the risk because
10 if we win a trial, great. I like to win, you're not guilty. If we lose, you're
11 looking at more time, especially with these charges, and the risk is on
12 you. You're the one that has to face the consequences if we lose.

13 And I don't mind going to trial. I like going to trial.

14 Q Nothing further, Your Honor.

15 THE COURT: Okay. Ms. Border?

16 MS. BORDER: Yes, Your Honor. If I can --

17 MS. CRAGGS: Oh, sure.

18 [Colloquy between counsel]

19 **REDIRECT EXAMINATION**

20 BY MS. BORDER:

21 Q So, Mr. Abbatangelo, you had just testified that you went
22 through the guilty plea agreement with Mr. Dryden, correct?

23 A Yes.

24 Q Okay. And in doing so, you went through the actual specifics
25 of the negotiation which was that both parties were agreeing to 5 to 20

1 years in the Nevada Department of Corrections, correct?

2 A Yes, I go right -- page by page.

3 Q Okay. So, in discussing a situation like Mr. Dryden's where
4 you were already aware in his other case that he had been denied
5 parole, would you have gone through that same situation here if he had
6 accepted this negotiation, been denied parole, how much time it would
7 take for him to expire his sentence?

8 A I don't recall going over the time it would take for his sentence
9 to actually expire

10 Q Are you aware as you sit there what it would take on a 5 to 20-
11 year sentence for someone to clean up their case?

12 A I would usually tell people the max and the minimum is 40
13 percent off the top which would be 12 years.

14 Q Okay. And is that something that you would have regularly
15 discussed with someone going through a guilty plea agreement such as
16 Mr. Dryden's?

17 A I don't -- in general or with Bryan?

18 Q I guess in general and then more specifically with Mr. Dryden.

19 A I do tell people a lot if you have a sentence where you're going
20 to get and you're eligible for parole, once you're out, you still have to
21 comply with parole. Or you can sit and you can sit longer and you
22 expire. And once you get released from NDOC, you're no longer facing
23 the parole. You don't have to check in with anybody, anybody coming to
24 your house, etcetera.

25 Q Do you have any specific recollection of telling Mr. Dryden that

1 he would have cleaned up his 5 to 20-year sentence within 8 years?

2 A I do not recall that. I don't recall talking about any expiration.

3 Q No further questions.

4 THE COURT: Okay. Anything else?

5 MS. CRAGGS: No, Your Honor.

6 THE COURT: Thank you, Mr. Abbatangelo, appreciate it.

7 THE WITNESS: Thank you guys for waiting for me.

8 THE COURT: Okay. Want to resume with Mr. Dryden?

9 MS. BORDER: I would, yes please.

10 **BRYAN DRYDEN**

11 [having been recalled as a witness and being previously sworn, testified

12 as follows:]

13 **DIRECT EXAMINATION CONTINUED**

14 BY MS. BORDER:

15 Q So, Mr. Dryden, we're coming back over to your testimony,
16 okay?

17 A Yes, ma'am.

18 Q And I believe we got through you briefly describing Mr.
19 Abbatangelo representing you, and I was going back to the decision,
20 and whose decision it was, and whether there was discussion with you
21 about having you remanded to CCDC. So, were you --

22 A Yes.

23 Q -- were you in agreement with being remanded to the Clark
24 County Detention Center?

25 A No, I specifically told Tony that I was in opposition to be

1 remanded back to the County, that it was a complete cesspool over
2 there at intake and that I would be left on the benches for days at a time
3 before I would be taken up to --

4 Q Okay.

5 A -- my housing.

6 Q And Mr. Dryden why is that --

7 A And that it would --

8 Q -- Mr. Dryden, why is that concerning to you that you would
9 have been in, essentially, booking or classification and on a bench for
10 those number of days? Is there a particular reason why that's
11 concerning?

12 A Because I have a condition, both mentally and physically. I've
13 got a physical condition called Dupuytren's that when my muscles are
14 flexing that my tendons will fuse together, and it causes me tremendous
15 amount of pain.

16 Q And what about your mental health also would play into that?

17 A It's -- to be under constantly illuminated light is a form of
18 torture tactic with no mat to lay on for days at a time. I was over there at
19 CCDC in intake, which is actually a known military torture tactic to get
20 people to give false confessions and also is a United Nations standard
21 minimum rules violation under prolonged isolation and constantly
22 illuminated light, which I was over there at CCDC for almost four days.

23 Q Okay. So, Mr. Dryden, I don't ask this question to be hurtful to
24 you, but you've been to and in CCDC before, yes?

25 A Yes.

1 Q And in your prior experience in the booking process, when you
2 come in and you're in this classification area, are you given your proper
3 medications?

4 A No, ma'am. I was not, and I informed Tony when he came to -
5 - and visited me. When he finally got in on November 1st -- on the night
6 of November 1st, all the way up into November 4th, when he came, I
7 informed him that I was not on my medication.

8 Q So, I guess I need to back up with that question. Had you
9 discussed your mental health and physical ailments with Mr.
10 Abbatangelo?

11 A Yes, ma'am, I did. And I told him under no circumstances was
12 I going to take a plea deal because of the case that I am fighting for
13 second degree murder in which I'm actually innocent.

14 Q So, I guess my question to you is a little bit more specific than
15 that. Did Mr. Abbatangelo know that you took mental health medication
16 prior to having you remanded to CCDC?

17 A Yes, and I repeatedly told him that if I was to take a plea deal
18 that I would not be able to program because of my mental health and
19 physical disabilities. Here at High Desert State Prison, I have -- it's real
20 hard for me to get to level one status to begin the good time status quo.

21 Q So, you had testified that from November 1st to November 4th
22 that you had gone without your medications; is that correct?

23 A Actually, it was October 29th, 2019 all the way until November
24 4th until they began giving me my medication.

25 Q And can you describe for the Court what it's --

1 THE COURT: Can I just -- what year? Are we talking --

2 MS. BORDER: 2019.

3 THE COURT: -- five years or a year and a day?

4 MS. BORDER: I apologize. Yes, Your Honor, I believe that
5 November 29th, 2019 to November 4th, 2019. Is that correct, Mr.
6 Dryden?

7 THE COURT: October 29th.

8 MR. SCHWARTZ: October.

9 THE COURT: Five days.

10 THE WITNESS: Yes.

11 MS. BORDER: Five days.

12 THE COURT: Thank you.

13 BY MS. BORDER:

14 Q Thank you.

15 And can you describe for the Court what physically and
16 mentally happens when you're without your medication for a number of
17 days?

18 A Well, I was in severe pain and mental anguish, racing
19 thoughts, I couldn't sleep. My arms and my legs hurt so bad it felt like
20 my bones were crushing. And I told Mr. Abbatangelo, which seemed to
21 go over his head, is probably why he doesn't remember me telling him.
22 But I told him on that first day that he got in, November 1st, to see me. I
23 said -- I told him, I said, they still are not -- they're not -- or I didn't say
24 they -- they're still. On November 4th and the 3rd, I told him they're still
25 not giving me my medication. Actually, it was November 4th.

1 But on November 1st, I told him they haven't brought my legal
2 work to me. I've been on the benches for four days. And I am in severe
3 pain. And it feels like my bones are crushing. And I'm not getting my
4 medication.

5 And I kind of hinted at him to do something, maybe get ahold
6 of the prison, himself, and make something happen. But he was more
7 interested in talking about the case. All that seemed to go over his
8 head.

9 Q Is it fair to say that without your medications that you do not
10 make -- that it impairs your judgment and decision making and ability to
11 understand complex issues?

12 A Well, yes. And just the fact that I was in so much pain, I felt
13 like I was being tortured by this pain and agony to where in a way it was
14 like when I took the plea deal, I also was in a frame of mind that the
15 torture would end. And in the back of my head is kind of how I felt.

16 Q So, when you actually entered the guilty plea agreement in
17 court on November 5th, do you feel that you were able to comprehend
18 and understand the agreement and the proceedings?

19 A I -- we never really read over any of it. It was just a once over
20 glancing at it. We didn't go over everything word for word. I was not --
21 the main thing in my head was knowing that I would be able -- I was just
22 sure that I would be able to withdraw my plea and get new counsel by
23 the fact that he was paying me and agreed to pay me if I took this deal.

24 Q Okay, and we'll get to that. But right now, what I'm asking you
25 are specific questions pertaining to you not receiving your medications.

1 So, you had previously testified that as of November 4th, you had not
2 received any medication. So, when you come to court the very next day
3 on November 5th and you had not received your medication for that
4 period of time, were you at that point able to understand and
5 comprehend what was happening and what you were agreeing to?

6 A My thoughts were just that I was going to have the plea
7 overturned. I was going to put in a withdrawal of plea to try to get new
8 counsel. I really wasn't in the right frame of mind to take the plea deal,
9 no.

10 Q Okay. And those were your thoughts on the actual day you
11 entered your plea on November 5th of 2019?

12 A That was my -- my thoughts were that I would be able to
13 withdraw my plea under grounds of coercion, regardless of what I was
14 signing to. I -- especially if I was to get a financial statement with his
15 name and money on there, my thoughts were that nothing mattered
16 except for that. That's all I could think of.

17 Q So, let's talk about that. Can you relay for the Court how your
18 conversation went with Mr. Abbatangelo and the money that he had
19 promised you?

20 A On November 1st, Craig Becky and Tony Abbatangelo were
21 pushing this plea deal. And I said, under no circumstances am I going
22 to take this plea deal because it would cast a bad light on the case that I
23 am fighting for second degree murder. And -- are you there?

24 Q Yes, we're here. Are you --

25 A Okay.

1 Q -- okay right now? It seems like you're having just a little bit of
2 a hard time formulating your words. Are you okay?

3 A Yeah, I'm just having racing thoughts, and my -- and just it's
4 very frustrating to me that this is even happening.

5 Q Okay, well let's --

6 A I told --

7 Q -- revisit the issue of how the conversation happened with Mr.
8 Abbatangelo paying you that money and taking a deal.

9 A Right. Okay, so I told him -- when they were trying to push
10 this deal on me, I said are you going to buy me a TV? Are you going to
11 give me a TV? If I take this deal, I'm going to be in for the next eight
12 years because that's what I was under the impression that it was eight
13 years. And I said, are you going to buy me a TV if I take this deal? And
14 he says, yes, I'll get you a TV if you take this deal. I don't want to see
15 you end up possibly going to trial and losing at trial. I would gladly get
16 you a TV to help you through whatever years you have to do, which I
17 was under the assumption that it was eight years.

18 And we went over that repeatedly on the 1st and the 4th what --

19 Q Okay, yeah, we'll talk about -- we'll talk about -- I'm sorry, Mr.
20 Dryden. We're going to talk about those numbers here in a second. I
21 just want you to focus on --

22 A Okay.

23 Q -- the payment. What was your understanding?

24 A Right.

25 Q Would Mr. Abbatangelo still have bought you or paid for that

1 TV if you did not take the deal?

2 A I don't think he would. I don't think he would have. If I would
3 have said -- at the plea deal, if I would have said oh, and by the way,
4 Tony has promised to give me 450 bucks for a TV and a pair of shoes
5 and this is coercion, then he would have denied it and I would have
6 never got the money. And I would have -- I wouldn't have been able to
7 prove coercion.

8 Q So, is it your testimony now that you felt coerced into taking
9 this deal because of the money that was offered to you by Mr.
10 Abbatangelo?

11 A Well, yeah, I felt coerced into taking this plea deal. And that
12 was my mindset that -- because I was just joking. On November 1st, I
13 was just joking. And he said, yeah, I'll get you -- and I said no, Tony. I
14 don't want your money. I don't want a TV. I want --

15 THE COURT: Frozen?

16 [Colloquy between counsel]

17 THE COURT: Is it coming back in and out or do we need to --

18 MR. SCHWARTZ: I think it signed off, Your Honor.

19 THE COURT RECORDER: Yes, he's gone again.

20 [Colloquy between counsel]

21 [PAUSE]

22 BY MS. BORDER:

23 Q All right, so Mr. Dryden, you're back. Can you hear us again?

24 A Yeah.

25 Q Okay. It kind of --

1 A So --

2 Q Yes. If you could just back up a little bit, it froze for a couple
3 seconds. And just start again.

4 A Right. No, this is all new to everybody.

5 Q Well, you're doing good. So, just if you could keep going on
6 the -- gosh, I'm trying to remember exactly what you were saying.

7 [Colloquy between counsel]

8 A About the TV. About the money for the TV.

9 Q Okay, and whether or not that was --

10 A So, right. And I told him, Tony, I'm just joking. I want to go to
11 trial. And he says, okay, this is your last day to take this plea deal. I'm
12 going to be here all weekend long with you to get you ready for trial.
13 This is your last chance to take this plea deal. And I told him no. I said
14 absolutely not, I'm not taking the plea deal. Let's go ahead and get
15 ready for trial over the weekend.

16 He never came to see me all weekend long. After he
17 promised me to come and get me ready for trial, he never came once
18 that Saturday and Sunday as promised.

19 Q When was the next --

20 A And then on Monday, he came and continued pressing in on
21 the deal.

22 Q Did he also continue to discuss the money that he would give
23 you for the TV?

24 A Yes. And I said absolutely not. More than once I told him no.
25 I said I don't care about the money. And then he says, listen, I've talked

1 to Judges and other lawyers and they said that if you take the stand, all
2 this woman has to do is come in and point you out and you're going to
3 be getting a ten to life sentence. And I'm telling you in your best interest
4 to take this plea deal.

5 And this is at 8 o'clock at night -- on Monday morning, the day
6 before trial. And so, I asked him, I said, have you got this and that and
7 some other things I was asking him to get, including my background as
8 a taxicab driver and a massage therapist. I ran a day spa for five years
9 with no problems at all, no health department violations, no problems in
10 the cab with drunk women that I would pick up for years and years.

11 And he said no, we didn't get any of your work history. Craig
12 Drummond was there -- I mean, not Craig Drummond.

13 Q Craig Becky?

14 A Craig Becky, the private investigator. And they said no, they
15 had not gotten any of that and they did not subpoena eyewitness. And
16 so, I said, so you're going to pay me to take this deal. And he says,
17 well, it's -- he hem-hawed around that question, you know, and played
18 like oh well, I'm not paying you to take the deal. I'll give you -- yeah, I'll
19 give you the money still. And I said, how about this? You get me a TV
20 and a pair of shoes because when I walk out of CCDC they might take
21 my tennis shoes before going back to High Desert.

22 And he says, I'll agree to giving you 450 bucks. And I said
23 okay, where do -- I'll go ahead and take the deal. I did that specifically
24 because I felt that because he was not doing anything for me to get
25 ready for trial, I felt like I had no other choice but to take the plea deal

1 because it was the night before the trial and he had still not come to get
2 me ready and go over specifics about going to trial.

3 So, I felt forced to take the plea deal.

4 Q Okay. And that plea deal, let's talk about that. He discussed
5 with you what the terms of the plea deal were, that you were agreeing to
6 do 5 to 20 years in prison, yes?

7 A Yes. A 5 to 20 which he and Craig Becky repeatedly told me
8 that cleaning this up would line up to my next parole in 2024, which he --
9 which Tony actually mentioned at the first meeting on this in August. In
10 August, we went over this and he actually touched on this on August
11 27th, I believe it was, where he said that if I would have taken this deal --
12 and that's why he got confused and said that it was a four to ten. And
13 then you corrected him and told him that it was -- no, Tony, it was a 5 to
14 20 that the Defendant took.

15 And that's because him -- Tony and Becky repeatedly told me
16 on the 1st of November and the 4th of November that 5 to 20 cleans up in
17 eight years without programming. And I said I don't believe those are
18 right and we went over this over and over again on the 1st -- November
19 1st and November 4th. Because we went over it again on November 4th,
20 2019.

21 And I had actually talked to one of the inmates in isolation
22 there who also said 5 to 20 cleans up in 8 years, but -- and I said without
23 programming? And he said yes. And when -- on November 4th, I said,
24 Tony, if this cleans up in eight years, I guess I'll take the deal. That was
25 my -- that was the main part of my decision was that it would line up

1 because if it went concurrent and having already two to three years in on
2 this since the Grand Jury Indictment would line up with the 2024 parole
3 that I've got coming up on this second degree murder.

4 And Tony actually touched on that back in August of this year
5 at the first evidentiary hearing.

6 THE COURT: Let me just --

7 THE WITNESS: And he said that --

8 THE COURT: -- let me interrupt for one second.

9 THE WITNESS: -- all this would line up with my parole in
10 2024.

11 THE COURT: The prison's going to pull the plug on us shortly
12 because they have another meeting to get in at 3 o'clock. So, just if you
13 get to a good breaking point or I don't know if you can finish it in time.

14 MS. BORDER: Okay.

15 THE COURT: I don't know when they're going to pull it, I just
16 want to give you a head's up.

17 BY MS. BORDER:

18 Q So, Mr. Dryden, I don't know if you can hear that, but the
19 prison is at some point going to cut us off. So, I'm going to keep going.
20 We're going to move just a little bit faster, if that's okay. But if it blinks
21 out, that's what happened, and we'll pick up a different day.

22 So, would it have changed your position in accepting this offer
23 if you understood that it would expire at 12 years versus the 8 that Tony
24 repeatedly told you?

25 A Definitely. I would never have taken this deal. That's the

1 whole reason I took this deal is because I was under the understanding
2 that it was eight years with no programming.

3 Q And when he's going through the guilty plea agreement with
4 you and discussing numbers and 40 percent this, and that, he
5 specifically told you it would be 8 years when in actuality it's 12; is that
6 correct?

7 A Right. And Craig Becky sat there and said you will be out at
8 the latest 2025. And Tony said, yes, I agree with that. And you -- and I
9 said, no parole? And he said no parole.

10 Q And you would --

11 A He said, you'll be out by 2024, 25'. Huh?

12 Q And you relied on --

13 A What's that?

14 Q -- you relied on the advice of your attorney in that respect
15 when you signed the guilty plea agreement?

16 A Yes, ma'am. And then when I came back here to High Desert,
17 I ran into somebody who just came in and got their mandatory release
18 date and it was 12 years out and that's when I found out that a 5 to 20 is
19 actually 12 years.

20 Q So, is it your testimony today that on November 5th when you
21 entered your guilty plea agreement you were under the misimpression
22 as to when you would expire your sentence?

23 A Exactly.

24 Q And is it your testimony today --

25 A I --

1 Q -- is it your testimony today that when you entered your guilty
2 plea agreement that you were not thinking clearly based on the fact that
3 you were not provided your medication that was necessary for the four
4 days leading up to your entry of plea?

5 A I felt like it was torture tactics for him to take me -- to have me
6 remanded back to CCDC to get me ready for trial and then not to get me
7 ready for trial and force me into this plea deal. I felt that I was forced
8 and coerced into this plea deal.

9 Q And is it your testimony today that you felt coerced by Mr.
10 Abbatangelo's offer and ultimate payment of you financially to get you to
11 take this plea?

12 A And the 450 that he promised me was not delivered. He gave
13 me 330. And he did not follow through on the complete promise.

14 Q So, not only did he not pay you the full amount, he paid you
15 \$330 as a lesser amount?

16 A Yes.

17 Q And that was deposited in your books?

18 A There's something that's --

19 MS. BORDER: Your Honor, that was --

20 THE DEFENDANT: They're shutting us down. They're
21 shutting us down.

22 THE COURT: Okay, well, we'll reschedule as soon as we
23 can, I guess. How much longer do we think that we've got?

24 MS. BORDER: Your Honor, that was the end of my
25 questioning of Mr. Dryden. So, I guess it would just be the cross and

1 redirect.

2 THE COURT: I'm looking over there.

3 MS. BORDER: She's looking at you, Bryan.

4 MR. SCHWARTZ: Me?

5 THE COURT: I'm looking at -- you took that chair, so --

6 MR. SCHWARTZ: I'm thinking 15 to 20 minutes for the cross.

7 THE COURT: Okay. And then are you going to be recalling
8 or calling anyone else?

9 MS. BORDER: No, there would be no other witness. It's just
10 possible redirect of Mr. Dryden.

11 THE COURT: And what about y'all? Are you calling
12 anybody?

13 MS. CRAGGS: No.

14 THE COURT: All right, Mr. Dryden, we'll find out when we can
15 resume, find another hour somewhere. Hour should do it, right?

16 MR. SCHWARTZ: Yes.

17 MS. BORDER: Could we request the two-hour time block just
18 in case there's --

19 THE COURT: Yes.

20 MS. BORDER: Okay.

21 THE COURT: We will. For sure. All right.

22 THE DEFENDANT: Thank you, all.

23 THE COURT: Thank you.

24 MS. BORDER: Thank you, Mr. Dryden.

25 THE DEFENDANT: Okay, I appreciate it. Thank you, Ms.

1 Border.

2 MS. BORDER: You're welcome. I'll see you soon.

3 THE DEFENDANT: Did you get all my letters, Ms. Border?

4 MS. BORDER: I do, I have them right here. And I'm using
5 them in your direct right now.

6 THE COURT: And --

7 THE DEFENDANT: Okay, I sure appreciate it.

8 THE COURT: -- let's just put this on --

9 MR. SCHWARTZ: Can we do a Tuesday or Thursday, Your
10 Honor?

11 THE COURT: What I'm going to do -- pardon?

12 MR. SCHWARTZ: Could we just do a Tuesday or a Thursday
13 setting if possible?

14 MS. BORDER: Is that a joke?

15 THE COURT: That's what you want?

16 MS. BORDER: Oh.

17 MR. SCHWARTZ: Oh, yeah, no. I was -- why?

18 MS. BORDER: I thought she only has Tuesday, Thursdays.

19 MR. SCHWARTZ: Oh. Well, yeah. I didn't know with the
20 special setting I thought maybe you could do it any day.

21 THE COURT: No, I can do it any day.

22 MR. SCHWARTZ: Yeah, I prefer Tuesday and Thursday if
23 possible.

24 MS. BORDER: Oh, he's being --

25 THE COURT: Any day the prison can do.

1 MS. BORDER: -- cheeky.

2 MR. SCHWARTZ: Oh.

3 THE COURT: That's the issue. Let's just status check it on
4 Thursday, so we have a date. And hopefully we'll talk to the prison
5 between today and tomorrow and figure out when it works.

6 MS. BORDER: So, Your Honor, I can tell you the way it works
7 is that I have to submit an order with a particular date. So, I don't know
8 if we can come to an agreement right now as to a date, and I can get
9 that over submitted.

10 THE COURT: Oh. I didn't realize that --

11 MR. SCHWARTZ: Maybe you want to --

12 MS. BORDER: So, I guess the first place I need to start is
13 with the prison and see if they have availability for this room on the date
14 that we pick. I think Thursdays are the days they normally have the
15 warden meetings, so a Tuesday would be more ideal.

16 THE COURT: Okay.

17 MS. BORDER: So, I -- the Court's calendar, I don't know if it's
18 fairly congested or not, but we could go a week, two weeks. I'm open
19 any of those.

20 MR. SCHWARTZ: Genevieve, do you have a preference.

21 MS. CRAGGS: Either one.

22 MR. SCHWARTZ: So, let's see, next week the 20th.

23 THE COURT: 27th, which is two weeks, is telling me is good.
24 Is that good?

25 MS. BORDER: Okay, so what I will do is I will --

1 MR. SCHWARTZ: Yes.

2 MS. BORDER: -- call up to the prison and see if that room's
3 available on the 27th. And if it is, I'll order with the Court and then Kelly
4 will take it from there. So, if we could just presumptively set it for the
5 27th I guess is what I'm asking.

6 THE COURT: Yeah.

7 [Colloquy between the Court and the Court Clerk]

8 THE COURT: We're -- we have I don't believe in the last
9 three months finished our in-custodies early. So, I don't know. It got set
10 at 1 o'clock today. It was never happening at 1 o'clock. And we
11 oftentimes go our ten minutes over until they shut us off there, as well.
12 So, let's start it at 1:30 on the 27th, we'll try and get two hours and see.

13 MS. BORDER: Yes.

14 MS. CRAGGS: Sounds good.

15 MS. BORDER: Okay. Thank you. And I will get that order --

16 MS. CRAGGS: Thank you.

17 MS. BORDER: -- for a signature --

18 THE COURT: Thank you.

19 MS. BORDER: -- today.

20 THE DEFENDANT: 27th of October?

21 MS. BORDER: Oh, you're still there.

22 THE COURT: Yeah, 27th.

23 MS. BORDER: We could have been going this whole time.

24 MS. CRAGGS: Yeah, that's true we could have been. Oh
25 well.

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[Colloquy between counsel]

THE COURT: All right.

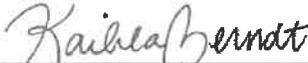
MS. BORDER: Thank you.

THE COURT: Thank you.

[Proceeding concluded at 2:49 p.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.



Kaihla Berndt
Court Recorder/Transcriber