

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Aug 23 2021 03:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CARY JERARD PICKETT,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: 10C262523-2

Docket No: 83328

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
CARY PICKETT # 57591,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

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

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1 THE COURT: Let's do Mr. Daniels fist.
2 Mr. Daniels, did you understand the terms
3 of the negotiations?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand also that
6 one of the things you are being asked to do this
7 morning is to unconditionally waive your right to a
8 preliminary hearing which means that if you get to
9 district court and you change your mind about the
10 negotiations you won't be able to come back to this
11 court to have a preliminary hearing as to these
12 charges?

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: And understanding that, is it
16 still your intention to unconditionally waive your
17 right to a preliminary hearing?

18 THE DEFENDANT: Yes.

19 THE COURT: Then it appearing to this
20 Court from the amended criminal complaint on file
21 herein that the crimes of burglary while in
22 possession of a firearm, robbery with the use of a
23 deadly weapon, possession of a firearm by an ex-felon
24 and conspiracy to commit robbery have been committed
25 and the Defendant, Alan Daniels, having

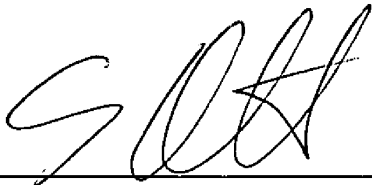
1 unconditionally waived his right to a preliminary
2 hearing on said charges shall be held to answer said
3 charges in the Eighth Judicial District Court,
4 Department --

5 THE CLERK: 18, March 11th at 10:30, lower
6 level basement, Courtroom 1A.

7 -oOo-

8
9 ATTEST: FULL, TRUE, ACCURATE AND CERTIFIED
10 TRANSCRIPT OF PROCEEDINGS.

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Shawn E. Ott, CCR No. 577

1 CASE NO. C262523

2 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

3 COUNTY OF CLARK, STATE OF NEVADA

4 -oOo-

5 STATE OF NEVADA,)

6 Plaintiff,)

7 vs.) Case No. 10F02742A

8 ALAN DANIELS,) ATTEST RE:

9 Defendant.) NRS 239B.030

10

11 STATE OF NEVADA)

12) ss

13 COUNTY OF CLARK)

14 I, Shawn Ott, a Certified Shorthand

15 Reporter within and for the County of Clark and the

16 State of Nevada, do hereby certify:

17 That REPORTER'S TRANSCRIPT OF

18 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING was

19 reported in open court pursuant to NRS 3.360 on

20 Thursday, February 25, 2010 at 10:20 a.m. in

21 Las Vegas Justice Court, Dept. 7, 200 Lewis Avenue,

22 Las Vegas, Nevada.

23 That said TRANSCRIPT:

24 X Does not contain the Social Security

25 number of any person.


Contains the Social Security number of a

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person.

I further certify that I am not interested
in the events of this action.

DATED this 9 day of July 2010.


SHAWN E. OTT, CCR No. 577

1 AJOCP

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FILED

2010 JUL 28 P 1:33

DISTRICT COURT

Ann L. Johnson
CLERK OF THE COURT

CLARK COUNTY, NEVADA

10C262523-2
AJOC
Amended Judgment of Conviction
870668



7 THE STATE OF NEVADA,

8 Plaintiff,

9 -vs-

CASE NO. C262523

DEPT. NO. XVIII

10 CARY PICKETT
11 aka Cary Jerard Pickett
12 #0725059

13 Defendant.

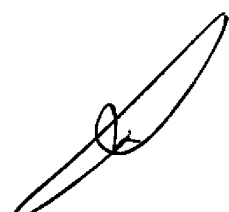
14 AMENDED JUDGMENT OF CONVICTION
15 (PLEA OF GUILTY)

16
17 The Defendant previously appeared before the Court with counsel and entered a
18 plea of guilty to the crimes of COUNT 1 – BURGLARY WHILE IN POSSESSION OF A
19 FIREARM (Category B Felony), in violation of NRS 205.060, COUNT 2 –CONSPIRACY
20 TO COMMIT ROBBERY (Category B Felony), in violation of NRS 199.480, 200.380,
21 COUNT 3 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony), in
22 violation of NRS 200.380, 193.165, and COUNT 4 – POSSESSION OF FIREARM BY
23 EX-FELON (Category B Felony), in violation of NRS 202.360; thereafter, on the 10th day
24 of May, 2010, the Defendant was present in court for sentencing with his counsel,
25 CAESAR ALMASE, ESQ., and good cause appearing,
26
27
28

1 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offenses under
2 the HABITUAL Criminal Statute (NRS 207.010) and, in addition to the \$25.00
3 Administrative Assessment Fee, to PAY \$11,948.60 RESTITUTION jointly and severally
4 with co-defendant, and to PAY \$1,550.00 RESITUTION Individually, the Defendant was
5 sentenced to the Nevada Department of Corrections (NDC)as follows: AS TO COUNT
6 1 - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of
7 TWENTY-FOUR (24) MONTHS; AS TO COUNT 2 - TO A MAXIMUM of SIXTY (60)
8 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; AS TO
9 COUNT 3 - LIFE with a MINIMUM parole eligibility after TEN (10) YEARS has been
10 served, COUNT 3 to run CONSECUTIVE to COUNT 1; and AS TO COUNT 4 - TO A
11 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of
12 TWENTY-FOUR (24) MONTHS, COUNT 4 to run CONCURRENT with COUNT 2; with
13 EIGHTY-EIGHT (88) DAYS Credit for Time Served. As the Fee and Genetic Testing
14 have been previously imposed, the Fee and Testing in the current case are WAIVED.
15

16
17
18 THEREAFTER, on the 27th day of July, 2010, due to clerical error, Defendant's
19 sentence to be amended to reflect COUNT 3 - TO A MAXIMUM of TWENTY-FIVE (25)
20 MONTHS with a MINIMUM parole eligibility of TEN (10) MONTHS and COUNT 3 to run
21 CONSECUTIVE to COUNT 1.
22

23
24 DATED this 28th day of July, 2010

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26 
27 _____
28 DAVID BARKER
DISTRICT JUDGE

FILED

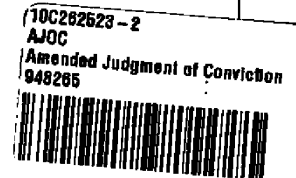
1 AJOCP

2 ORIGINAL

2010 SEP 24 A 11:18

3
4 *John D. Quinn*
CLERK OF THE COURT

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA



SECOND AMENDED JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony), in violation of NRS 205.060, COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony), in violation of NRS 199.480, 200.380, COUNT 3 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony), in violation of NRS 200.380, 193.165, and COUNT 4 – POSSESSION OF FIREARM BY

//

//

3

1 EX-FELON (Category B Felony), in violation of NRS 202.360; thereafter, on the 10th day
2 of May, 2010, the Defendant was present in court for sentencing with his counsel,
3 CAESAR ALMASE, ESQ., and good cause appearing,
4

5 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offenses under
6 the HABITUAL Criminal Statute (NRS 207.010) and, in addition to the \$25.00
7 Administrative Assessment Fee, to PAY \$11,948.60 RESTITUTION jointly and severally
8 with co-defendant, and to PAY \$1,550.00 RESITUTION Individually, the Defendant was
9 sentenced to the Nevada Department of Corrections (NDC)as follows: AS TO COUNT
10 1 - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of
11 TWENTY-FOUR (24) MONTHS; AS TO COUNT 2 - TO A MAXIMUM of SIXTY (60)
12 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; AS TO
13 COUNT 3 - LIFE with a MINIMUM parole eligibility after TEN (10) YEARS has been
14 served, COUNT 3 to run CONSECUTIVE to COUNT 1; and AS TO COUNT 4 - TO A
15 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of
16 TWENTY-FOUR (24) MONTHS, COUNT 4 to run CONCURRENT with COUNT 2; with
17 EIGHTY-EIGHT (88) DAYS Credit for Time Served. As the Fee and Genetic Testing
18 have been previously imposed, the Fee and Testing in the current case are WAIVED.
19
20
21

22 THEREAFTER, on the 27th day of July, 2010, due to clerical error, Defendant's
23 sentence to be amended to reflect COUNT 3 – TO A MAXIMUM of TWENTY-FIVE (25)
24 MONTHS with a MINIMUM parole eligibility of TEN (10) MONTHS and COUNT 3 to run
25 CONSECUTIVE to COUNT 1.
26

27 THEREAFTER, on the 22nd day of September, 2010, due to clerical error,
28 Defendant's sentence is to be corrected to reflect AS TO COUNT 3 – TO A MAXIMUM

1 OF TWENTY-FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10) YEARS,
2 COUNT 3 to run CONSECUTIVE to COUNT 1.
3

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5 DATED this 13th day of September, 2010

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8 DAVID BARKER
9 DISTRICT JUDGE
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ORIGINAL

RECEIVED
JAN 3 2011
CLERK OF THE COURT

Caesar Almase, Esq.
Nevada Bar #7974
Almase Law Group
520 South Ninth Street
Las Vegas, NV 89101
(702) 474-0404
Attorney For Defendant

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

v.

CARY PICKETT,
#0725059

Defendant.

Case No.: C262523

Dept. No.: XVIII

DATE: January 19, 2011

TIME: 9:00 AM 8:15

MOTION TO WITHDRAW AS ATTORNEY OF RECORD

COMES NOW Caesar Almase of the Almase Law Group, attorney of record for the above-named Defendant, Cary Pickett, and hereby moves this Honorable Court to withdraw as attorney in the instant matter.

This Motion is based upon Declaration of Counsel, and argument of Counsel at the time set for hearing of this motion.

DATED this 3 of January, 2011.

By:

Caesar Almase #7974
520 S. 9th Street
Las Vegas, NV 89101
(702) 474-0404
Attorney For Defendant

10C262523-2
MWCN
Motion to Withdraw As Counsel
1148084



DECLARATION

CAESAR ALMASE makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; that I am the appointed attorney of record for the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.
2. Your declarant received a letter from Mr. Pickett in which it was requested that your declarant file a Motion to Withdraw as Attorney of Record, in order that Mr. Pickett may file proper person pleadings.
3. Your declarant has mailed a copy of this foregoing motion to Mr. Pickett at PO Box 650, Indian Springs, NV 89070, along with a copy of his entire file, including all discovery.

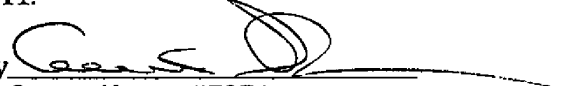

DECLARANT

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

PLEASE TAKE NOTICE that Caesar Almase has set the foregoing motion for hearing on the 19th day of January, 2011, at 8:15 am in District Court Department XVIII.

DATED this 3 day of January 2011.

By 
Caesar Almase #7974
520 S. 9th Street
Las Vegas, NV 89101
(702) 474-0404
Attorney For Defendant

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing is hereby acknowledged this _____ day of January 2011.

CLARK COUNTY DISTRICT ATTORNEY

By _____

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of January 2011, I mailed a true and correct copy of the foregoing:

Motion to Withdraw as Attorney of Record and a copy of the entire file for C262523, postage prepaid, by regular mail addressed to:

Cary Pickett, Inmate ID #57591
PO Box 650
Indian Springs, NV 89070

MARIA LEIVA, LEGAL OFFICE ASSISTANT

CERTIFICATE OF MAILING

I hereby certify that on the 3 day of January 2011, I mailed a true and correct copy of the foregoing:
Motion to Withdraw as Attorney of Record and a copy of the entire file for C262523, postage prepaid, by regular mail addressed to:

Cary Pickett, Inmate ID #57591
PO Box 650
Indian Springs, NV 89070


MARIA LEIVA, LEGAL OFFICE ASSISTANT

1 CARY PICKETT 57591
2 Petitioner/In Propria Persona
3 Post Office Box 650 [HDSP]
4 Indian Springs, Nevada 89018

10C262523-2
PWHC
Petition for Writ of Habeas Corpus
1188690



FILED
JAN 27 2011
CLERK OF COURT

District Court
Clark County, Nevada

8 CARY PICKETT

9 Petitioner,

10 vs.

11 Scallia

12 Wooden High Desert
13 State Prison

14 Respondent(s).

Case No. C262523

Dept. No. 18

Docket _____

Evidentiary Hearing Requested

15 **PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

16 **INSTRUCTIONS:**

- 17 (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.
- 18 (2) Additional pages are not permitted except where noted or with respect to the facts which you
- 19 rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or
- 20 arguments are submitted, they should be submitted in the form of a separate memorandum.
- 21 (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to
- 22 Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the
- 23 certificate as to the amount of money and securities on deposit to your credit in any account in the
- 24 institution.
- 25 (4) You must name as respondent the person by whom you are confined or restrained. If you are
- 26 in a specific institution of the department of corrections, name the warden or head of the institution. If
- 27 you are not in a specific institution of the department within its custody, name the director of the
- 28 department of corrections.
- 29 (5) You must include all grounds or claims for relief which you may have regarding your
- 30 conviction and sentence.

RECEIVED

JAN 28 2011

CLERK OF THE COURT

1 Failure to raise all grounds I this petition may preclude you from filing future petitions challenging
2 your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief from
4 any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your
5 petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that
6 claim will operate to waive the attorney-client privilege for the proceeding in which you claim your
7 counsel was ineffective.

8 (7) If your petition challenges the validity of your conviction or sentence, the original and one
9 copy must be filed with the clerk of the district court for the county in which the conviction occurred.
10 Petitions raising any other claim must be filed with the clerk of the district court for the county in
11 which you are incarcerated. One copy must be mailed to the respondent, one copy to the attorney
12 general's office, and one copy to the district attorney of the county in which you were convicted or to
13 the original prosecutor if you are challenging your original conviction or sentence. Copies must
14 conform in all particulars to the original submitted for filing.

15 PETITION

16 1. Name of institution and county in which you are presently imprisoned or where and who you
17 are presently restrained of your liberty: High Desert State Prison, Clark County

18 2. Name the location of court which entered the judgment of conviction under attack: 8th
19 Judicial District Court

20 3. Date of judgment of conviction: ^{2nd} Amended J.O.C. Oct. 2010

21 4. Case number: C 26 2523

22 5. (a) Length of sentence: 10 - 25 years

23 (b) If sentence is death, state any date upon which execution is scheduled: _____

24 6. Are you presently serving a sentence for a conviction other than the conviction under attack in
25 this motion:

26 Yes _____ No X If "Yes", list crime, case number and sentence being served at this time: _____

27 7. Nature of offense involved in conviction being challenged: Habitual offender enhan-
28 cement / Robbery with use of weapon, Burglary while in poss-
ession of a firearm, conspiracy to commit robbery, possession of
firearm by ex-felon

- 1 8. What was your plea? (Check one)
- 2 (a) Not guilty ____
- 3 (b) Guilty X
- 4 (c) Nolo contendere ____
- 5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea
- 6 to another count of an indictment or information, or if a guilty plea was negotiated, give details: I
- 7 pled guilty to 4 felony counts and stipulated to treatment as a
- 8 habitual offender as to one count
- 9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)
- 10 (a) Jury ____
- 11 (b) Judge without a jury ____
- 12 11. Did you testify at trial? Yes ____ No ____
- 13 12. Did you appeal from the judgment of conviction?
- 14 Yes ____ No X
- 15 13. If you did appeal, answer the following:
- 16 (a) Name of court:
- 17 (b) Case number or citation:
- 18 (c) Result:
- 19 (d) Date of appeal:
- 20 (Attach copy of order or decision, if available).
- 21 14.) If you did not appeal, explain briefly why you did not: was not aware of the
- 22 Constitutional violations related to stipulating to treatment as
- 23 habitual offender until recently
- 24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously
- 25 filed any petitions, applications or motions with respect to this judgment in any court, state or
- 26 federal? Yes ____ No X
- 27
- 28

1 16. If your answer to No 15 was "Yes", give the following information:

2 (a) (1) Name of court: _____

3 (2) Nature of proceedings: _____

4
5 (3) Grounds raised : _____

6
7
8 (4) Did you receive an evidentiary hearing on your petition, application or motion?

9 Yes ____ No ____

10 (5) Result: _____

11 (6) Date of result: _____

12 (7) If known, citations of any written opinion or date of orders entered pursuant to each
13 result: _____

14 (b) As to any second petition, application or motion, give the same information:

15 (1) Name of Court: _____

16 (2) Nature of proceeding: _____

17 (3) Grounds raised: _____

18 (4) Did you receive an evidentiary hearing on your petition, application or motion?

19 Yes ____ No ____

20 (5) Result: _____

21 (6) Date of result: _____

22 (7) If known, citations or any written opinion or date of orders entered pursuant to each
23 result: _____

24 (c) As to any third or subsequent additional application or motions, give the same information
25 as above, list them on a separate sheet and attach.

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action
2 taken on any petition, application or motion?

3 (1) First petition, application or motion?

4 Yes ____ No ____

5 Citation or date of decision: _____

6 (2) Second petition, application or motion?

7 Yes ____ No ____

8 Citation or date of decision: _____

9 (e) If you did not appeal from the adverse action on any petition, application or motion, explain
10 briefly why you did not. (You may relate specific facts in response to this question. Your response
11 may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response may not
12 exceed five handwritten or typewritten pages in length). _____

13 _____

14 17. Has any ground being raised in this petition been previously presented to this or any other
15 court by way of petition for habeas corpus, motion or application or any other post-conviction
16 proceeding? If so, identify:

17 (a) Which of the grounds is the same: _____

18 _____

19 (b) The proceedings in which these grounds were raised: _____

20 _____

21 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in
22 response to this question. Your response may be included on paper which is 8 1/2 x 11 inches attached
23 to the petition. Your response may not exceed five handwritten or typewritten pages in length). _____

24 _____

25 _____

26 _____

27 _____

28 _____

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages
2 you have attached, were not previously presented in any other court, state or federal, list briefly what
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten
6 pages in length). _____
7 _____

8 19. Are you filing this petition more than one (1) year following the filing of the judgment of
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.
10 (You must relate specific facts in response to this question. Your response may be included on paper
11 which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five handwritten or
12 typewritten pages in length). _____
13 _____
14 _____

15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the
16 judgment under attack?

17 Yes _____ No X

18 If "Yes", state what court and the case number: _____
19 _____

20 21. Give the name of each attorney who represented you in the proceeding resulting in your
21 conviction and on direct appeal: CAESAR ALMASE
22 _____
23 _____

24 22. Do you have any future sentences to serve after you complete the sentence imposed by the
25 judgment under attack?

26 Yes _____ No X If "Yes", specify where and when it is to be served, if you know: _____
27 _____
28 _____

1 Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating
2 additional grounds and facts supporting same.

3 23. (a) GROUND ONE: Ineffective assistance of counsel, in violation of
4 5th, 6th, and 14th amendment of the U.S. Constitution and Nevada Constitution
5 Article 1 sections 3, 6, and 8 and Article 4 section 21, because counsels re-
6 presentation fell below objective level of reasonableness prior to guilty plea.

7 23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
8 Counsel's performance was deficient falling below an objective
9 standard of reasonableness, because prior to advising the defendant
10 to stipulate to treatment as a habitual offender defense counsel
11 did not explain or even discuss the process necessary for him
12 to be adjudicated as a habitual offender.

13
14 Counsel's performance was below an objective standard because
15 an attorney has a legal responsibility to properly inform his
16 client of the legal standard of any rights being waived or of
17 the direct consequences of his plea, in the case at bar counsel
18 clearly got the standard wrong. He caused the petitioner to
19 believe that the only criteria / standard needed for him to be
20 sentenced as a habitual offender was 3 or more prior felony
21 convictions and that he could "stipulate" to "treatment as a
22 habitual offender" where the plea agreement is ambiguous and
23 very unclear as to exactly what the term "treatment as a
24 habitual offender" actually means. The truth is that the
25 plea agreement called for the defendant to waive his rights
26 associated with his adjudication process is, his right to
27 challenge the validity of prior convictions, present any

GROUND 1 CONTINUED

1 mitigating evidence To Provide the court with factors
2 against adjudicating defendant to status of a habitual
3 offender. Defense counsel, the prosecutor nor the court
4 advised the defendant that those right existed, the pet-
5itioner believed that he could actually plead guilty to
6 a charge of habitual criminality, then basically agree
7 to the state's recommendation for the midrange sentence
8 of 10-25 yrs, rather than being sentenced to life senten-
9ces, further counsel never inquired of his client as to
10 the validity of his prior convictions, had counsel asked
11 he would have learned that his client was without coun-
12sel in (2) of his prior convictions cc # 143146 + 145127 and
13 all prior convictions were non-violent and absent the (2) afore-
14 mentioned constitutionally invalid convictions are remote and may
15 not be construed by the court as fitting the intent of law to be
16 adjudicated a habitual offender, counsel also did not inquire
17 as to mitigating factors and evidence existing that could be
18 presented to the court to support a case against being ad-
19judicated a habitual offender when in fact documented
20 mitigating factor's and evidence does exist.

21
22 Counsel's error's prejudiced the petitioner, because counsel's
23 error's lead to a reasonable probability that the results
24 of the proceedings would have been different had the
25 error's not occurred. Had the petitioner understood or had
26 been advised the he could challenge prior convictions that
27 are unconstitutional as (2) of his are, that he could not

GROUND 1 CONTINUED

1 or was not in actuality pleading guilty to a charge of
2 habitual criminality or that his stipulation to "treatment
3 as a habitual offender" did not mean a automatic finding or
4 adjudication to the status of a habitual offender upon the
5 finding of 3 prior felony convictions this petitioner would
6 not have stipulated to "treatment as a habitual offender" as
7 part of his guilty plea and counsel would have had the needed
8 information to act as an advocate for his client instead of
9 merely a messenger for the prosecutor.

10
11 This petitioner understands that his guilty plea and subse-
12 quent convictions and sentences on his underlying charges
13 are valid, knowing and intelligently made and has not asked
14 the court to disturb those, however the stipulation and
15 sentencing as a habitual offender upon counsel advise must
16 be reviewed to determine what counsel advised. The defendant
17 about the rights or process for him to be adjudicated and does the
18 record demonstrate that the petitioner was advised by counsel
19 who also ~~sign~~ signed the plea agreement that he the
20 petitioner understood that adjudication as a habitual offender
21 would be a process or that he would be waiving any rights
22 associated with that process i.e. challenging constitutionally
23 invalid convictions or convictions born of the same information
24 and to present factors in mitigation against the habitual off-
25 ender status in fact this petitioner believes that regardless
26 defense counsel would be obligated to insure the court
27 had all the correct information to properly rule.

1 23. (b) GROUND TWO: Pleading to habitual criminal / stipulating to "Treat-
2 ment as a habitual offender" was not a voluntary, knowing or intelligent el-
3 action in violation of the 5th, 6th and 14th amendments of the U.S. Const
4 and NEVADA Const. Article 1 sections 3, 6, and 8 and Article 4 section 21.

5 23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law): Petitioner
6 fully incorporates the supporting facts and allegations set forth in
7 ground one as fully set forth herein. The petitioner was told by the
8 state that he was pleading guilty to the "large habitual" on Feb
9 25, 2010 during the unconditional waiver of preliminary hearing,
10 hearing the state advised for the record the terms of the
11 negotiated plea causing the petitioner to unconditionally waive
12 his right to a preliminary hearing, after setting forth the charges
13 the petitioner would be pleading guilty to the state clarified
14 the terms as they applied to the habitual offender in that the
15 state unequivocally affirmed as follows; "with regards to robbery
16 with use of a deadly weapon, that will be the charge that he
17 will plead to the large habitual on", (Exhibit #1)

18
19 The state informed both the court and the defendant that he
20 the defendant was in fact pleading to the habitual criminal the
21 court in determining if a tendered plea is knowing and intelligent
22 must look to what the defendant understood at time of plea
23 this petitioner did believe that he was pleading to a charge
24 of habitual criminality, even the term stipulate to "treatment
25 as a habitual offender" is ambiguous and very unclear as
26 to any actual definition, however the term does connote
27 or imply the same as a guilty plea and must be.

1 construed that by stipulation the defendant is waving certain rights
 2 or functions associated with the adjudication process, the issue
 3 with "stipulate to treatment as a habitual offender" is that neither
 4 the defendant or the court is ever actually informed of what is fact-
 5 ually agreed upon, waived or mutually acknowledged between parties
 6 therefore for all intent and purpose there is no stipulation, because
 7 due process demands that a defendant pleading guilty who waives any
 8 rights be specifically made aware, be informed and advised of those
 9 rights both in his written plea agreement as well as canvassed so that
 10 the record will demonstrate that at the time of his plea the defen-
 11 dant knows and understands the rights he is giving up.

12
 13 The plea agreement that the defendant received "10 minutes or so before
 14 he was to enter his plea differed from the agreement stated at the
 15 waiver of preliminary hearing ^{from} the defendant will plead guilty to
 16 the large habitual "to" "treatment as a habitual offender" causing
 17 the plea memo to become unclear and ambiguous. The state is the
 18 party who proposed the negotiated plea and authored the plea memorandum
 19 but the state neither verbally for the record or in the written plea
 20 memo does the state ever make known to the defendant or the
 21 court what rights are being waived or terms are being agreed
 22 upon either by acknowledgement or omission as relating to the
 23 habitual offender adjudication process that would define use of
 24 the term "treated as a habitual or treatment as a habitual offen-
 25 der"

26 For Example: By entering my plea to the large habitual
 27 I understand that I am waiving and forever giving up the
 28 following rights and privileges: 1. To challenge the validity

GROUND 2 CONTINUED

1 of prior convictions used to adjudicate me by the court 2. Present
2 EVIDENCE or statements in mitigation against the habitual cri-
3 minal 3. Oppose being sentenced to 10-25 prior to the courts
4 finding or at the very minimum (example) Both parties
5 stipulate that: 1. Only prior convictions that the defendant
6 was represented by counsel will be submitted by the state
7 to the court to support adjudication of the defendant as
8 a habitual offender pursuant to his guilty plea 2. Not oppose
9 sentence of 10-25 yrs 3. and only present evidence in mit-
10 igation so that the court will have the appropriate required
11 factor's against adjudication, however defendant will stand
12 silent and not argue the charge of habitual criminality be
13 dismissed.

14
15 This petitioner asserts that this court must determine that the defendant
16 believed that he was pleading guilty to the habitual criminal and
17 that he did so believing that upon having 2 or more prior felony
18 convictions automatically made him a habitual offender, what the
19 court is being ask to also determine is what need be afforded to
20 the defendant when the habitual offender becomes his "direct conseq-
21 uences" pursuant to guilty plea that incorporates the habitual offender
22 statute, because there can not be any reasoning that the require-
23 ment pursuant to a guilty plea canvass based on primary offenses
24 can be said to qualify as informing a defendant who has plead
25 guilty to the habitual criminal of the consultations and conseq-
26 uence as they relate to or apply toward the habitual crim-
27 inal adjudication process.

1 The court has to ultimately determine 1. what this defendant himself
2 understood 2. was the process as a whole fundamentally fair under
3 which he tendered his plea. This petitioner was arrested on Feb
4 11, 2010 the in less than two weeks during a hearing to consolidate
5 his case with his now co-defendant on or about Feb 23, 2010 he
6 was presented with the states offer to plead guilty to four felony
7 charges and the habitual criminal and given two days to make his
8 decision. The 23rd of Feb 2010 was also the very 1st time petitioner
9 met his court appointed lawyer and that evening defense counsel
10 came to the jail gave the defendant a copy of discovery that was
11 in excess of 300 pages briefly reviewed with defendant various pol-
12 ice reports from the incidents, counsel did not discuss with the
13 defendant any aspects of the habitual criminal adjudication process
14 his prior convictions or factors in mitigation against the habitual
15 criminal in hindsight the meeting could indicate that defense counsel
16 himself may not have had any prior experience with the habitual
17 criminal adjudication process, however he still within hours of act-
18 ually receiving this case and simultaneously meeting his client did
19 advise defendant to plead guilty to the large habitual criminal.
20 Two days later the petitioner did waive his preliminary hearing so
21 that as stated by the state he would "plead to the large habitual"
22 and his other four felony charges and was set to enter his formal
23 plea a few weeks later on March 11, 2010 between Feb 25 and Mar
24 11, 2010 there was no other meeting with defense counsel and
25 defendant on Mar 11, 2010 approximately 10 mins before defendant
26 was called to enter his plea counsel gave defendant for the first
27 time a copy of the plea memo the defendant after a basic scan
28 of the agreement did ask counsel to seek a two week conti-

1 uance, counsel offered to go into a side room and discuss any ques-
2 tions the defendant might have and the defendant told counsel
3 that that was not enough time for him to get to thoroughly re-
4 view the agreement and again request counsel to request a two
5 week or even one week continuance. The defendant saw defense
6 counsel go over to the state then return in second saying that the
7 state refused to agree to a continuance the defendant sent counsel
8 back a second time and upon counsel's return was informed by
9 defense counsel that the state according to counsel word would
10 not agree to an extension because "he thinks your trying to get
11 into your girlfriends head" referring to another co-defendant (female)
12 and that "he made a deal with her and dont want to put off her re-
13 lease" or something to that effect, at that point the defendant asked
14 counsel what would the judge say if we ask for a continuance and
15 was told he would give a continuance, counsel for a third time went back
16 to the state and upon his return stated that the state would only
17 agree to a four day continuance the defendant wanted to continue his
18 plea hearing and believed that his co-defendant Daniels was also seeking
19 a continuance, however just as the state and the defense came to an under-
20 standing the co-defendant plead guilty to his charges one of which was a
21 conspiracy charge naming the petitioner as part of the plea fearing
22 a worse situation given the state's refusal to consent to a continuance
23 the petitioner entered his plea also. This petitioner hereby request an
24 evidentiary hearing in this matter as he believes that his plea memo
25 and canvass was not sufficient to support a voluntary, intelligent and
26 knowing plea of guilty as it applies to the habitual criminal adjudi-
27 cation process waiver of rights and functions associated with that
28 process.

23. (c) GROUND THREE: Improperly adjudicated to habitual offender status in violation of the 14th and 14th amendments to the United States constitution and Article I sections 8(1) and 9(5) of the Nevada constitution.

23. (c) SUPPORTING FACTS (Tell your story briefly without citing cases or law): The Court adjudicated petitioner to status of habitual offender relying solely on terms of a unclear ambiguous plea memorandum and prior number of convictions, the court did not weigh factors both "for" and "against" the harsher punishment only factors "for" and the court did not make a independent finding that it was in fact "Just and proper" to adjudicate defendant to a status of habitual offender.

During petitioners sentencing/adjudication hearing the state submitted certified copies of the defendants prior judgements of convictions to support the charge of habitual criminality two (2) of those prior judgement should not have been submitted because they clearly say that the defendant was in proper person without counsel cases # 143146 and 145127 when those conviction by guilty plea were obtained and the state did not also provide any proof that counsel had been validly waived the court upon receiving those judgements scanned them for possible stamps of certification but did not read them but stated that "these appear to be in order" certified copies of judgement of conviction may be accepted by the court if those judgement on there face appear to be constitutionally valid two(2) of the judgement submitted by the state and accepted by the court upon ^{reading} ~~read~~ the very first line would render those con-

GROUND 3 CONTINUED

1 victions invalid, but were not properly submitted by the state or
2 admitted into the proceeding by the court, even if the state
3 would argue that absent the use of those convictions the
4 petitioner would have had a least three (3) other valid conviction
5 making that error harmless would be wrong as the finding of
6 (3) prior conviction do not make the habitual status automatic,
7 further the court never asked the defense if any of the prior
8 judgements could be challenged using constitutionally invalid
9 prior convictions as well as convictions counted as separate
10 that were part of a single indictment or information.
11
12 The court also inadvertently denied or at the very least discouraged
13 the petitioner from providing the court with mitigating evidence
14 or a statement in mitigation, so that the court would have
15 factor's "against" the habitual criminal. The court asked the
16 defendant if he would like to "make a statement in mitigation",
17 however before the defendant could respond the court did
18 state that "I am inclined to go with the plea recommendation"
19 or something to that effect, whatever the exact language the
20 statement itself indicated to the defendant that 1. The court
21 was predisposed to it's decision without factors against the
22 habitual criminal 2.) that his belief that the habitual criminal
23 was automatic upon (3) or more prior felony convictions. The pet-
24 itioner asserts that he was improperly adjudicated a habitual
25 criminal without being allowed to challenge his prior convictions, with-
26 out any factors against the enhancement, without a determination that
27 it was just and proper based on invalid prior convictions and an
28 ambiguous unclear plea memo.

1 23. (d) GROUND FOUR: ~~Ineffective~~ assistance of counsel at sentencing
2 counsel's representation at sentencing fell below an objective level of reasonable-
3 ness at sentencing prejudicing defendant creating a probability results would
4 have been different violating U.S. Const 5th 6th + 14th Nev Const Article I sec
3, 6, and 8 and Article 4 section 21

5 23. (d) SUPPORTING FACTS (Tell your story briefly without citing cases or law):
6 Counsel's performance at sentencing was deficient and was
7 below an objective standard of reasonableness because counsel
8 did not provide to the court any information, argument or
9 evidence in mitigation "against" imposition of the habitual
10 criminal offender status, due to counsel failure to inquire
11 of his client as to what information in mitigation existed.
12 This petitioner has never participated in a habitual offender
13 adjudication and had no knowledge of the courts need
14 of mitigating evidence or challenging prior unconstitutional
15 conviction, therefore it was of counsel own making
16 that he did not or could submit factor "against" the
17 habitual offender status for the courts consideration al-
18 though many documentable factors in mitigation did exist.

19
20 The defendant in this case stipulated to "treatment as a habit-
21 ual offender", what is unclear is exactly what the defendant
22 stipulated to do is unclear, however there is nothing in the
23 terms of the plea agreement prevents counsel from advocating
24 and or participating in the adjudication hearing process by
25 challenging prior unconstitutional convictions and providing
26 the court with mitigating evidence and factors, but due
27 to counsel's own failure to inquire he was unprepared to

28

GROUND 4 CONTINUED

1 challenges prior unconstitutional conviction and was unable
2 to present arguments and evidence in mitigation. For the
3 court to be fully ~~inf~~ informed prior to adjudicating
4 his client as a habitual offender

5 _____
6 I was prejudiced by counsel's ineffective representation at
7 sentencing, because had counsel investigated my case
8 or simply asked me any questions regarding my prior
9 convictions and my efforts over the past few years to
10 adjust back into society as a productive member or
11 what circumstances caused the defendant to participate in the
12 events of this prosecution then counsel would have been able
13 to effectively represent petitioner at sentencing had coun-
14 sel done so there is a reasonable probability the court
15 could have dismissed the habitual offender charge
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____
28 _____

(a) Ground Five: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(b) Ground Six: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(c) Ground Seven: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(d) Ground Eight: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(a) Ground Nine: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(b) Ground Ten: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(c) Ground Eleven: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

(d) Ground Twelve: _____

Supporting FACTS (Tell your story briefly without citing cases or law.): _____

1 WHEREFORE, Petitioner, prays that the court grant habeas
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at High Desert State Prison
4 on the 10th day of January, 2010.

5
6 

7 Signature of Petitioner

8 **VERIFICATION**

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is
11 true and correct of his own personal knowledge, except as to those matters based on information and
12 belief, and to those matters, he believes them to be true.

13
14 

15 Signature of Petitioner

16
17
18 _____
19 Attorney for Petitioner
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE BY MAILING

I, Cary Pickett, hereby certify, pursuant to NRCP 5(b), that on this 11th
day of January, 20 11, I mailed a true and correct copy of the foregoing, "

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

District Attorney
David Rodgers
200 Lewis Street
Las Vegas NV 89101

Warden H.D.S.P
Bealla
P.O. Box 650
Indian Spring NV 89020

CC:FILE

DATED: this 11 day of January, 20 11.

Cary Pickett
/s/ In Propria Persona
Post Office Box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

\$ 57.57

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding petition For

Writ of HABEAS Corpus
(Title of Document)

filed in District Court Case number _____

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

-OR-

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

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

(State specific law)

-OR-

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



Signature

Jan 19, 2011

Date

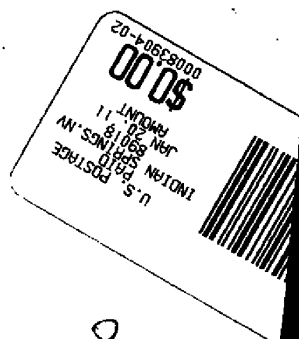
CARY PICKETT

Print Name

Petition writ habeas Corpus

Title

Grant Dev. Fund
plus



Cary Pickett 57591
P.O. Box 650
Indian Springs NV 89070

1 Cary Pickett, #57591
2 High Desert State Prison
3 22010 Cold Creek Road
4 P.O. Box 650
5 Indian Springs, Nevada

FILED
JAN 27 2011
CLERK OF COURT

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

8
9 Warden Scillia,
10 H.D.S.P. Respondent,

Case No. C262523
Dept. No. 18

11 vs.

12 Cary Pickett,
13 Petitioner,

10C262523-2
BREF
Brief
1188724



14
15
16 PETITIONER'S BRIEF IN SUPPORT OF PETITION
17 FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

18
19 COMES NOW, Petitioner, Cary Pickett, in Proper Person, and
20 respectfully submits his brief in support of his Writ of Habeas
21 Corpus (Post Conviction).

22 This brief is submitted and made, and based, pursuant to
23 NRS 34.720, the supporting Points and Authorities attached herein,
24 as well as all papers, pleadings, and documents on file herein.
25 Also pursuant to the Fourteenth Amendment to the United States
26 Constitution, which guarantees Equal Protection and Due Process
27 of Law to all citizens of this Great Nation.

28 ///

RECEIVED

JAN 27 2011

CLERK OF THE COURT

1 The errors that counsel made are: not requesting a continu-
2 ance to consult with his client and the laws that apply to plead-
3 ing guilty or stipulating to the habitual criminal, on February
4 23 counsel met with his client for the first time during a motion
5 to consolidate his case with the other charged suspect at that
6 time counsel was approached by the state and presented an offer
7 to relay to the defendant and told that the state would only
8 afford the defense (2) days to give a decision, being that the plea
9 offer included pleading to the large habitual combined with the
10 new appointment and discovery that exceeded 350 pages, counsel
11 should have requested a continuance for his own needs as well as
12 his client's. Counsel also after only 30 minutes of consultation
13 with his client at the jail also on the same day he first met his
14 client with only the understanding that his client believed that
15 based on having (3) prior convictions he was a habitual criminal
16 advised his client that it was best or O.K. to plead guilty to the
17 large habitual, even though the Nevada Supreme Court in Staley v.
18 State 787 P.2d 396 ruled that a defendant pleading guilty can not
19 stipulate to status as a habitual offender or further in Walker v.
20 Deeds 50 F.3d 670 the habitual criminal "is not automatic on the
21 finding of commission of (3) felonies," therefore his advise to
22 plead guilty/stipulate to the large habitual was error, even if
23 a determination could be made that a criminal defendant could in
24 fact stipulate/plead to the habitual criminal before counsel could
25 advise his client to do so he would need to make sure that his
26 client's substantial rights are not prejudiced in that counsel
27 would have to have inquired if any of his prior convictions were
28 obtained when he did not have legal counsel, determine if prior

1 convictions were old and remote and if any mitigating evidence
2 existed that would or could convince the court to dismiss a charge
3 of habitual criminality, to advise the defendant to plead/stipulate
4 to the habitual criminal and not to inform his client that he will
5 be waving certain substantive rights because at the time of advise
6 on February 23, 2010 the day he first met his client and received
7 the offer from the state he had no idea what rights his client
8 would be waiving with the adjudication process nor where those
9 rights outline in his plea memo prior to counsel signing the memo-
10 randum. Defense counsel has a duty to assist his client by bringing
11 his expertise at law not only if the defendant goes to trial but
12 also when deciding to accept a negotiated plea, in this case coun-
13 sel did not, and committed the following errors prior to advising
14 his client to accept a plea: 1. Did not request a continuance to
15 determine if it was lawful for a defendant pleading guilty to plead
16 or stipulate to the habitual criminal before advising the defendant
17 on the matter. 2. Failed to inform the defendant that adjudication
18 is a process and not automatic upon the finding of (3) prior felony
19 convictions. 3. Failed to inform his client of substantive rights
20 associated with the habitual adjudication process that he would be
21 waving by stipulation. 4. Failed to inquire of the state exactly
22 what rights his defendant stipulates to waive. The aforementioned
23 errors committed by counsel prejudiced the defendant because his
24 decision to plead/stipulate to the large habitual was uninformed
25 not based on the connotations and consequences, but a misguided
26 perception that (3) prior felony convictions automatically made
27 him a habitual offender.

28 Petitioner fully incorporates the supporting facts setforth

1 herein as fully setforth in ground four ineffective assistance of
2 counsel a sentencing where counsel's errors were 1. Counsel failed
3 to challenge prior Judgment of Conviction that was constitutionally
4 invalid. 2. Counsel failed to present evidence and factors in
5 mitigation against the habitual offender.

6
7 II. Stipulating to Treatment as Habitual
8 Offender Not Knowing and Intelligent Plea

9 Although the Nevada Supreme Court has ruled that a
10 defendant pleading guilty can not stipulate to status as
11 habitual offender "questions of validity of prior convictions
12 must be determined by District Court as a matter of law, with
13 punishment dependant upon Courts exercise of its discretion"
14 Staley v. State, 787 P.2d 396, 106 Nev. 75 (1990); the State
15 nonetheless did solicit Pickett, in this case to "stipulate" to
16 treatment as a habitual offender as part of his guilty plea.

17 In reviewing an attack on a guilty plea a court must consider
18 whether the plea was voluntarily entered as well as whether,
19 "consider as a whole, the process by which the plea was obtained
20 was fundamentally fair, Taylor v. Warden, Nevada State Prison
21 (1980), 609 P.2d 587, 96 Nev. 272. This defendant asserts that
22 even the term as written in his guilty plea memorandum
23 "Defendant stipulate to large habitual treatment under N.R.S.
24 207.010" is ambiguous to be reviewed by the district court, U.S.
25 v. Anderson, 970 F2d 602, and "Defendant treated as habitual under
26 count 2 and receive 10-25 years sentence" is fundamentally
27 unfair as it implies that there is no process and adjudication
28 is automatic Taylor v. Warden, see: Exhibit A (Guilty Plea

1 Agreement). The defendant is asked to "stipulate" to what?

2 1. Not oppose notice of charge of habitual criminality?

3 2. Three or more prior felony convictions?

4 3. Not to challenge constitutional validity of prior
5 convictions?

6 4. Or not to oppose sentence recommendation if adjudicated
7 a habitual offender?

8 NRS.174.035 (1) demands either a showing that the defendant
9 himself (not just his attorney) understood the elements of the
10 offense to which the plea was entered, or a showing that the
11 defendant himself has made a factual statement to the court
12 which constitute an admission to the offense plead to, NRS
13 207.010, Nevada Law requires a criminal information to "charge"
14 a separate offense of being a habitual criminal. Hardison v.
15 State, 437 P.2d 868 (1968), 84 Nev.125 and "Before a defendant
16 may be sentenced as a habitual criminal, the state must duly
17 file an allegation of habitual criminality" Grey v State", 178
18 P.3d 154(2008).

19 Under Nevada Law, decision to adjudicate a person as a
20 "habitual criminal" is not automatic on findings of commission
21 of (3) felonies, see: Walker v. Deeds, 50 F.3d 670 (1995),
22 therefore a plea memorandum that charges habitual criminality
23 has to insure that the defendant understands the "direct
24 consequences" of his guilty plea, thus must inform the defendant
25 himself of the adjudication process and the rights that attach,
26 N.R.P.C. 3.8 (D) the prosecutor has a duty to "Make a timely
27 disclosure to the defense... in connection with sentencing,
28 disclose to the defense and to the tribunal all unprivileged

1 mitigating information known to the prosecutor..." The
2 adjudication process for NRS 207.010, has to be construed as
3 part of the nature of the charge i.e., element of the offense to
4 the defendant pleading guilty, therefore **the details of the**
5 **process** must be expressly outlined in his plea agreement or the
6 court can not determine that a particular defendant actually
7 understood the "Direct consequences" of his guilty plea, NRS
8 207.010, has a "**immediate impact on sentencing**", therefore has
9 to be thoroughly canvassed at plea entry and outlined in the
10 plea agreement to be knowing and intelligent.

11 When a defendant, as in this case does not know when he
12 decides to enter his plea to a criminal information that does
13 charge habitual criminality that his convictions #5 ^{cc}#143146 and
14 #6 ^{cc}#145127, obtained without his right to counsel can not be
15 used because the record will prove by a preponderance of the
16 evidence that:

- 17 1. Self representation was not a voluntary election as
18 he did state to the court "I did not ask to
19 represent myself, I asked for alternate counsel and
20 she suggested that I represent myself" contrary to
21 Faretta v. California, Supra 95 S.Ct.2525, 422 U.S.
22 806, 45 L.Ed.2d 562 U.S.Cal.1975, see: exhibit(B).
- 23 2. Later after the defendant was compelled to represent
24 himself, and after his canvass the state did file
25 notice of intent to seek habitual treatment the
26 court failed to inquire as to if the defendant still
27 would represent himself see: exhibit(C), because of
28 greater penalty possibility see Scott v. State, 877

1 P.2d 503 110 Nev.622(1994). Those convictions are
2 constitutionally invalid. Then that defendant has
3 not been properly informed enough to be said to
4 Have made a knowing or intelligent Plea, Waiver or
5 stipulation, no matter how it may be phrased.

6 The State with full knowledge that defendant was not
7 represented by counsel in case #143146/#145127, bearing, "the
8 burden of proving the convictions where constitutionally valid"
9 Burns v. State, 495 P2d, 88 Nev.215 (1972), further the
10 aforementioned were "part of a single information" Rezin v.
11 State, could only be counted as (1) conviction had they been
12 able to be used for purpose of the habitual enhancement, did
13 present to the Court all prior convictions as separate and
14 valid. See Exhibit E

15 The critical factor being that "In proving prior
16 convictions for purposes of defendant to be habitual criminal,
17 burden is on the state to show that either attorney was present
18 or validly waived at time of prior prosecutions Hamlet v. State,
19 455 P.2d 915, 85 Nev.385 (1969).

20 With regards to incorrect or insufficient information as to
21 sentencing the proper test to be applied is whether defendant
22 would have plead differently "stipulated in this case to
23 treatment as a habitual offender" had he been correctly
24 informed, upon which issue the state must bear the burden of
25 proof. "Misinformation as to sentencing renders the plea
26 involuntarily made and it must be vacated" Paige v. United
27 States, 443 F.2d 781.

28 ///

1 **III. Due Process at Sentencing**

2 Defendant asserts that the trial court was obstructed from
3 affording him due process at his sentencing, based upon
4 insufficient or misinformation as to sentencing. When the state
5 did solicit the defendant to stipulate to "treatment as a
6 habitual offender" and neither the **State, Defense Counsel** nor
7 the **Hearing Master** who excepted his guilty plea, advised or
8 informed defendant that adjudication as a habitual offender is a
9 procedural process "**not an automatic one; person alleged to be**
10 **habitual offender is subject to broadest kind of judicial**
11 **discretion"** Clark v. State, 851 P.2d 426, 109 Nev.426 (1993).

12 The State deprived the Trial Court of it's ability to make
13 "**an actual judgment**" on the question that it is "**Just and**
14 **Proper**" to punish and segregate the defendant as a habitual
15 criminal **by not informing the defendant of the rights he had**
16 **associated with the adjudication process** insuring the Court only
17 had factors "**for**" (Defendants prior convictions) see: exhibit
18 **(E)** and none "**against**" in which to weigh it's decision. The
19 Nevada Supreme Court nor the United States District Court
20 (Nevada) did not reach to the merits of **Pickett's, post-**
21 **conviction writ** due to a procedural time bar he has always
22 maintained that his waiver of counsel and convictions in
23 **cc#143146** and **cc#145127**, were unconstitutional. See: exhibit (D).

24 This Defendant standing silent during his adjudication, is
25 a direct indication of his knowledge of the Habitual
26 Adjudication process "**None**", surely had he known, convictions 5
27 and 6, would have been challenged and eliminated from the
28 process. All of the defendant's prior convictions are for non-

1 violent offenses, mostly property crimes relating to his long
2 drug addiction, but without convictions 5 and 6, The Court would
3 have to weigh nonviolent and remote convictions 16 to 19 years
4 prior and give consideration to Tillema v. State, (1996) 914 P.2d
5 605, 112 Nev.9, the court found only that the copies of
6 defendant's prior convictions sufficient to adjudicate him as a
7 habitual criminal, but did not make an "Actual Judgment" on the
8 question of whether it is "just and proper" for the defendant to
9 be punished as a habitual offender Walker v. Deeds, 50 F.3d 670,
10 but as previously mentioned not all of those convictions were
11 valid and the state was aware of this.

12 "The District Court has inherent authority to
13 correct a judgment or sentence found on
14 mistakes is in accord with the constitutional
15 considerations underlying the sentencing
16 process. The United States Supreme Court has
17 expressly held that where a defendant is
18 sentenced on the basis of materially untrue
19 assumptions concerning his criminal record
20 "results whether caused by carelessness or
21 design is inconsistent with due process of law"
22 Townsend v. Burke, 736,741, 68 S.Ct. 1252,
23 1255, 92 L Ed. 1690 (1948). Further, the cases
24 clearly established that constitutionally
25 violate "materially untrue assumptions"
26 concerning a criminal record may either arise
27 as a result of sentencing Judges correct
28 perception of misapprehension. (Emphasis in
original) Id. 677 P.2d at 1048 n3."

22 Defendant would ask that this Court not perceive this
23 request to be pointing the finger at the Court and saying "you
24 were wrong" as that is not the case. Defendant is merely
25 requesting that the Court reconsider the sentence that was
26 pronounced based upon mistakes of facts in the States allegation
27 of habitual criminality and the defendant "stipulating to
28 treatment as a habitual offender" as a part of his guilty plea.

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1 agreement, the District Attorney, Defense Counsel or the Hearing
2 Master advised or informed the defendant that:

- 3 1. Adjudicating a criminal Defendant is procedural
- 4 2. Discretionary dependant upon many factors and the
- 5 Court discretion, but not automatic solely due to
- 6 (3) prior convictions
- 7 3. And that the allegation/charge could actually be
- 8 dismissed
- 9 4. The legislative Intent may not be applicable
- 10 based on the nature of his prior convictions and
- 11 Drug Addiction which the Court will view as a
- 12 whole
- 13 5. Prior conviction constitutionally infirm could
- 14 not be used for the process.

15 Without any knowledge of the aforementioned; procedures,
16 the defendants guilty plea was accepted, discussing with the
17 defendant only the elements, waiver of rights and nature of
18 charges for the underlying offenses and not the Habitual
19 Criminal charge itself does not insure an understanding of the
20 charge stipulated to that has the greater impact.

21 May 10, 2010, the defendant was sentence in accordance with
22 the written plea agreement. The State did present certified
23 copies of all of his prior conviction (2) of which the State
24 knew or should have known should not have been submitted, the
25 defendant stood silent as he believed he was required to do,
26 further demonstrating how misinformed or rather uninformed he
27 really was. The decision to adjudicate Defendant was based on
28 only the information the State wanted the Court to weigh, the

1 defendants prior convictions. This motion follows as it is at
2 this time the defendant did become aware of his rights and the
3 relevant case Authorities, therefore request relief from the
4 Court.

5 **CONCLUSION**

6 Thereby, pursuant to the Facts and Laws stated herein,
7 being that the State failed to property inform Defendant of
8 valuable rights associated with the adjudication process of
9 NRS.207.010, a duty the State was required to perform, as the
10 aforementioned statute had an immediate impact on sentencing,
11 further the submission of invalid prior conviction to the Court
12 depriving the Court by misinformation of its ability to make an
13 actual Judgment as to NRS.207.010.

14 The Defendant has been deprived of Due Process of Law at
15 sentencing and request that his sentence be modified/corrected
16 as follows: his sentence pursuant to NRS.207.010, be vacated,
17 the charge of habitual criminality be dismiss
18
19
20

21 Dated: this 19, day of January, 20 11.

22 Respectfully Submitted,
23 

24 Cary Pickett, #57591
25 H.D.S.P
26 P.O.Box 650
27 Indian Springs, Nevada 89018
28 In Proper Person

ORIGINAL

16

Exhibit #3
D 3

FILED

1997 OCT 17 A 0 53

DISTRICT COURT
CLARK COUNTY, NEVADA

1 JOCP
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

9 THE STATE OF NEVADA,

Plaintiff,

-vs-

11 CARY JERARD PICKETT, aka
12 Gary Pickett, #0725059

Defendant.

Case No.
Dept. No.
Docket

C145127
XI
S

JUDGMENT OF CONVICTION (PLEA)

16 WHEREAS, on the 18th day of September, 1997, the Defendant CARY JERARD
17 PICKETT, aka Gary Pickett, appeared before the Court herein with his counsel and entered a
18 plea of guilty to the crime(s) of BURGLARY (CATEGORY B FELONY), committed on or
19 about the 7th day of August, 1997, in violation of NRS 205.060 and

20 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
21 Persona, being present in court with his counsel JORDAN, SAVAGE, ESQ., as Stand By
22 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
23 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
24 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
25 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
26 Department of Prisons, to be served consecutive to sentence imposed in Case No. C143146,
27 suspended; placed on probation for an indeterminate period not to exceed five (5) years.
28 Conditions: 1. Search Clause for controlled substances and stolen property. 2. Complete Drug

CE-05

OCT 20 1997

File return
copy

OCT 14 1997


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1 Court Program, noting there was no use of weapons in this incident. 3. Complete long-term
2 counseling, vocational and educational programs as deemed necessary. 4. Defendant to be
3 supervised in the Nevada Division of Parole and Probation's House Arrest Program for the first
4 four (4) months of probation. Defendant to receive thirty-five (35) days credit for time served.
5 Court referred matter to Drug Court, and Ordered, set for further proceedings on October 6,
6 1997 at 9:00 o'clock a.m. in Department X.

7 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
8 Judgment of Conviction as part of the record in the above entitled matter.

9 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
10 State of Nevada.

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13 DISTRICT JUDGE
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27 DA#97-145127X/pm
28 LVMPD EV#9708071616
BURG-F
(TKI)

File and Return
copy

GMEM
DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781
ROY L. NELSON III
Chief Deputy District Attorney
Nevada Bar #007842
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CARY PICKETT, aka,
Cary Jerard Pickett, #0725059

Defendant.

CASE NO: C262523
DEPT NO: XVIII

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM (Felony - NRS 205.060 / Category B); COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 199.480, 200.380 / Category B); COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165 / Category B) and COUNT 4 - POSSESSION OF FIREARM BY EX-FELON (Felony - NRS 202.360 / Category B),** as more fully alleged in the charging document attached hereto as Exhibit "1".

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

The State has agreed to dismiss the remaining counts. Defendant stipulates to large habitual treatment under NRS 207.010. Parties stipulate to a 2-5 year sentence on Count 1. Defendant treated as habitual under Count 2 and receive 10-25 year sentence, consecutive to

1 Count 1, for a total of 12-30 years in the Nevada Department of Corrections. All other
2 counts to run concurrent.

3 CONSEQUENCES OF THE PLEA

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

6 I understand that as a consequence of my plea of guilty as to Count 1, the Court
7 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum
8 term of not less than two (2) years and a maximum term of not more than fifteen (15) years.
9 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum
10 term of imprisonment. I understand that I may also be fined up to \$10,000.00.

11 I understand that as a consequence of my plea of guilty as to Count 2, the Court
12 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum
13 term of not less than one (1) year and a maximum term of not more than six (6) years. The
14 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term
15 of imprisonment. I understand that I may also be fined up to \$5,000.00.

16 I understand that as a consequence of my plea of guilty as to Count 3, the Court
17 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum
18 term of not less than two (2) years and a maximum term of not more than fifteen (15) years,
19 plus a consecutive minimum term of not less than one (1) year and a maximum term of not
20 more than fifteen (15) years for the use of a deadly weapon enhancement. The minimum
21 term of imprisonment may not exceed forty percent (40%) of the maximum term of
22 imprisonment.

23 I understand that as a consequence of my plea of guilty as to Count 4, the Court
24 must sentence me to imprisonment in the Nevada Department of Corrections for a minimum
25 term of not less than one (1) year and a maximum term of not more than six (6) years. The
26 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term
27 of imprisonment. I understand that I may also be fined up to \$5,000.00.

28 I understand that the law requires me to pay an Administrative Assessment Fee.

1 Further, I understand that if I am sentenced under the under the "small" habitual
2 criminal enhancement, the Court must sentence me to a term not less than FIVE (5) years
3 and a maximum of TWENTY (20) years in the Nevada Department of Corrections. I
4 understand that if I am sentenced under the "large" habitual criminal enhancement the Court
5 must sentence me to LIFE without the possibility of parole; life with the possibility of
6 parole, parole eligibility begins after a minimum term of TEN (10) years has been served;
7 OR a definite term of TWENTY FIVE (25) years, parole eligibility begins after a minimum
8 of TEN (10) years has been served.

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

13 I understand that I am eligible for probation for the offense to which I am
14 pleading guilty to in Count 1, 2, and 4. I understand that, except as otherwise provided by
15 statute, the question of whether I receive probation is in the discretion of the sentencing
16 judge.

17 I understand that I am not eligible for probation for the offense to which I am
18 pleading guilty to in Count 3.

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

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

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

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

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

3 I understand that if the State of Nevada has agreed to recommend or stipulate a
4 particular sentence or has agreed not to present argument regarding the sentence, or agreed
5 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
6 when the offense could have been treated as a felony, such agreement is contingent upon my
7 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
8 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
9 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
10 right to argue for any lawful sentence.

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

14 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
15 United States, I may, in addition to other consequences provided for by federal law, be
16 removed, deported, excluded from entry into the United States or denied naturalization.

17 I understand that the Division of Parole and Probation will prepare a report for the
18 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
19 sentencing, including my criminal history. This report may contain hearsay information
20 regarding my background and criminal history. My attorney and I will each have the
21 opportunity to comment on the information contained in the report at the time of sentencing.
22 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
23 may also comment on this report.

24 WAIVER OF RIGHTS

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

27 ///

28 ///

1 1. The constitutional privilege against self-incrimination, including the right to refuse
2 to testify at trial, in which event the prosecution would not be allowed to comment to the
3 jury about my refusal to testify.

4 2. The constitutional right to a speedy and public trial by an impartial jury, free of
5 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
6 assistance of an attorney, either appointed or retained. At trial the State would bear the
7 burden of proving beyond a reasonable doubt each element of the offense charged.

8 3. The constitutional right to confront and cross-examine any witnesses who would
9 testify against me.

10 4. The constitutional right to subpoena witnesses to testify on my behalf.

11 5. The constitutional right to testify in my own defense.

12 6. The right to appeal the conviction, with the assistance of an attorney, either
13 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional
14 or other grounds that challenge the legality of the proceedings and except as otherwise
15 provided in subsection 3 of NRS 174.035.

16 **VOLUNTARINESS OF PLEA**

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

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

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

23 All of the foregoing elements, consequences, rights, and waiver of rights have been
24 thoroughly explained to me by my attorney.

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

27 ///

28 ///

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

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

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

10 DATED this ____ day of March, 2010.

11
12 CARY PICKETT, aka, Cary Jerard Pickett
13 Defendant

14 AGREED TO BY:

15 
16 ROY E. NELSON III
17 Chief Deputy District Attorney
18 Nevada Bar #007842
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1 **CERTIFICATE OF COUNSEL:**

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
to which guilty pleas are being entered.

5 2. I have advised the Defendant of the penalties for each charge and the restitution
6 that the Defendant may be ordered to pay.

7 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
consistent with the facts known to me and are made with my advice to the Defendant.

8 4. To the best of my knowledge and belief, the Defendant:

9 a. Is competent and understands the charges and the consequences of pleading
10 guilty as provided in this agreement.

11 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily.

12 c. Was not under the influence of intoxicating liquor, a controlled substance or
13 other drug at the time I consulted with the defendant as certified in paragraphs
1 and 2 above.

14 Dated: This ____ day of March, 2010.

15 _____
16 **ATTORNEY FOR DEFENDANT**
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97C143146

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 14, 1997

97C143146

The State of Nevada vs Gary Pickett

July 14, 1997

9:00 AM

Request

**DEFT'S PRO PER
REQUEST TO
RECEIVE
FERETTA CANVASS
Court Clerk: SUSAN
BURDETTE/sb
Reporter/Recorder:
CATHY NELSON
Heard By: Douglas,
Michael L**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Bloxham, Ronald C.	Attorney
	Justice, Patricia R.	Attorney
	Pickett, Gary	Defendant
	Public Defender	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Deft. stated he wishes to represent himself as he and Ms. Justice have a conflict of interest; she does not believe he can win this case; she has insulted him and requested a psychological evaluation; he requested a substitution of counsel and she suggested that he represent himself. Court stated the penalty and admonished Deft. that if he represents himself at trial, the Court will not make any exceptions for him. Ms. Justice stated the defenses Deft. wants her to take at trial would be obvious ineffective assistance of counsel and it would be unethical to go forward. Following further statements by Deft., COURT ORDERED, matter CONTINUED; Ms. Justice to contact and discuss with Deft. Court stated he will have his office contact Mr. Savage for possible

PRINT DATE: 08/11/2010

Page 2 of 41

Minutes Date: June 05, 1997

97C143146

appointment -- not as counsel of record but as stand-by counsel if Deft. wishes to go forward and represent himself. Deft. requested a copy of the discovery. COURT ORDERED, DENIED. Ms. Justice requested this matter be recalled at 2:00 p.m., and COURT SO ORDERED.

At 2:00 P.M., matter recalled with all parties present. COURT ORDERED, State excused. Court noted the Calendar Call and Jury Trial, noted that Deft. wishes to go forward and represent himself, and noted Ms. Justice's request to make certain representations on the record this date. Ms. Justice concurred and make in-camera representations as to this case. Statements by Deft. as to his defense. Court found that Deft. has a right a trial that is based on physical identification of physical evidence available.

CUSTODY

07-17-97 9:00 AM DEFT'S REQUEST: PRO PER MOTION TO RECEIVE FERETA CANVASS
CANVASS ... CALENDAR CALL ... POSSIBLE CONFIRMATION OF COUNSEL (J. (SAVAGE)

07-21-97 10:00 AM JURY TRIAL

97C143146

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 1997

97C143146

The State of Nevada vs Gary Pickett

August 14, 1997

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS (08-14-97)**
**Court Clerk: SUSAN
BURDETTE/sb**
**Reporter/Recorder:
JANICE LISTON**
**Heard By: Michael
Douglas**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Noxon, Arthur G.

Attorney

Pickett, Gary

Defendant

Savage, Jordan S.

Attorney

JOURNAL ENTRIES**- STATUS CHECK: TRIAL STATUS ... STATE'S MOTION TO AMEND INFORMATION**

As to STATUS CHECK: TRIAL STATUS: Upon Court's inquiry, Mr. Noxon noted the State is ready for trial. Deft. requested discovery as to the photos. Mr. Noxon lodged the photos and copies of Deft's four (4) prior convictions with Mr. Savage. Mr. Noxon requested that Deft. advise the State, so they can respond, if he challenges any of those convictions.

As to STATE'S MOTION TO AMEND INFORMATION: Mr. Noxon noted the State wishes to seek Habitual Criminal treatment. Deft. objected to the State filing Habitual Criminal treatment at this late date. Response by Mr. Noxon that per Statute, any time up to 15 days prior to sentencing, the State may file Habitual Criminal charges and will obtain the Statute and respond if the Court so wishes, noting the State is within the limit. He further stated that if Deft. wishes to discuss negotiations, he will do so. Court cited NRS 207.010, and ORDERED, State's Motion to Amend Information

PRINT DATE: 08/11/2010

Page 14 of 41

Minutes Date: June 05, 1997

97C143146

GRANTED, noting it is the State's prerogative to go forward with it, if appropriate. ORDER TO AMEND INFORMATION signed and FILED IN OPEN COURT. AMENDED INFORMATION FILED IN OPEN COURT. COURT ORDERED, Calendar Call and Jury Trial dates STAND. Mr. Noxon stated he will contact Mr. Savage as to negotiating this matter.

CUSTODY

08-28-97 9:00 AM CALENDAR CALL

09-02-97 10:00 AM JURY TRIAL

97C143146

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 14, 1999

97C143146

The State of Nevada vs Gary Pickett

April 14, 1999

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS (04-14-99)**
**Court Clerk: JOYCE
BROWN**
**Reporter/Recorder:
CATHY NELSON**
**Heard By: Michael
Douglas**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Weckerly, Pamela C. Attorney**JOURNAL ENTRIES**

- DEFT'S PRO PER MOTION FOR EXTENSION OF TIME, MOTION FOR TRANSCRIPTS, JUDGMENT OF CONVICTION, MOTION FOR PRE-SENTENCING REPORT, SENTENCING TRANSCRIPT, GUILTY PLEA MEMORANDUM, PRE-TRIAL AND ALL POST-TRIAL HEARING TRANSCRIPTS AND AMENDED INFORMATION TO RESPOND TO STATE'S OPPOSITION TO PETITIONERS WRIT OF HABEAS CORPUS...DEFT'S PRO PER PETITION FOR A WRIT OF HABEAS CORPUS (POST-CONVICTION)...DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

AS TO THE FIRST MOTION LISTED, COURT ORDERED motion DENIED. Court advised it would be appropriate to have the file sent to the Defendant by the previous Counsel, Mr. Savage, if he still had it.

AS TO DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, COURT ORDERED motion GRANTED.

AS TO THE DEFT'S PRO PER PETITION FOR A WRIT OF HABEAS CORPUS (POST-CONVICTION), Court advised it was untimely; good cause had not been shown in this matter; and

PRINT DATE: 08/11/2010

Page 40 of 41

Minutes Date:

June 05, 1997

97C143146

ORDERED, pursuant to NRS 34.726 the Petition was DENIED. Additionally, Court noted for the record, against the Court's advice, Mr. Pickett represented himself. Court further advised the petition was without merit; the Defendant had signed off on the negotiations; and he was canvassed thoroughly; as to Counsel, it was by his own design; and Court had ordered stand-by Counsel for him. State to prepare the order.

NDP

Exhibit #2

ORIGINAL

FILED

1997 OCT 17 A 8:51

JOCP
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 435-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

GARY PICKETT, aka
Cary Jerard Pickett, #0725059

Defendant.

Case No. C143146
Dept. No. XI
Docket S

JUDGMENT OF CONVICTION (PLEA)

WHEREAS, on the 28th day of August, 1997, the Defendant GARY PICKETT, aka Cary Jerard Pickett, appeared before the Court herein with his counsel and entered a plea of guilty to the crime(s) of GRAND LARCENY (CATEGORY B FELONY), committed on or about the 3rd day of May, 1997, in violation of NRS 205.220 and

WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria Persona, being present in court with his counsel JORDAN SAVAGE, ESQ., as Stand By Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada Department of Prisons, suspended; placed on probation for an indeterminate period not to exceed five (5) years. Conditions: 1. Search Clause for controlled substances and weapons. 2. Complete Drug Court Program, noting weapons were not involved. 3. Complete long-term

File Return copy

OCT 14 1997

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CT 20 1997

1 counseling, vocational and educational programs as deemed necessary by the Division of Parole
2 and Probation. 4. Complete eight (8) hours community service per month within the first three
3 (3) years of probation. 5. Pursuant to NRS 176.185, Defendant to be supervised in the Nevada
4 Division of Parole and Probation's House Arrest Program for the first four (4) months of
5 probation. Defendant to receive eighty-nine (89) days credit for time served. Court referred
6 matter to Drug Court, and Ordered, set for further proceedings on October 6, 1997 at 9:00
7 o'clock a.m. in Department X.

8 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
9 Judgment of Conviction as part of the record in the above entitled matter.

10 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
11 State of Nevada.

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13 
14 DISTRICT JUDGE 243

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26 DA#97-143146X/pm
27 LVMPD EV#9705030904
28 G/L-F
(TKI)

INDIVIDUAL RESTITUTION of \$3,034.50, and SENTENCED, as follows: COUNT 1 - A MAXIMUM of ONE-HUNDRED-EIGHTY (180) MONTHS and a MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); COUNT 2 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); COUNT 3 - A MAXIMUM term of LIFE in the NV Dept of Corrections, with the possibility of Parole when a MINIMUM of TEN (10) YEARS has been served, CONSECUTIVE TO COUNT 1; COUNT 4 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT TO COUNT 2.

COURT REITERATED that COUNTS 1 AND 3 ARE CONSECUTIVE and COUNTS 2 AND 4 ARE CONCURRENT. COURT FURTHER ORDERED, SENTENCING IN THIS CASE IS TO BE SERVED CONSECUTIVE TO THE SENTENCE IMPOSED IN CASE NO. C156246, with ZERO (0) DAYS CREDIT for time served. COURT FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted.

If bond, exonerated.

=====

AS TO DEFT PICKETT: The State lodged seven (7) certified copies of Deft Pickett's prior Judgments of Convictions in support of their request for Habitual Criminal enhancement. Exhibits were marked as State's Exhibits and admitted. COURT FOUND documents to be accurate and sufficient to support and FOUND DEFT DANIELS AN HABITUAL CRIMINAL pursuant to NRS 207.010.

DEFT. PICKETT ADJUDGED GUILTY of COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM (F); COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F); COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON (F); AND COUNT 4 - POSSESSION OF FIREARM BY EX-FELON (F).

In addition to the \$25.00 Administrative Assessment fee, COURT ORDERED, Deft Pickett to PAY RESTITUTION in the AMOUNT of \$11,948.60 JOINTLY and SEVERALLY with co-deft, an INDIVIDUAL RESTITUTION of \$1,550.00, and SENTENCED, as follows: COUNT 1 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); COUNT 2 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); COUNT 3 - Habitual Criminal Enhancement with a MAXIMUM term of TWENTY-FIVE (25) MONTHS and a MINIMUM of TEN (10) MONTHS in the NV Dept of Corrections, SENTENCE CONSECUTIVE TO COUNT 1; COUNT 4 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT TO COUNT 2.

COURT REITERATED that COUNTS 1 AND 3 ARE CONSECUTIVE and COUNTS 2 and 4 ARE CONCURRENT, with 88 DAYS CREDIT for time served.

COURT FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted.

If bond, exonerated.

CLERK'S NOTE 7/27/10 - AS TO DEFT PICKETT. COUNT 3 HAS BEEN CORRECTED PER ABOVE MINUTE. (S.CHUN)

INDIVIDUAL RESTITUTION of \$3,034.50, and SENTENCED, as follows: COUNT 1 - A MAXIMUM of ONE-HUNDRED-EIGHTY (180) MONTHS and a MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC); COUNT 2 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); COUNT 3 - A MAXIMUM term of LIFE in the NV Dept of Corrections, with the possibility of Parole when a MINIMUM of TEN (10) YEARS has been served, CONSECUTIVE TO COUNT 1; COUNT 4 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT TO COUNT 2.

COURT REITERATED that COUNTS 1 AND 3 ARE CONSECUTIVE and COUNTS 2 AND 4 ARE CONCURRENT. COURT FURTHER ORDERED, SENTENCING IN THIS CASE IS TO BE SERVED CONSECUTIVE TO THE SENTENCE IMPOSED IN CASE NO. C156246, with ZERO (0) DAYS CREDIT for time served. COURT FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted.

If bond, exonerated.

=====

AS TO DEFT PICKETT: The State lodged seven (7) certified copies of Deft Pickett's prior Judgments of Convictions in support of their request for Habitual Criminal enhancement. Exhibits were marked as State's Exhibits and admitted. COURT FOUND documents to be accurate and sufficient to support and FOUND DEFT DANIELS AN HABITUAL CRIMINAL pursuant to NRS 207.010.

DEFT. PICKETT ADJUDGED GUILTY of COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM (F); COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F); COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON (F); AND COUNT 4 - POSSESSION OF FIREARM BY EX-FELON (F).

In addition to the \$25.00 Administrative Assessment fee, COURT ORDERED, Deft Pickett to PAY RESTITUTION in the AMOUNT of \$11,948.60 JOINTLY and SEVERALLY with co-deft, an INDIVIDUAL RESTITUTION of \$1,550.00, and SENTENCED, as follows: COUNT 1 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); COUNT 2 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); COUNT 3 - Habitual Criminal Enhancement with a MAXIMUM term of TWENTY-FIVE (25) MONTHS and a MINIMUM of TEN (10) MONTHS in the NV Dept of Corrections, SENTENCE CONSECUTIVE TO COUNT 1; COUNT 4 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT TO COUNT 2.

COURT REITERATED that COUNTS 1 AND 3 ARE CONSECUTIVE and COUNTS 2 and 4 ARE CONCURRENT, with 88 DAYS CREDIT for time served.

COURT FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted.

If bond, exonerated.

CLERK'S NOTE 7/27/10 - AS TO DEFT PICKETT. COUNT 3 HAS BEEN CORRECTED PER ABOVE MINUTE. (S.CHUN)

Exhibit #1

1 LAS VEGAS, CLARK COUNTY, NV, THURS., FEB. 25, 2010

2 10:25 A.M.

3 -oOo-

4 P R O C E E D I N G S

5 THE COURT: With respect to Mr. Pickett.

6 MR. NELSON: Judge, it's my understanding
7 this morning, he will unconditionally waive his
8 preliminary hearing. In district court he will plead
9 guilty to one count of robbery with the use of a
10 deadly weapon naming all victims, one count of
11 conspiracy to commit robbery, one count of burglary
12 while in possession of a firearm naming all bars, one
13 count of felon possession of a firearm.

14 He will stipulate to the large habitual
15 under NRS 207.010. Both of the parties stipulate to
16 a term of years of 12 years to a maximum term of 30
17 years in the Nevada Department of Corrections.

18 With regard to robbery with use of a
19 deadly weapon, that will be the charge that he will
20 plead to the large habitual on. The conspiracy to
21 commit robbery will be a two-to-five-year sentence to
22 run consecutive to his 10-to-25-year sentence.

23 MR. ALMASE: And obviously the remaining
24 counts will run concurrent.

25 MR. NELSON: That's correct.

1 THE COURT: Mr. Picket, did you understand
2 the terms of the negotiations?
3 THE DEFENDANT: Yes, ma'am.
4 THE COURT: Do you understand also that
5 one of the things you are being asked to do this
6 morning is to unconditionally waive your right to a
7 preliminary hearing which means that if you get to
8 district court and you change your mind about the
9 negotiations you won't be able to come back to this
10 court to have a preliminary hearing as to these
11 charges?
12 Do you understand that?
13 THE DEFENDANT: Yes, ma'am.
14 THE COURT: And understanding that, is it
15 still your intention to unconditionally waive your
16 right to a preliminary hearing?
17 THE DEFENDANT: Yes, ma'am.
18 THE COURT: Then it appearing to this
19 Court from the amended criminal complaint on file
20 herein that the crimes of conspiracy to commit
21 robbery, robbery with use of a deadly weapon, allege
22 burglary while in possession of a deadly weapon have
23 been committed and the Defendant, Cary Pickett,
24 having unconditionally waived his right to a
25 preliminary hearing on said charges shall be held to

1 answer said charges in the Eighth Judicial District
2 Court, Department --
3 THE CLERK: 18, March 11th at 10:30, lower
4 level basement, Courtroom 1A.
5 -oOo-
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7 ATTEST: FULL, TRUE, ACCURATE AND CERTIFIED
8 TRANSCRIPT OF PROCEEDINGS.
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12 Shawn E. Ott, CCR No. 577
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1 CASE NO. C262523

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

4 -oOo-

5 COPY

6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

CASE NO. 10F02742B

9 CARY PICKETT,)

10 Defendant.)

11
12 REPORTER'S TRANSCRIPT OF
13 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

14
15 BEFORE THE HON. KAREN BENNETT-HARON

16 JUSTICE OF THE PEACE

17 Thursday, February 25, 2010

18 10:25 A.M.

19
20 APPEARANCES:

21 For the State: ROY NELSON, ESQ.
22 Deputy District Attorney

23 For the Defendant: CAESAR ALMASE, ESQ.

24
25 Reported by: SHAWN E. OTT, CCR NO. 577

Exhibit #2

"D" ORIGINAL

FILED

1997 OCT 17 A 8 51

1 JOCP
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 GARY PICKETT, aka
12 Cary Jerard Pickett, #0725059

13 Defendant.

Case No. C143146
Dept. No. XI
Docket S

14 JUDGMENT OF CONVICTION (PLEA)

15 WHEREAS, on the 28th day of August, 1997, the Defendant GARY PICKETT, aka Cary
16 Jerard Pickett, appeared before the Court herein with his counsel and entered a plea of guilty to
17 the crime(s) of GRAND LARCENY (CATEGORY B FELONY), committed on or about the 3rd
18 day of May, 1997, in violation of NRS 205.220 and

19 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
20 Persona, being present in court with his counsel JORDAN SAVAGE, ESQ., as Stand By
21 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
22 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
23 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
24 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
25 Department of Prisons, suspended; placed on probation for an indeterminate period not to
26 exceed five (5) years. Conditions: 1. Search Clause for controlled substances and weapons.
27 2. Complete Drug Court Program, noting weapons were not involved. 3. Complete long-term
28

CE-05

CT 20 1997

1 counseling, vocational and educational programs as deemed necessary by the Division of Parole
2 and Probation. 4. Complete eight (8) hours community service per month within the first three
3 (3) years of probation. 5. Pursuant to NRS 176.185, Defendant to be supervised in the Nevada
4 Division of Parole and Probation's House Arrest Program for the first four (4) months of
5 probation. Defendant to receive eighty-nine (89) days credit for time served. Court referred
6 matter to Drug Court, and Ordered, set for further proceedings on October 6, 1997 at 9:00
7 o'clock a.m. in Department X.

8 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
9 Judgment of Conviction as part of the record in the above entitled matter.

10 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
11 State of Nevada.

12
13 
14 DISTRICT JUDGE 283

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26 DA#97-143146X/pm
27 LVMPD EV#9705030904
28 G/L-F
(TK1)

Exhibit #3
ORIGINAL

16

1 JOCP
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

FILED

1997 OCT 17 A 9 53

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 CARY JERARD PICKETT, aka
12 Gary Pickett, #0725059

13 Defendant.
14

Case No. C145127
Dept. No. XI
Docket S

JUDGMENT OF CONVICTION (PLEA)

16 WHEREAS, on the 18th day of September, 1997, the Defendant CARY JERARD
17 PICKETT, aka Gary Pickett, appeared before the Court herein with his counsel and entered a
18 plea of guilty to the crime(s) of BURGLARY (CATEGORY B FELONY), committed on or
19 about the 7th day of August, 1997, in violation of NRS 205.060 and

20 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
21 Persona, being present in court with his counsel JORDAN, SAVAGE, ESQ., as Stand By
22 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
23 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
24 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
25 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
26 Department of Prisons, to be served consecutive to sentence imposed in Case No. C143146,
27 suspended; placed on probation for an indeterminate period not to exceed five (5) years.
28 Conditions: 1. Search Clause for controlled substances and stolen property. 2. Complete Drug

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1 Court Program, noting there was no use of weapons in this incident. 3. Complete long-term
2 counseling, vocational and educational programs as deemed necessary. 4. Defendant to be
3 supervised in the Nevada Division of Parole and Probation's House Arrest Program for the first
4 four (4) months of probation. Defendant to receive thirty-five (35) days credit for time served.
5 Court referred matter to Drug Court, and Ordered, set for further proceedings on October 6,
6 1997 at 9:00 o'clock a.m. in Department X.

7 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
8 Judgment of Conviction as part of the record in the above entitled matter.

9 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
10 State of Nevada.

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13 
14 DISTRICT JUDGE

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27 DA#97-145127X/pm
28 LVMPD EV#9708071616
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(TKI)

Exhibit #1

1 CASE NO. C262523

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

4 -ooo-

COPY

5
6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

CASE NO. 10F02742B

9 CARY PICKETT,)

10 Defendant.)

11
12 REPORTER'S TRANSCRIPT OF
13 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

14
15 BEFORE THE HON. KAREN BENNETT-HARON

16 JUSTICE OF THE PEACE

17 Thursday, February 25, 2010

18 10:25 A.M.

19
20 APPEARANCES:

21 For the State: ROY NELSON, ESQ.
22 Deputy District Attorney

23 For the Defendant: CAESAR ALMASE, ESQ.

24
25 Reported by: SHAWN E. OTT, CCR NO. 577

File Return
Copy

1 LAS VEGAS, CLARK COUNTY, NV, THURS., FEB. 25, 2010

2 10:25 A.M.

3 -oOo-

4 P R O C E E D I N G S

5 THE COURT: With respect to Mr. Pickett.

6 MR. NELSON: Judge, it's my understanding
7 this morning, he will unconditionally waive his
8 preliminary hearing. In district court he will plead
9 guilty to one count of robbery with the use of a
10 deadly weapon naming all victims, one count of
11 conspiracy to commit robbery, one count of burglary
12 while in possession of a firearm naming all bars, one
13 count of felon possession of a firearm.

14 He will stipulate to the large habitual
15 under NRS 207.010. Both of the parties stipulate to
16 a term of years of 12 years to a maximum term of 30
17 years in the Nevada Department of Corrections.

18 With regard to robbery with use of a
19 deadly weapon, that will be the charge that he will
20 plead to the large habitual on. The conspiracy to
21 commit robbery will be a two-to-five-year sentence to
22 run consecutive to his 10-to-25-year sentence.

23 MR. ALMASE: And obviously the remaining
24 counts will run concurrent.

25 MR. NELSON: That's correct.

1 THE COURT: Mr. Pickett, did you understand
2 the terms of the negotiations?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you understand also that
5 one of the things you are being asked to do this
6 morning is to unconditionally waive your right to a
7 preliminary hearing which means that if you get to
8 district court and you change your mind about the
9 negotiations you won't be able to come back to this
10 court to have a preliminary hearing as to these
11 charges?

12 Do you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And understanding that, is it
15 still your intention to unconditionally waive your
16 right to a preliminary hearing?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Then it appearing to this
19 Court from the amended criminal complaint on file
20 herein that the crimes of conspiracy to commit
21 robbery, robbery with use of a deadly weapon, allege
22 burglary while in possession of a deadly weapon have
23 been committed and the Defendant, Cary Pickett,
24 having unconditionally waived his right to a
25 preliminary hearing on said charges shall be held to

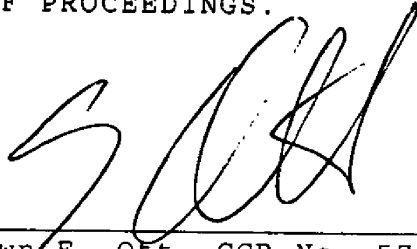
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answer said charges in the Eighth Judicial District
Court, Department --

THE CLERK: 18, March 11th at 10:30, lower
level basement, Courtroom 1A.

-oOo-

ATTEST: FULL, TRUE, ACCURATE AND CERTIFIED
TRANSCRIPT OF PROCEEDINGS.



Shawn E. Ott, CCR No. 577

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U.S. MAIL

FILED

FEB 11 2011

Adam L. Blum
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

CARY PICKETT,

Petitioner,

vs.

WARDEN SCILLIA AT
HIGH DESERT STATE PRISON,
Respondent,

Case Ng: C262523

Dept No: 18

ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus (Post-Conviction Relief) on January 27, 2011. The Court has reviewed the petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's

Calendar on the 6th day of April, 2011, at the hour of

8:15
9:00 ^A o'clock for further proceedings.

Dated: JAN 31 2011


District Court Judge

10C262523-2
OPWH
Order for Petition for Writ of Habeas Corpus
1228432



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FEB 11 2011

CLERK OF THE COURT

CLERK OF THE COURT

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John L. Williams
CLERK OF DISTRICT COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

10C262523-2
RTRAN
Recorders Transcript of Hearing
1259854



THE STATE OF NEVADA,

Plaintiff,

vs.

CARY PICKETT, aka,
Cary Jerard Pickett,

Defendant.

CASE NO. C262523

DEPT. XVIII
(ARRAIGNMENT HELD IN DEPT. LLA)

BEFORE THE HONORABLE KEVIN V. WILLIAMS, HEARING MASTER
THURSDAY, MARCH 11, 2010

**RECORDER'S TRANSCRIPT OF HEARING RE:
ARRAIGNMENT**

APPEARANCES:

For the State:

ROY NELSON, ESQ.,
Chief Deputy District Attorney

For the Defendant:

CAESAR V. ALMASE, ESQ.,
Attorney at Law

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

1 THURSDAY, MARCH 11, 2010

2 * * * * *

3 P R O C E E D I N G S

4
5 THE COURT: Cary Pickett. Yes, Mr. Almase?

6 MR. ALMASE: Good morning, your Honor.

7 THE COURT: Good morning, sir.

8 MR. ALMASE: Mr. Pickett is present in custody. You want me to do it?

9 MR. NELSON: Either way. Whatever you want.

10 THE COURT: Why don't you go ahead and let Mr. Nelson put it on there. Go
11 ahead, Mr. Nelson.

12 MR. NELSON: Judge, it's my understanding this morning he's going to plead
13 guilty to one count of burglary while in possession of a firearm, count two,
14 conspiracy to commit robbery, count three, robbery with use of a deadly weapon,
15 and count four, possession of a firearm by ex-felon. There's a signed guilty plea
16 agreement dated March 11th, today, Judge.

17 The State agreed to dismiss the remaining counts. The Defendant
18 stipulates to the large habitual criminal treatment under NRS 207.010. The parties
19 stipulate to a two- to five-year sentence with regard to count one. The Defendant
20 will agree that he'll be treated as a large habitual under count two and receive a
21 sentence of ten to twenty-five years. That will run consecutive to count one for a
22 total of twelve to thirty years in the Nevada Department of Corrections. All the other
23 counts will run concurrent, Judge.

24 THE COURT: Now did you hear that -- those negotiations put on the record
25 by the State, sir?

1 THE DEFENDANT: Yes, sir.
2 THE COURT: What is your true name, Mr. Pickett?
3 THE DEFENDANT: Cary Jerard Pickett.
4 THE COURT: How old are you?
5 THE DEFENDANT: Forty-four.
6 THE COURT: How far did you go in school?
7 THE DEFENDANT: Thirteen years.
8 THE COURT: Read, write, and understand the English language?
9 THE DEFENDANT: Yes, sir.
10 THE COURT: Okay, move just a little closer to the microphone if you would
11 there, Mr. Pickett.
12 THE DEFENDANT: Yes, sir.
13 THE COURT: Understand what you're charged with?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: What is your plea?
16 THE DEFENDANT: Guilty.
17 THE COURT: Before I can accept your guilty plea, I must be assured it's
18 freely and voluntarily given. Has anyone threatened you to get you to plead guilty?
19 THE DEFENDANT: No, sir.
20 THE COURT: Has anyone threatened anyone closely associated with you in
21 order to get you to plead guilty?
22 THE DEFENDANT: No, sir.
23 THE COURT: You understand the penalty range for count one is two to
24 fifteen years, Nevada Department of Prisons?
25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand the penalty range for count two is one to
2 six years, Nevada Department of Prisons, up to a \$5,000 fine?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand the penalty range for count three which
5 you're pleading guilty to, robbery with use of a deadly weapon, is one to fifteen
6 years -- two to fifteen years for the robbery; do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand there's an additional
9 one- to fifteen-year penalty for use of a deadly weapon; you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand the penalty range for count four is one to
12 six years, Nevada Department of Prisons, up to a \$5,000 fine?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And do you understand that sentencing is strictly up to the
15 Court and no one can promise you probation, leniency, or any special treatment?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you further understand, sir, that you stipulated to the use
18 of the large habitual criminal which carries the following penalty ranges: Life without
19 the possibility of parole, life with the possibility of parole with parole eligibility
20 beginning after ten years, or a definite term of twenty-five years in the Nevada
21 Department of Prisons with parole eligibility beginning after ten years; you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And do you understand that you have stipulated to the last
25 type of sentencing which is ten to twenty-five years; you understand that?

1 THE DEFENDANT: Yes, sir.
2 THE COURT: Do you understand it's consecutive to count one?
3 THE DEFENDANT: Yes, sir.
4 THE COURT: And is one of the reasons you're pleading guilty here today is
5 because in truth and fact you are guilty?
6 THE DEFENDANT: Yes, sir.
7 THE COURT: I have a copy of your guilty plea agreement in my hand. Did
8 you read it?
9 THE DEFENDANT: Yes, sir.
10 THE COURT: Understand it?
11 THE DEFENDANT: Yes, sir.
12 THE COURT: Understand by pleading guilty you're giving up the several
13 valuable Constitutional rights listed in the guilty plea agreement?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: Discuss those rights with your attorney?
16 THE DEFENDANT: Yes, sir.
17 THE COURT: Have any questions about those rights?
18 THE DEFENDANT: No, sir.
19 THE COURT: Have any questions regarding negotiations?
20 THE DEFENDANT: No, sir.
21 THE COURT: Did you sign this guilty plea agreement freely and voluntarily
22 on page six, sir?
23 THE DEFENDANT: Yes, sir.
24 THE COURT: Okay, listen closely, Mr. Pickett. This is what they said you
25 did. Count one, burglary while in possession of a firearm, it says that you did

1 willfully, unlawfully, and feloniously enter, while in possession of a firearm, with the
2 intent to commit robbery, that certain building occupied by Beano's Bar, located on
3 West Lake Mead, Las Vegas, Clark County, Nevada, the Roadrunner Saloon,
4 located on Centennial Center, Las Vegas, Clark County, Nevada, the Triple Bar,
5 located on North Decatur Boulevard, Las Vegas, Clark County, Nevada, Rae's Bar,
6 located on Wigwam Parkway, Clark County, Nevada, Timbers Bar, located on West
7 Azure, Suite 170, Las Vegas, Clark County, Nevada, and/or the Tenaya Lodge,
8 located on Sky Pointe Drive, Las Vegas, Clark County, Nevada; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And it says here in regards to count two that you did meet with
11 Alan Daniels and between yourselves you willfully, unlawfully conspired and agreed
12 to commit the crime of robbery, and in furtherance of that conspiracy you did the act
13 set forth in count three?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And in regards to count three, robbery with use of a deadly
16 weapon, it says you did willfully, unlawfully, and feloniously take personal property,
17 lawful money of the United States, and cellular phone from the person of Justin
18 Sanchez, and/or George Mattie, and/or Delton Lema, Aaron Parduhm, Jushua Kiehl,
19 in their presence by means of force, fear, or violence of injury thereto, without the
20 consent and against the will of those individuals; is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And during the commission of the crime either you or your
23 co-defendant used a handgun; is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay, in regards to count four, possession of a firearm by an

1 ex-felon, it says you did willfully, unlawfully, and feloniously own or have in your
2 possession or under your control a weapon, and that was a handgun, and that at
3 that time you were an ex-felon, 'cause in 2006 you had been convicted in Case
4 Number C226282 of transport of controlled substance, a felony under the laws of
5 the State of Nevada, and also in 1997 you had previously been convicted of a -- in
6 Case Number 145127 of burglary; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And in Case C21 -- 143 [sic] and you had been convicted of
9 grand larceny; is that correct?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And in -- that was in 1993 -- excuse me. And then for a final
12 case you had was C109725 in 1993 where you'd been convicted of attempt grand
13 larceny; is that correct?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: So you had possession of a firearm after being convicted of
16 felonies; is that correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. Anything else there, Mr. Nelson?

19 MR. NELSON: No, Judge.

20 THE COURT: Okay, Court accepts the Defendant's guilty plea as being freely
21 and voluntarily given. Listen closely now, sir. We're going to set your sentencing
22 date on --

23 THE CLERK: May 10th, 8:15, Department 18.

24 MR. NELSON: Thank you, Judge.

25 THE COURT: Uh-huh. Have a good day there, Mr. Nelson.

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MR. ALMASE: Thank you, Judge.

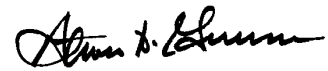
(Whereupon, the proceedings concluded)

* * * * *

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.



Kiara Schmidt, Court Recorder/Transcriber



CLERK OF THE COURT

1 **RSPN**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 H. LEON SIMON
6 Chief Deputy District Attorney
7 Nevada Bar #000411
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7
8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)
11 Plaintiff,)
12 -vs-)
13 CARY J. PICKETT,)
14 #0725059)
Defendant.)

CASE NO: 10C262523-2
DEPT NO: XVII

15 STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS
16 CORPUS (POST-CONVICTION)

17 DATE OF HEARING: April 6, 2011
18 TIME OF HEARING: 8:15 AM

19 COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
20 H. LEON SIMON, Chief Deputy District Attorney, and hereby submits the attached Points
21 and Authorities in Response to Defendant's Petition for Writ of Habeas Corpus (Post-
22 Conviction).

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

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28 ///

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 3, 2010, Cary J. Pickett, hereinafter "Defendant," was charged by way of
4 Criminal Complaint with five (5) counts of Burglary While in Possession of a Firearm, seven
5 (7) counts of Robbery With Use of a Deadly Weapon, five (5) counts of Conspiracy to
6 Commit Robbery, and six (6) counts of Possession of a Firearm by an Ex-Felon. On March
7 10, 2010, pursuant to negotiations, Defendant was charged by way of Information with one
8 count each of Burglary While in Possession of a Firearm, Conspiracy to Commit Robbery,
9 Robbery With Use of a Deadly Weapon, and Possession of a Firearm by an Ex-Felon. On
10 March 11, 2010, pursuant to a written Guilty Plea Agreement, Defendant pled guilty to the
11 same charges.

12 On May 10, 2010, Defendant was adjudged a Habitual Criminal and sentenced as
13 follows: as to Count 1 – Burglary While in Possession of a Firearm, to a MAXIMUM of
14 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
15 MONTHS; as to Count 2 – Conspiracy to Commit Robbery, to MAXIMUM of SIXTY (60)
16 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; as to
17 Count 3 – Robbery with Use of a Deadly Weapon, to a MAXIMUM of TWENTY-FIVE
18 (25) YEARS with a MINIMUM parole eligibility of TEN (10) YEARS, Count 3 to run
19 CONSECUTIVE to Count 1; as to Count 4 – Possession of a Firearm by an Ex-Felon, to a
20 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
21 FOUR (24) MONTHS, Count 4 to run CONCURRENT with Count 2, with EIGHTY-
22 EIGHT (88) DAYS credit for time served. A Judgment of Conviction was filed on May 19,
23 2010.¹ Defendant did not file a Direct Appeal. Defendant filed the instant petition on January
24 27, 2011. The State's response is as follows.

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27 _____

28 ¹ Due to clerical errors, an Amended Judgment of Conviction was filed on September 24, 2010.

1 **ARGUMENT**

2 **I**

3 **DEFENSE COUNSEL WAS NOT INEFFECTIVE WITH REGARDS TO**
4 **DEFENDANT'S HABITUAL CRIMINAL TREATMENT**
5 **(GROUNDS 1 AND 4)**

6 In order to assert a claim for ineffective assistance of counsel a defendant must
7 prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-
8 prong test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64
9 (1984). *See also* State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this
10 test, the Defendant must show first that his counsel's representation fell below an objective
11 standard of reasonableness, and second, that but for counsel's errors, there is a reasonable
12 probability that the result of the proceedings would have been different. Strickland, 466 U.S.
13 at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev.
14 430, 432, 683 P.2d 504, 505 (1984) (*adopting* Strickland two-part test in Nevada).
15 "Effective counsel does not mean errorless counsel, but rather counsel whose assistance is
16 '[w]ithin the range of competence demanded of attorneys in criminal cases.'" Jackson v.
17 Warden, Nevada State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975), *quoting*
18 McMann v. Richardson, 397 U.S. 759, 771, 90 S.Ct. 1441, 1449 (1970).

19 In considering whether trial counsel has met this standard, the court should first
20 determine whether counsel made a "sufficient inquiry into the information that is pertinent to
21 his client's case." Doleman v State, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); *citing*
22 Strickland, 466 U.S. at 690-691, 104 S.Ct. at 2066. Once such a reasonable inquiry has been
23 made by counsel, the court should consider whether counsel made "a reasonable strategy
24 decision on how to proceed with his client's case." Doleman, 112 Nev. at 846, 921 P.2d at
25 280, *citing* Strickland, 466 U.S. at 690-691, 104 S.Ct. at 2066. Finally, counsel's strategy
26 decision is a "tactical" decision and will be "virtually unchallengeable absent extraordinary
27 circumstances." Doleman, 112 Nev. at 846, 921 P.2d at 280; Howard v. State, 106 Nev. 713,
28 722, 800 P.2d 175, 180 (1990); Strickland, 466 U.S. at 691, 104 S.Ct. at 2066.

1 Based on the above law, the court begins with the presumption of effectiveness and
2 then must determine whether or not the petitioner has proved disputed factual allegations
3 underlying his ineffective-assistance claim by a preponderance of the evidence. Means v.
4 State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). The role of a court in considering
5 allegations of ineffective assistance of counsel is “not to pass upon the merits of the action
6 not taken but to determine whether, under the particular facts and circumstances of the case,
7 trial counsel failed to render reasonably effective assistance.” Donovan v. State, 94 Nev.
8 671, 675, 584 P.2d 708, 711 (1978), *citing* Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th
9 Cir. 1977).

10 This analysis does not mean that the court “should second guess reasoned choices
11 between trial tactics nor does it mean that defense counsel, to protect himself against
12 allegations of inadequacy, must make every conceivable motion no matter how remote the
13 possibilities are of success.” Donovan, 94 Nev. at 675, 584 P.2d at 711. In essence, the court
14 must “judge the reasonableness of counsel's challenged conduct on the facts of the particular
15 case, viewed as of the time of counsel's conduct.” Strickland, 466 U.S. at 690, 104 S.Ct. at
16 2066.

17 “There are countless ways to provide effective assistance in any given case. Even the
18 best criminal defense attorneys would not defend a particular client in the same way.”
19 Strickland, 466 U.S. at 689, 104 S.Ct. at 689. “Strategic choices made by counsel after
20 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
21 108 Nev. 112, 117, 825 P.2d 593, 596 (1992), *citing* Strickland, 466 U.S. at 690, 104 S. Ct.
22 at 2066; *see also* Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).

23 Even if a defendant can demonstrate that his counsel's representation fell below an
24 objective standard of reasonableness, he must still demonstrate prejudice and show a
25 reasonable probability that, but for counsel's errors, the result would have been different.
26 McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999), *citing* Strickland, 466
27 U.S. at 687. “A reasonable probability is a probability sufficient to undermine confidence in
28 the outcome.” Id., *citing* Strickland, 466 U.S. at 687-89, 694.

1 First, Defendant claims his counsel was ineffective because he failed to challenge two
2 of the prior convictions used as the basis to have him adjudicated a habitual criminal as
3 unconstitutional. Defendant also argues that had counsel informed him that he could
4 challenge the prior convictions he would not have stipulated to be adjudicated a habitual
5 criminal. However, this argument is wholly without merit. The State specified a total of
6 seven (7) prior felonies in the Information to be considered by the court when sentencing.
7 Ex. 2. Moreover, the State lodged seven (7) certified copies of the Judgments of Convictions
8 in support of its request for habitual criminal treatment. Ex. 4. As such, even if Defendant
9 could have successfully challenged the constitutionality of two (2) of those convictions there
10 would be five (5) remaining to be considered.

11 Second, Defendant claims his counsel should have argued against habitual criminal
12 treatment at sentencing. However, Defendant effectively stipulated to such treatment when
13 the State specified the previous felonies in the Information (Ex. 2), the GPA contained the
14 stipulation (Ex. 1 p. 1), and the court reminded him of the penalty ranges he would be facing
15 under the large habitual criminal statute (Ex. 3 p. 4). *See Hodges v. State*, 119 Nev. 479, 78
16 P.3d 67 (2003). Counsel cannot be deemed ineffective for failing to make futile arguments.
17 *See Ennis v. State*, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Furthermore, it should
18 also be noted that Defendant's attorney effectively negotiated with the State to substantially
19 reduce the amount of prison time Defendant was facing if convicted. The State provided
20 notice that it intended to seek habitual criminal treatment. Had Defendant been convicted of
21 all sixteen (16) charges he would have been facing a possible sixteen (16) life sentences.

22 Defendant has also failed to explain how or why two of his previous convictions are
23 allegedly infirm. Moreover, Defendant has also failed to specify what "mitigation"
24 arguments his counsel could have made on his behalf that would have had a reasonable
25 probability of success in avoiding being treated as a habitual criminal. Claims asserted in a
26 petition for post-conviction relief must be supported with specific factual allegations, which
27 if true, would entitle the petitioner to relief. *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d
28 222, 225 (1984). "Bare" and "naked" allegations are not sufficient, nor are those belied and

1 repelled by the record. Id. It should also be noted that Defendant was facing twenty-three
2 (23) felony counts. It is highly unlikely he would have insisted on going to trial. As such, he
3 has failed to demonstrate prejudice.

4 II

5 DEFENDANT'S PLEA WAS ENTERED KNOWINGLY AND VOLUNTARILY 6 (GROUND 2)

7 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only
8 be withdrawn to correct "manifest injustice." *See also Baal v. State*, 106 Nev. 69, 72, 787
9 P.2d 391, 394 (1990). The law in Nevada clearly establishes that a plea of guilty is
10 presumptively valid and the burden is on a defendant to show that the plea was not
11 voluntarily entered. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (*citing*
12 *Wingfield v. State*, 91 Nev. 336, 337, 535 P.2d 1295, 1295 (1975)). Manifest injustice does
13 not exist if defendant entered his plea voluntarily. *Baal*, 106 Nev. at 72, 787 P.2d at 394.

14 To determine whether a guilty plea was voluntarily entered the Court will review the
15 totality of the circumstances surrounding the defendant's plea. *Bryant*, 102 Nev. at 271, 721
16 P.2d at 367. A proper plea canvass should reflect that:

17 " (1) the defendant knowingly waived his privilege against self-
18 incrimination, the right to trial by jury, and the right to confront his
19 accusers; (2) the plea was voluntary, was not coerced, and was not the
20 result of a promise of leniency; (3) the defendant understood the
21 consequences of his plea and the range of punishments; and (4) the
22 defendant understood the nature of the charge, i.e., the elements of the
23 crime." *Wilson v. State*, 99 Nev. at 367, 664 P.2d at 331 (*citing Higby*
24 *v. Sheriff*, 86 Nev. 774, 476 P.2d 950 (1970)).

25 The Nevada Supreme Court suggests in *Patton v. Warden* that the presence and advice of
26 counsel is a significant factor in determining the voluntariness of a plea of guilty. 91 Nev. 1,
27 2, 530 P.2d 107, 107 (1975).

28 This standard requires the court to personally address the defendant at the time he
enters his plea in order to determine whether he understands the nature of the charges to
which he is pleading. *Bryant*, 102 Nev. at 271, 721 P.2d at 367. A court may not rely simply
on a written plea agreement without some verbal interaction with a defendant. Id. Thus, a

1 “colloquy” is constitutionally mandated, and a “colloquy” is but a conversation in a formal
2 setting, such as that occurring between an official sitting in judgment of an accused at plea.
3 *See Id.* However, the court also need not conduct a ritualistic oral canvass. State v. Freese,
4 116 Nev. 1097, 13 P.3d 442 (2000). The guidelines for voluntariness of pleas of guilty “do
5 not require the articulation of talismanic phrases. It required only ‘that the record
6 affirmatively disclose that a defendant who pleaded guilty entered his plea understandingly
7 and voluntarily.’” Heffley v. Warden, 89 Nev. 573, 575, 516 P.2d 1403, 1404 (1973); Brady
8 v. United States, 397 U.S. 742, 747-748, 90 S. Ct. 1463, 1470 (1970).

9 In the instant case, Defendant’s plea was clearly entered knowingly and voluntarily.
10 First, Defendant was represented by counsel. Patton, *supra*. Second, Defendant signed a
11 guilty plea agreement which was filed on March 11, 2010. The relevant portions of said
12 agreement are as follows:

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

15 The State has agreed to dismiss the remaining counts. Defendant stipulates to
16 large habitual treatment under NRS 207.010. The parties stipulate to a 2-5 year
17 sentence on Count 1. Defendant treated as habitual under Count 2 and receive
10-25 year sentence, consecutive to Count 1, for a total of 12-30 years...all
other counts to run concurrent.

18 CONSEQUENCES OF THE PLEA

19 “I understand that by pleading guilty I admit the facts which support all the
20 elements of the offense(s) to which I now plead as set forth in Exhibit ‘1.’

21 I understand that as a consequence of my plea of guilty of Count 1, the Court
22 must sentence me to imprisonment in the Nevada Department of Corrections
23 for a minimum term of not less than two (2) years and maximum term of not
more than fifteen (15) years...

24 I understand that as a consequence of my plea of guilty of Count 2, the Court
25 must sentence me to imprisonment in the Nevada Department of Corrections
26 for a minimum term of not less than one (1) year and maximum term of not
more than six (6) years...

27 I understand that as a consequence of my plea of guilty of Count 3, the Court
28 must sentence me to imprisonment in the Nevada Department of Corrections

1 for a minimum term of not less than two (2) years and maximum term of not
2 more than fifteen (15) years, plus a consecutive minimum term of not less than
3 one (1) year and a maximum term of not more than fifteen (15) years for the
4 use of a deadly weapon enhancement...

5 I understand that as a consequence of my plea of guilty of Count 4, the Court
6 must sentence me to imprisonment in the Nevada Department of Corrections
7 for a minimum term of not less than one (1) year and maximum term of not
8 more than six (6) years...

9 ...

10 ... Further, I understand that if I am sentenced under the "large" habitual
11 criminal enhancement the Court must sentence me to LIFE without the
12 possibility of parole; life with the possibility of parole, parole eligibility begins
13 after a minimum term of TEN (10) years has been served; OR a definite term
14 of TWENTY-FIVE (25) years, parole eligibility begins after a minimum of
15 TEN (10) years has been served.

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

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

22 WAIVER OF RIGHTS

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

25 1. The constitutional privilege against self-incrimination, including the
26 right to refuse to testify at trial, in which event the prosecution would not be
27 allowed to comment to the jury about my refusal to testify.

28 2. The constitutional right to a speedy and public trial by an impartial
jury, free of excessive pretrial publicity prejudicial to the defense, at which
trial I would be entitled to the assistance of an attorney, either appointed or
retained. At trial the State would bear the burden of proving beyond a
reasonable doubt each element of the offense charged.

3. The constitutional right to confront and cross-examine any witness
who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my
behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction, with the assistance of an attorney,

1 either appointed or retained, unless the appeal is based upon reasonable
2 constitutional jurisdictional or other grounds that challenge the legality of the
proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

3 VOLUNTARINESS OF PLEA

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

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

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

8 All of the foregoing elements, consequences, rights, and waiver of rights have
9 been thoroughly explained to me by my attorney.

10 I believe that pleading guilty and accepting this plea bargain is in my best
interest.

11 I am signing this agreement voluntarily, after consultation with my attorney....

12 I am not now under the influence of any intoxicating liquor, a controlled
13 substance or other drug....

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

16 Ex. 1 p. 1-6.

17 The relevant portion of Defendant's plea canvass is as follows:

18 THE STATE: Judge, it's my understanding this morning he's going to plead
19 guilty to one count of burglary while in possession of a firearm,
20 count two, conspiracy to commit robbery, count three, robbery
with use of a deadly weapon, and count 4, possession of a
21 firearm by ex-felon. There's a signed guilty plea agreement dated
March 11th, today, Judge.

22 The State agreed to dismiss the remaining counts. The Defendant
23 stipulates to the large habitual criminal treatment under NRS
207.010. The parties stipulate to a two-to-five-year sentence with
24 regard to count one. The Defendant will agree that he'll be
treated as a large habitual under count two and receive a sentence
25 of ten to twenty-five years. That will run consecutive to count
one for a total of twelve to thirty years in the Nevada Department
26 of Corrections. All other counts will run concurrent, Judge.

27 THE COURT: Now did you hear that - - those negotiations put on the record by
28

1 the State, sir?

2 DEFENDANT: Yes, sir.

3 ...

4 THE COURT: Understand what you're charged with?

5 DEFENDANT: Yes, sir.

6 ...

7 THE COURT: Before I can accept your guilty plea, I must be assured it's freely
and voluntarily given. Has anyone threatened you to get you to
plead guilty?

8 DEFENDANT: No, sir.

9 THE COURT: Has anyone threatened anyone closely associated with you in
order to get you to plead guilty?

10 DEFENDANT: No, sir.

11 THE COURT: You understand the penalty range for count two [one] is two to
fifteen years, Nevada Department of Prisons?

12 DEFENDANT: Yes, sir.

13 THE COURT: You understand the penalty range for count two is one to six
years, Nevada Department of Prisons...

14 DEFENDANT: Yes, sir.

15 THE COURT: Do you understand the penalty range for count three which
you're pleading guilty to, robbery with use of a deadly weapon,
is one to fifteen years - - two to fifteen years for the robbery; do
you understand that?

16 DEFENDANT: Yes, sir.

17 THE COURT: And do you understand there's an additional one-to-fifteen-year
penalty for use of a deadly weapon, you understand that?

18 DEFENDANT: Yes, sir.

19 THE COURT: Do you understand the penalty range for count four is one to six
years, Nevada Department of Prisons...?

20 DEFENDANT: Yes, sir.

21 THE COURT: And do you understand that sentencing is strictly up to the Court
and no one can promise you probation, leniency, or any special
treatment?

22 DEFENDANT: Yes, sir.

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1 THE COURT: And you further understand, sir, that you stipulated to the use of
2 the large habitual criminal which carries the following penalty
3 ranges: Life without the possibility of parole, life with the
4 possibility of parole with parole eligibility beginning after ten
5 years, or a definite term of twenty-five years in the Nevada
6 Department of Prisons with parole eligibility beginning after ten
7 years ; you understand that?
8
9 DEFENDANT: Yes, sir.
10 THE COURT: And do you understand that you have stipulated to the last type
11 of sentencing which is ten to twenty-five years; you understand
12 that?
13 DEFENDANT: Yes, sir.
14 THE COURT: Do you understand it's consecutive to count one?
15 DEFENDANT: Yes, sir.
16 THE COURT: And is one of the reasons you're pleading guilty here today is
17 because in truth and fact you are guilty?
18 DEFENDANT: Yes, sir.
19 THE COURT: I have a copy of your guilty plea agreement in my hand. Did you
20 read it?
21 DEFENDANT: Yes, sir.
22 THE COURT: Understand it?
23 DEFENDANT: Yes, sir.
24 THE COURT: Understand that by pleading guilty you're giving up the several
25 valuable Constitutional rights listed in the guilty plea agreement?
26 DEFENDANT: Yes, sir.
27 THE COURT: Discuss those rights with your attorney?
28 DEFENDANT: Yes, sir.
THE COURT: Have any questions about those rights?
DEFENDANT: No, sir.
THE COURT: Did you sign this guilty plea agreement freely and voluntarily on
page six, sir?
DEFENDANT: Yes, sir.
THE COURT: ...in 2006 you had been convicted in Case Number C226282 of
transport of a controlled substance, a felony under the law of the
State of Nevada, and also in 1997 you had previously been

1 convicted of a - - in Case Number 145127 of burglary; is that
2 correct?

3 DEFENDANT: Yes, sir.

4 THE COURT: and in Case C21—143(sic) you had been convicted of grand
5 larceny, is that correct?

6 DEFENDANT: Yes, sir.

7 THE COURT: And in - - that was in 1993 - - excuse me. And then for a final
8 case you had was C109725 in 1993 where you'd been convicted
9 of attempt grand larceny; is that correct?

10 DEFENDANT: Yes, sir.

11 Ex. 3 p. 3-7.

12 After reviewing both the relevant portions of Defendant's GPA, the plea canvass, and
13 taking into account the presence of counsel, it is clear Defendant entered his plea freely,
14 knowingly, and voluntarily. As such, there is no manifest injustice and Defendant's petition
15 should be denied.

16 III

17 DEFENDANT'S CLAIM THAT HE WAS IMPROPERLY SENTENCED AS A

18 HABITUAL CRIMINAL IS NOT COGNIZABLE

19 (GROUND 3)

20 Defendant also argues that he was improperly sentenced under the habitual criminal
21 statute. NRS 34.810(1)(a) states in relevant part:

22 1. The court shall dismiss a petition if the court determines that:

23 (a) The petitioner's conviction was upon a plea of guilty or guilty but mentally
24 ill and the petition is not based upon an allegation that the plea was
25 involuntarily or unknowingly entered or that the plea was entered without
26 effective assistance of counsel.

27 As such, this claim is not cognizable since Defendant's conviction was upon a plea of guilty.
28 Furthermore, since this claim could have been raised on direct appeal but was not, it has
been waived per NRS 34.810(1)(b)(2).

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CONCLUSION

Based on the foregoing arguments, Defendant's petition should be denied.

DATED this 22ND day of March, 2011.

Respectfully submitted,

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

BY /s/ H. Leon Simon

H. LEON SIMON
Chief Deputy District Attorney
Nevada Bar #000411

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 22ND day of March, 2011, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CARY PICKETT, BAC #57591
HIGH DESERT STATE PRISON
PO BOX 650
INDIAN SPRINGS, NV 89018

BY: /s/ D. Jason

Secretary for the District Attorney's Office

TS/HLS/djj

EXHIBIT 1

10:30
2

1 **GMEM**
2 **DAVID ROGER**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #002781
5 **ROY L. NELSON III**
6 **Chief Deputy District Attorney**
7 Nevada Bar #007842
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 **Attorney for Plaintiff**

FILED IN OPEN COURT

MAR 11 2010

STEVEN D. GRIERSON
CLERK OF THE COURT

Sylvia Courtney
SYLVIA COURTNEY
DEPUTY

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **THE STATE OF NEVADA,**

11 **Plaintiff,**

12 **-vs-**

13 **CARY PICKETT, aka,**
14 **Cary Jerard Pickett, #0725059**

15 **Defendant.**

CASE NO: C262523
DEPT NO: XVIII

16 **GUILTY PLEA AGREEMENT**

17 I hereby agree to plead guilty to: **COUNT 1 - BURGLARY WHILE IN**
18 **POSSESSION OF A FIREARM (Felony - NRS 205.060 / Category B); COUNT 2 -**
19 **CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 199.480, 200.380 / Category**
20 **B); COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS**
21 **200.380, 193.165 / Category B) and COUNT 4 - POSSESSION OF FIREARM BY EX-**
22 **FELON (Felony - NRS 202.360 / Category B), as more fully alleged in the charging**
23 **document attached hereto as Exhibit "1".**

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

26 The State has agreed to dismiss the remaining counts. Defendant stipulates to large
27 habitual treatment under NRS 207.010. Parties stipulate to a 2-5 year sentence on Count 1.
28 Defendant treated as habitual under Count 2 and receive 10-25 year sentence, consecutive to

1 Count 1, for a total of 12-30 years in the Nevada Department of Corrections. All other
2 counts to run concurrent.

3 CONSEQUENCES OF THE PLEA

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

6 **I understand that as a consequence of my plea of guilty as to Count 1, the Court**
7 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
8 **term of not less than two (2) years and a maximum term of not more than fifteen (15) years.**
9 **The minimum term of imprisonment may not exceed forty percent (40%) of the maximum**
10 **term of imprisonment. I understand that I may also be fined up to \$10,000.00.**

11 **I understand that as a consequence of my plea of guilty as to Count 2, the Court**
12 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
13 **term of not less than one (1) year and a maximum term of not more than six (6) years. The**
14 **minimum term of imprisonment may not exceed forty percent (40%) of the maximum term**
15 **of imprisonment. I understand that I may also be fined up to \$5,000.00.**

16 **I understand that as a consequence of my plea of guilty as to Count 3, the Court**
17 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
18 **term of not less than two (2) years and a maximum term of not more than fifteen (15) years,**
19 **plus a consecutive minimum term of not less than one (1) year and a maximum term of not**
20 **more than fifteen (15) years for the use of a deadly weapon enhancement. The minimum**
21 **term of imprisonment may not exceed forty percent (40%) of the maximum term of**
22 **imprisonment.**

23 **I understand that as a consequence of my plea of guilty as to Count 4, the Court**
24 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
25 **term of not less than one (1) year and a maximum term of not more than six (6) years. The**
26 **minimum term of imprisonment may not exceed forty percent (40%) of the maximum term**
27 **of imprisonment. I understand that I may also be fined up to \$5,000.00.**

28 I understand that the law requires me to pay an Administrative Assessment Fee.

1 Further, I understand that if I am sentenced under the under the "small" habitual
2 criminal enhancement, the Court must sentence me to a term not less than FIVE (5) years
3 and a maximum of TWENTY (20) years in the Nevada Department of Corrections. I
4 understand that if I am sentenced under the "large" habitual criminal enhancement the Court
5 must sentence me to LIFE without the possibility of parole; life with the possibility of
6 parole, parole eligibility begins after a minimum term of TEN (10) years has been served;
7 OR a definite term of TWENTY FIVE (25) years, parole eligibility begins after a minimum
8 of TEN (10) years has been served.

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

13 **I understand that I am eligible for probation for the offense to which I am**
14 **pleading guilty to in Count 1, 2, and 4.** I understand that, except as otherwise provided by
15 statute, the question of whether I receive probation is in the discretion of the sentencing
16 judge.

17 **I understand that I am not eligible for probation for the offense to which I am**
18 **pleading guilty to in Count 3.**

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

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

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

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

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

3 I understand that if the State of Nevada has agreed to recommend or stipulate a
4 particular sentence or has agreed not to present argument regarding the sentence, or agreed
5 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
6 when the offense could have been treated as a felony, such agreement is contingent upon my
7 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
8 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
9 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
10 right to argue for any lawful sentence.

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

14 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
15 United States, I may, in addition to other consequences provided for by federal law, be
16 removed, deported, excluded from entry into the United States or denied naturalization.

17 I understand that the Division of Parole and Probation will prepare a report for the
18 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
19 sentencing, including my criminal history. This report may contain hearsay information
20 regarding my background and criminal history. My attorney and I will each have the
21 opportunity to comment on the information contained in the report at the time of sentencing.
22 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
23 may also comment on this report.

24 WAIVER OF RIGHTS

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

27 ///

28 ///

1 1. The constitutional privilege against self-incrimination, including the right to refuse
2 to testify at trial, in which event the prosecution would not be allowed to comment to the
3 jury about my refusal to testify.

4 2. The constitutional right to a speedy and public trial by an impartial jury, free of
5 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
6 assistance of an attorney, either appointed or retained. At trial the State would bear the
7 burden of proving beyond a reasonable doubt each element of the offense charged.

8 3. The constitutional right to confront and cross-examine any witnesses who would
9 testify against me.

10 4. The constitutional right to subpoena witnesses to testify on my behalf.

11 5. The constitutional right to testify in my own defense.

12 6. The right to appeal the conviction, with the assistance of an attorney, either
13 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional
14 or other grounds that challenge the legality of the proceedings and except as otherwise
15 provided in subsection 3 of NRS 174.035.

16 VOLUNTARINESS OF PLEA

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

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

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

23 All of the foregoing elements, consequences, rights, and waiver of rights have been
24 thoroughly explained to me by my attorney.

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

27 ///


28 ///

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

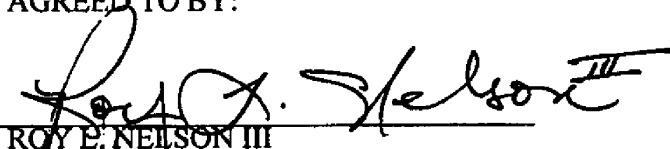
4 I am not now under the influence of any intoxicating liquor, a controlled substance or
5 other drug which would in any manner impair my ability to comprehend or understand this
6 agreement or the proceedings surrounding my entry of this plea.

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

10 DATED this 11 day of March, 2010.

11 
12 CARY PICKETT, aka, Cary Jerard Pickett
13 Defendant

14 AGREED TO BY:

15 
16 ROY E. NELSON III
17 Chief Deputy District Attorney
18 Nevada Bar #007842
19
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1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
5 to which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
9 consistent with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs
17 1 and 2 above.

18 Dated: This 11 day of March, 2010.

19 
20 ATTORNEY FOR DEFENDANT

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28 10F02742B/GCU:abf


CLERK OF THE COURT

1 **INFO**
2 **DAVID ROGER**
3 Clark County District Attorney
4 Nevada Bar #002781
5 **ROY L. NELSON III**
6 Chief Deputy District Attorney
7 Nevada Bar #007842
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 3/11/10
13 10:30 A.M.
14 **ALMASE**

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,)

16 Plaintiff,)

17 -vs-)

18 CARY PICKETT, aka,
19 Cary Jerard Pickett, #0725059)

20 Defendant.)

Case No: C262523
Dept No: XVIII

INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

23 DAVID ROGER, District Attorney within and for the County of Clark, State of
24 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That CARY PICKETT, aka, Cary Jerard Pickett, the Defendant(s) above named,
26 having committed the crimes of BURGLARY WHILE IN POSSESSION OF A FIREARM
27 (Felony - NRS 205.060); CONSPIRACY TO COMMIT ROBBERY (Felony - NRS
28 199.480, 200.380); ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS
200.380, 193.165) and POSSESSION OF FIREARM BY EX-FELON (Felony - NRS
202.360), on or between October 11, 2009 and November 14, 2009, within the County of
Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
and provided, and against the peace and dignity of the State of Nevada,

///

///

EXHIBIT "1"

1 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

2 did, then and there wilfully, unlawfully, and feloniously enter, while in possession of
3 a firearm, with intent to commit robbery, that certain building occupied by BEANO'S BAR,
4 located at 7200 West Lake Mead, Las Vegas, Clark County, Nevada and/or
5 ROADRUNNER SALOON, located at 5990 Centennial Center, Las Vegas, Clark County,
6 Nevada and/or TRIPLE BAR, located at 4420 North Decatur Boulevard, North Las Vegas,
7 Clark County, Nevada and/or RAE'S BAR, located at 2531 Wigwam Parkway, Henderson,
8 Clark County, Nevada and/or TIMBERS BAR, located at 7240 West Azure, Suite No. 170,
9 Las Vegas, Clark County, Nevada and/or TENAYA LODGE, located at 5717 Sky Pointe
10 Drive, Las Vegas, Clark County, Nevada.

11 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

12 did, together with co-defendant ALAN DANIELS, aka, Alan Demetrius Daniels, then
13 and there meet with each other and between themselves, and each of them with the other,
14 wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: robbery,
15 and in furtherance of said conspiracy, Defendant did commit the acts as set forth in Count 3,
16 said acts being incorporated by this reference as though fully set forth herein.

17 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

18 did, then and there wilfully, unlawfully, and feloniously take personal property, to-
19 wit: lawful money of the United States and a cellular telephone, from the person of JUSTIN
20 SANCHEZ and/or GEORGE MATTIE and/or DELTON LEMA and/or AARON
21 PARDUHM and/or JOSHUA KIEHL, or in their presence, by means of force or violence or
22 fear of injury to, and without the consent and against the will of the said JUSTIN SANCHEZ
23 and/or GEORGE MATTIE and/or DELTON LEMA and/or AARON PARDUHM and/or
24 JOSHUA KIEHL, said Defendant using a deadly weapon, to-wit: a handgun, during the
25 commission of said crime, the Defendants being criminally liable under one or more of the
26 following principles of criminal liability, to-wit: (1) by directly committing this crime and/or
27 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
28 committed, by providing counsel and/or encouragement and by entering into a course of

1 conduct whereby the Defendants pointed handguns at the said victims and took said items
2 (3) pursuant to a conspiracy to commit this crime.

3 COUNT 4 - POSSESSION OF FIREARM BY EX-FELON

4 did, then and there wilfully, unlawfully, and feloniously own or have in his
5 possession, or under his control, a weapon, to-wit: a handgun, the said Defendant being an
6 ex-felon, having in 2006, in Case No. C226282 been convicted of Transport of a Controlled
7 Substance and/or having in 1997, in Case No. C145127 been convicted of Burglary and/or
8 having in 1997, in Case No. C143146 been convicted of Grand Larceny and/or having in
9 1993, in Case No. C109725 been convicted of Attempt Grand Larceny, in the Eighth Judicial
10 District Court, Clark County, felonies under the laws of the State of Nevada.

11
12 DAVID ROGER
13 DISTRICT ATTORNEY
14 Nevada Bar #002781

15 BY /s/ROY L. NELSON III
16 ROY L. NELSON III
17 Chief Deputy District Attorney
18 Nevada Bar #007842

19 UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED
20 HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE FOR
21 WHICH THE DEFENDANT IS PRESENTLY CHARGED.

22 Defendant CARY PICKETT, aka, Cary Jerard Pickett, hereinbefore named, is placed
23 on notice that, in accordance with the authorization of NRS 207.010, punishment imposed
24 pursuant to the above-stated habitual criminal statute will be urged upon the Court if said
25 Defendant is found guilty on the primary offenses of BURGLARY WHILE IN
26 POSSESSION OF A FIREARM (Felony - NRS 205.060); CONSPIRACY TO COMMIT
27 ROBBERY (Felony - NRS 199.480, 200.380); ROBBERY WITH USE OF A DEADLY
28 WEAPON (Felony - NRS 200.380, 193.165) and POSSESSION OF FIREARM BY EX-
FELON (Felony - NRS 202.360), for which the Defendant is presently charged.

1 This page concerning the prior convictions hereinbelow set forth is to be considered
2 by the Court in its discretion ONLY after the finding of guilty of Defendant on the primary
3 charge herein.

4 That said Defendant CARY PICKETT, aka, Cary Jerard Pickett, has been seven (7)
5 times convicted of crimes, which, under the laws of the situs of the crime and/or the State of
6 Nevada, amount to felonies, to-wit:

7 1. That in 2006, the Defendant was convicted in Clark County, Nevada, for the crime
8 of Transporting a Controlled Substance, in Case No. C226282.

9 2. That in 1997, the Defendant was convicted in Clark County, Nevada, for the crime
10 of Burglary, in Case No. C145127.

11 3. That in 1997, the Defendant was convicted in Clark County, Nevada for the crime
12 of Grand Larceny, in Case No. C143146.

13 4. That in 1994, the Defendant was convicted in Clark County, Nevada for the crime
14 of Escape, in Case No. C119000.

15 5. That in 1993, the Defendant was convicted in Clark County, Nevada for the crime
16 of Attempt Grand Larceny, in Case No. C109725.

17 6. That in 1993, the Defendant was convicted in Clark County, Nevada for the crime
18 of Burglary, in Case No. C107733.

19 7. That in 1991, the Defendant was convicted in Clark County, Nevada for the crime
20 of Attempt Grand Larceny, in Case No. C99915.

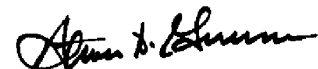
21 DAVID ROGER
22 DISTRICT ATTORNEY
Nevada Bar #002781

23 BY /s/ROY L. NELSON III
24 ROY L. NELSON III
25 Chief Deputy District Attorney
Nevada Bar #007842

26 **DO NOT READ TO THE JURY**

27 DA#10F02742BGPU:abf
28 LVMPD; NLVPD; HPD EV#0910230605; 0911130506; 0911140728; 0908310560;
0907040926; 0910110978; 0926503; 0923087
BURG WFA; CONSP ROBB; RWDW; EX FEL POSS FA - F(TK10)

EXHIBIT 2


CLERK OF THE COURT

1 **INFO**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 ROY L. NELSON III
6 Chief Deputy District Attorney
7 Nevada Bar #007842
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

7 I.A. 3/11/10
10:30 A.M.
8 ALMASE

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 -vs-)

12 CARY PICKETT, aka,)
13 Cary Jerard Pickett, #0725059)

14 Defendant.)

Case No: C262523
Dept No: XVIII

INFORMATION

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16 COUNTY OF CLARK } ss.

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20 having committed the crimes of BURGLARY WHILE IN POSSESSION OF A FIREARM
21 (Felony - NRS 205.060); CONSPIRACY TO COMMIT ROBBERY (Felony - NRS
22 199.480, 200.380); ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS
23 200.380, 193.165) and POSSESSION OF FIREARM BY EX-FELON (Felony - NRS
24 202.360), on or between October 11, 2009 and November 14, 2009, within the County of
25 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
26 and provided, and against the peace and dignity of the State of Nevada,

27 ///

28 ///

1 COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

2 did, then and there wilfully, unlawfully, and feloniously enter, while in possession of
3 a firearm, with intent to commit robbery, that certain building occupied by BEANO'S BAR,
4 located at 7200 West Lake Mead, Las Vegas, Clark County, Nevada and/or
5 ROADRUNNER SALOON, located at 5990 Centennial Center, Las Vegas, Clark County,
6 Nevada and/or TRIPLE BAR, located at 4420 North Decatur Boulevard, North Las Vegas,
7 Clark County, Nevada and/or RAE'S BAR, located at 2531 Wigwam Parkway, Henderson,
8 Clark County, Nevada and/or TIMBERS BAR, located at 7240 West Azure, Suite No. 170,
9 Las Vegas, Clark County, Nevada and/or TENAYA LODGE, located at 5717 Sky Pointe
10 Drive, Las Vegas, Clark County, Nevada.

11 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

12 did, together with co-defendant ALAN DANIELS, aka, Alan Demetrius Daniels, then
13 and there meet with each other and between themselves, and each of them with the other,
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15 and in furtherance of said conspiracy, Defendant did commit the acts as set forth in Count 3,
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18 did, then and there wilfully, unlawfully, and feloniously take personal property, to-
19 wit: lawful money of the United States and a cellular telephone, from the person of JUSTIN
20 SANCHEZ and/or GEORGE MATTIE and/or DELTON LEMA and/or AARON
21 PARDUHM and/or JOSHUA KIEHL, or in their presence, by means of force or violence or
22 fear of injury to, and without the consent and against the will of the said JUSTIN SANCHEZ
23 and/or GEORGE MATTIE and/or DELTON LEMA and/or AARON PARDUHM and/or
24 JOSHUA KIEHL, said Defendant using a deadly weapon, to-wit: a handgun, during the
25 commission of said crime, the Defendants being criminally liable under one or more of the
26 following principles of criminal liability, to-wit: (1) by directly committing this crime and/or
27 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
28 committed, by providing counsel and/or encouragement and by entering into a course of

1 conduct whereby the Defendants pointed handguns at the said victims and took said items
2 (3) pursuant to a conspiracy to commit this crime.

3 COUNT 4 - POSSESSION OF FIREARM BY EX-FELON

4 did, then and there wilfully, unlawfully, and feloniously own or have in his
5 possession, or under his control, a weapon, to-wit: a handgun, the said Defendant being an
6 ex-felon, having in 2006, in Case No. C226282 been convicted of Transport of a Controlled
7 Substance and/or having in 1997, in Case No. C145127 been convicted of Burglary and/or
8 having in 1997, in Case No. C143146 been convicted of Grand Larceny and/or having in
9 1993, in Case No. C109725 been convicted of Attempt Grand Larceny, in the Eighth Judicial
10 District Court, Clark County, felonies under the laws of the State of Nevada.

11
12 DAVID ROGER
13 DISTRICT ATTORNEY
14 Nevada Bar #002781

15 BY /s/ROY L. NELSON III
16 ROY L. NELSON III
17 Chief Deputy District Attorney
18 Nevada Bar #007842

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22 Defendant CARY PICKETT, aka, Cary Jerard Pickett, hereinbefore named, is placed
23 on notice that, in accordance with the authorization of NRS 207.010, punishment imposed
24 pursuant to the above-stated habitual criminal statute will be urged upon the Court if said
25 Defendant is found guilty on the primary offenses of BURGLARY WHILE IN
26 POSSESSION OF A FIREARM (Felony - NRS 205.060); CONSPIRACY TO COMMIT
27 ROBBERY (Felony - NRS 199.480, 200.380); ROBBERY WITH USE OF A DEADLY
28 WEAPON (Felony - NRS 200.380, 193.165) and POSSESSION OF FIREARM BY EX-
FELON (Felony - NRS 202.360), for which the Defendant is presently charged.

1 This page concerning the prior convictions hereinbelow set forth is to be considered
2 by the Court in its discretion ONLY after the finding of guilty of Defendant on the primary
3 charge herein.

4 That said Defendant CARY PICKETT, aka, Cary Jerard Pickett, has been seven (7)
5 times convicted of crimes, which, under the laws of the situs of the crime and/or the State of
6 Nevada, amount to felonies, to-wit:

7 1. That in 2006, the Defendant was convicted in Clark County, Nevada, for the crime
8 of Transporting a Controlled Substance, in Case No. C226282.

9 2. That in 1997, the Defendant was convicted in Clark County, Nevada, for the crime
10 of Burglary, in Case No. C145127.

11 3. That in 1997, the Defendant was convicted in Clark County, Nevada for the crime
12 of Grand Larceny, in Case No. C143146.

13 4. That in 1994, the Defendant was convicted in Clark County, Nevada for the crime
14 of Escape, in Case No. C119000.

15 5. That in 1993, the Defendant was convicted in Clark County, Nevada for the crime
16 of Attempt Grand Larceny, in Case No. C109725.

17 6. That in 1993, the Defendant was convicted in Clark County, Nevada for the crime
18 of Burglary, in Case No. C107733.

19 7. That in 1991, the Defendant was convicted in Clark County, Nevada for the crime
20 of Attempt Grand Larceny, in Case No. C99915.

21 DAVID ROGER
22 DISTRICT ATTORNEY
Nevada Bar #002781

23 BY /s/ROY L. NELSON III
24 ROY L. NELSON III
25 Chief Deputy District Attorney
Nevada Bar #007842

26 **DO NOT READ TO THE JURY**

27 DA#10F02742BGCUC:abf
28 LVMPD; NLVPD; HPD EV#0910230605; 0911130506; 0911140728; 0908310560;
0907040926; 0910110978; 0926503; 0923087
BURG WFA; CONSP ROBB; RWDW; EX FEL POSS FA - F(TK10)

EXHIBIT 3

COP.

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Kevin V. Williams
CLERK OF DISTRICT COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

CARY PICKETT, aka,
Cary Jerard Pickett,

Defendant.

CASE NO. C262523

DEPT. XVIII

(ARRAIGNMENT HELD IN DEPT. LLA)

BEFORE THE HONORABLE KEVIN V. WILLIAMS, HEARING MASTER
THURSDAY, MARCH 11, 2010

**RECORDER'S TRANSCRIPT OF HEARING RE:
ARRAIGNMENT**

APPEARANCES:

For the State:

ROY NELSON, ESQ.,
Chief Deputy District Attorney

For the Defendant:

CAESAR V. ALMASE, ESQ.,
Attorney at Law

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

1 THURSDAY, MARCH 11, 2010

2 * * * * *

3 P R O C E E D I N G S

4
5 THE COURT: Cary Pickett. Yes, Mr. Almase?

6 MR. ALMASE: Good morning, your Honor.

7 THE COURT: Good morning, sir.

8 MR. ALMASE: Mr. Pickett is present in custody. You want me to do it?

9 MR. NELSON: Either way. Whatever you want.

10 THE COURT: Why don't you go ahead and let Mr. Nelson put it on there. Go
11 ahead, Mr. Nelson.

12 MR. NELSON: Judge, it's my understanding this morning he's going to plead
13 guilty to one count of burglary while in possession of a firearm, count two,
14 conspiracy to commit robbery, count three, robbery with use of a deadly weapon,
15 and count four, possession of a firearm by ex-felon. There's a signed guilty plea
16 agreement dated March 11th, today, Judge.

17 The State agreed to dismiss the remaining counts. The Defendant
18 stipulates to the large habitual criminal treatment under NRS 207.010. The parties
19 stipulate to a two- to five-year sentence with regard to count one. The Defendant
20 will agree that he'll be treated as a large habitual under count two and receive a
21 sentence of ten to twenty-five years. That will run consecutive to count one for a
22 total of twelve to thirty years in the Nevada Department of Corrections. All the other
23 counts will run concurrent, Judge.

24 THE COURT: Now did you hear that -- those negotiations put on the record
25 by the State, sir?

1 THE DEFENDANT: Yes, sir.
2 THE COURT: What is your true name, Mr. Pickett?
3 THE DEFENDANT: Cary Jerard Pickett.
4 THE COURT: How old are you?
5 THE DEFENDANT: Forty-four.
6 THE COURT: How far did you go in school?
7 THE DEFENDANT: Thirteen years.
8 THE COURT: Read, write, and understand the English language?
9 THE DEFENDANT: Yes, sir.
10 THE COURT: Okay, move just a little closer to the microphone if you would
11 there, Mr. Pickett.
12 THE DEFENDANT: Yes, sir.
13 THE COURT: Understand what you're charged with?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: What is your plea?
16 THE DEFENDANT: Guilty.
17 THE COURT: Before I can accept your guilty plea, I must be assured it's
18 freely and voluntarily given. Has anyone threatened you to get you to plead guilty?
19 THE DEFENDANT: No, sir.
20 THE COURT: Has anyone threatened anyone closely associated with you in
21 order to get you to plead guilty?
22 THE DEFENDANT: No, sir.
23 THE COURT: You understand the penalty range for count one is two to
24 fifteen years, Nevada Department of Prisons?
25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand the penalty range for count two is one to
2 six years, Nevada Department of Prisons, up to a \$5,000 fine?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand the penalty range for count three which
5 you're pleading guilty to, robbery with use of a deadly weapon, is one to fifteen
6 years -- two to fifteen years for the robbery; do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand there's an additional
9 one- to fifteen-year penalty for use of a deadly weapon; you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand the penalty range for count four is one to
12 six years, Nevada Department of Prisons, up to a \$5,000 fine?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And do you understand that sentencing is strictly up to the
15 Court and no one can promise you probation, leniency, or any special treatment?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you further understand, sir, that you stipulated to the use
18 of the large habitual criminal which carries the following penalty ranges: Life without
19 the possibility of parole, life with the possibility of parole with parole eligibility
20 beginning after ten years, or a definite term of twenty-five years in the Nevada
21 Department of Prisons with parole eligibility beginning after ten years; you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And do you understand that you have stipulated to the last
25 type of sentencing which is ten to twenty-five years; you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand it's consecutive to count one?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And is one of the reasons you're pleading guilty here today is
5 because in truth and fact you are guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I have a copy of your guilty plea agreement in my hand. Did
8 you read it?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Understand it?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Understand by pleading guilty you're giving up the several
13 valuable Constitutional rights listed in the guilty plea agreement?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Discuss those rights with your attorney?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have any questions about those rights?

18 THE DEFENDANT: No, sir.

19 THE COURT: Have any questions regarding negotiations?

20 THE DEFENDANT: No, sir.

21 THE COURT: Did you sign this guilty plea agreement freely and voluntarily
22 on page six, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay, listen closely, Mr. Pickett. This is what they said you
25 did. Count one, burglary while in possession of a firearm, it says that you did

1 willfully, unlawfully, and feloniously enter, while in possession of a firearm, with the
2 intent to commit robbery, that certain building occupied by Beano's Bar, located on
3 West Lake Mead, Las Vegas, Clark County, Nevada, the Roadrunner Saloon,
4 located on Centennial Center, Las Vegas, Clark County, Nevada, the Triple Bar,
5 located on North Decatur Boulevard, Las Vegas, Clark County, Nevada, Rae's Bar,
6 located on Wigwam Parkway, Clark County, Nevada, Timbers Bar, located on West
7 Azure, Suite 170, Las Vegas, Clark County, Nevada, and/or the Tenaya Lodge,
8 located on Sky Pointe Drive, Las Vegas, Clark County, Nevada; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And it says here in regards to count two that you did meet with
11 Alan Daniels and between yourselves you willfully, unlawfully conspired and agreed
12 to commit the crime of robbery, and in furtherance of that conspiracy you did the act
13 set forth in count three?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And in regards to count three, robbery with use of a deadly
16 weapon, it says you did willfully, unlawfully, and feloniously take personal property,
17 lawful money of the United States, and cellular phone from the person of Justin
18 Sanchez, and/or George Mattie, and/or Delton Lema, Aaron Parduhm, Jushua Kiehl,
19 in their presence by means of force, fear, or violence of injury thereto, without the
20 consent and against the will of those individuals; is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And during the commission of the crime either you or your
23 co-defendant used a handgun; is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay, in regards to count four, possession of a firearm by an

1 ex-felon, it says you did willfully, unlawfully, and feloniously own or have in your
2 possession or under your control a weapon, and that was a handgun, and that at
3 that time you were an ex-felon, 'cause in 2006 you had been convicted in Case
4 Number C226282 of transport of controlled substance, a felony under the laws of
5 the State of Nevada, and also in 1997 you had previously been convicted of a -- in
6 Case Number 145127 of burglary; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And in Case C21 -- 143 [sic] and you had been convicted of
9 grand larceny; is that correct?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And in -- that was in 1993 -- excuse me. And then for a final
12 case you had was C109725 in 1993 where you'd been convicted of attempt grand
13 larceny; is that correct?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: So you had possession of a firearm after being convicted of
16 felonies; is that correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. Anything else there, Mr. Nelson?

19 MR. NELSON: No, Judge.

20 THE COURT: Okay, Court accepts the Defendant's guilty plea as being freely
21 and voluntarily given. Listen closely now, sir. We're going to set your sentencing
22 date on --

23 THE CLERK: May 10th, 8:15, Department 18.

24 MR. NELSON: Thank you, Judge.

25 THE COURT: Uh-huh. Have a good day there, Mr. Nelson.

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MR. ALMASE: Thank you, Judge.

(Whereupon, the proceedings concluded)

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.



Kiara Schmidt, Court Recorder/Transcriber

EXHIBIT 4

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor	COURT MINUTES	May 10, 2010
<hr/>		
10C262523-2	The State of Nevada vs Cary J Pickett	
<hr/>		
May 10, 2010	8:15 AM	Sentencing SENTENCING DEFT PICKETT
HEARD BY: Barker, David		COURTROOM: RJC Courtroom 11B
COURT CLERK: Sharon Chun		
RECORDER: Richard Kangas		
REPORTER:		

PARTIES

PRESENT:	Almase, Caesar V.	Attorney for Deft
	Nelson III, Roy L.	Attorney for State
	Pickett, Cary J	Defendant

JOURNAL ENTRIES

- The State lodged seven (7) certified copies of Deft Pickett's prior judgments of Convictions in support of their request for Habitual Criminal enhancement. Exhibits were marked as State's Exhibits and admitted. COURT FOUND documents to be accurate and sufficient to support and FOUND DEFT PICKETT AN HABITUAL CRIMINAL pursuant to NRS 207.010.

DEFT. PICKETT ADJUDGED GUILTY of COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM (F); COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F); COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON (F); AND COUNT 4 - POSSESSION OF FIREARM BY EX-FELON (F).

In addition to the \$25.00 Administrative Assessment fee, COURT ORDERED, Deft Pickett to PAY RESTITUTION in the AMOUNT of \$11,948.60 JOINTLY and SEVERALLY with co-deft, an INDIVIDUAL RESTITUTION of \$1,550.00, and SENTENCED, as follows:

COUNT 1 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC);

COUNT 2 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC);

COUNT 3 - Habitual Criminal Enhancement with a MAXIMUM term of TWENTY-FIVE (25) YEARS and a MINIMUM of TEN (10) YEARS in the NV Dept of Corrections, SENTENCE CONSECUTIVE TO COUNT 1;

PRINT DATE: 09/27/2010

Page 1 of 2

Minutes Date: May 10, 2010

10C262523-2

COUNT 4 - A MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT TO COUNT 2.

COURT REITERATED that COUNTS 1 AND 3 ARE CONSECUTIVE and COUNTS 2 and 4 ARE CONCURRENT, with 88 DAYS CREDIT for time served.

COURT FURTHER ORDERED, DNA fee and testing WAIVED, having been previously submitted.

If bond, exonerated.

9/27/10-MINUTES CORRECTED TO REFLECT CORRECT DEFT'S NAME, AND THE SENTENCING MINUTE ORDER OF DEFT PICKETT HAS NOW BEEN SEPARATED FROM THE SENTENCING MINUTE ORDER OF DEFT DANIELS. /SSC

PRINT DATE: 09/27/2010

Page 2 of 2

Minutes Date: May 10, 2010

FILED

APR 05 2011

Cary Pickett #57591
High Desert State Prison
P.O. Box 650
Indio Springs NV 89070

File Return *Ant. L. L. L.*
CLERK OF COURT

IN THE EIGHTH Judicial District Court of
The State of Nevada IN and For Clark County

State of Nevada
Ward Scilla,

Respondent,

vs.

Cary Pickett
Petitioner,

Case No: 10C.262523-2

Dept No: XVII

Evidentiary Hearing
Requested

Petitioner's reply to States response to writ of Habeas
Corpus (Post-conviction)

Date of Hearing: April 6, 2011

Time of Hearing: 8:15 AM

Come Now, petitioner in pro-se, and hereby submits
the attached points and authorities in Reply to States
Response to petitioners petition for writ of Habeas

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

CLERK OF THE COURT

APR 05 2011

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23

ARGUMENTS

I. Contrary to the state's argument, DEFENSE COUNSEL'S failure to conduct ANY investigation into his client's prior convictions or mitigating evidence prior to advising his client to stipulate to the Habitual criminal statute is INEFFECTIVENESS.

The state argues that the petitioner fails to satisfy the two prong test of "reasonably effective assistance" of counsel as set forth in *Strickland v. Washington*, 466 U.S. 688-87 104 S.Ct 2052, 2063-64. The right to be represented by counsel is a right to be effectively represented at all critical stages of the criminal process. The Constitution guarantees an accused "adequate legal assistance" *Cuyler v. Sullivan*, 466 U.S. 335.

AN Attorney must make a reasonable investigation in preparation for trial or a reasonable decision NOT to investigate. Strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation. *Kirksey v. State of Nevada* 923 P2d 1102. In the case at bar defense counsel conducted NO investigation nor made any inquiry into the prior felony convictions to ascertain validity prior to advising his client to stipulate /Plead

1 guilty to the habitual criminal statute.
2 NRS 34.810 (1)(a) provides that a court shall dis-
3 miss a post-conviction habeas petition - challenging a
4 conviction based on a guilty plea unless the petition
5 alleges "that the plea was involuntarily or unknowingly
6 entered or that the plea was entered without effective
7 assistance of counsel." A petitioner is entitled to
8 an evidentiary hearing only if he supports his claim
9 with specific factual allegations that if true would
10 entitle him to relief." The fact that counsel did
11 not know at entry of plea nor at sentencing that
12 two of his client prior J.O.C. he was without
13 counsel "in pro-pet" and that the state did not
14 as legally required produce valid waiver of rights
15 of counsel for those two conviction ^{cc} 143146 and
16 145127 demonstrates counsel failure to investigate
17 and nowhere does the record demonstrate this fail-
18 ure to investigate was some strategic move.

19
20 II. Petitioner argues that plea of guilty/stipulating to
21 the habitual criminal statute was not knowingly or
22 intelligently made.

23
24 Petitioner has only asserted that his plea/stipulation
25 to the habitual is invalid, the state fails to address
26 the "Bait and Switch" pulled off in the course of this
27 prosecution in (Ex-1 of petitioners brief in support
28 of his petition for writ of habeas corpus pg 2) the

1 state clarifies for both the court and the defen-
2 dant "with regards to robbery with the use of a
3 deadly weapon, that will be the charge that he will
4 plead to the large habitual on." Taylor v. Warden
5 609 P2d 587, the court must "consider as a whole,
6 the process by which the plea was obtained was
7 fundamentally fair". The petitioner had a reasonable
8 expectation based upon the aforementioned clarification
9 "pled to the large habitual" his plea agreement would
10 be specific in waiver of right or acknowledgement
11 in reference to the habitual offender adjudica-
12 tion process itself, not a simple "treated as" or
13 "Treatment" under NRS 207.010, those terms are
14 ambiguous and any ambiguities in a plea agree-
15 ment must be levied against the state U.S. v.
16 Anderson, 970 F2d 602.

17 IN PARKERSON v. STATE OF NEVADA 678 P2d 1155
18 IN regards to stipulating to habitual as part of a
19 guilty plea two thing should be demonstrated the
20 "record must show, that the defendant understands
21 that an habitual criminal determination" and "an EN-
22 suing life sentence may be a consequence of his
23 or her plea" in this case 10-25 yr's, Nowhere
24 in the plea canvass does the defendant acknow-
25 ledge that he understood that a later de-
26 termination will have to be made all language
27 indicates an automatic result "treated as a hab-
28 itual" and SENTENCED to "10-25 yrs"

1 III. Contrary to the state's argument that the petitioners
 2 improper adjudication and sentence is not cognizable,
 3 due-process at sentencing was violated.
 4

5 AT SENTENCING, the district Attorney ROY NELSON
 6 submitted to the court what was purported to be
 7 (7) certified copies of petitioner's prior judgement of
 8 conviction in support of his being adjudicated as a
 9 habitual offender, upon review of those same J.O.C's
 10 provided to the defense only (1) ^{cc#} C 226282 EX-1
 11 (Attached) bear's a certification seal "Certified copy
 12 document Attached is a true and correct copy of the original
 13 on file" and dated all other J.O.C's EX 2-7 have NO such
 14 certification seal " under Nevada Law admission into evidence
 15 of exemplified copy of felony conviction is a prima facie
 16 evidence of conviction of prior felony" Williams v. Wolff
 17 497 F. Supp 122 (1) certified copy out of (7) does not meet
 18 the procedural requirements of NRS 207.010.

19 IF the state produces record of judgement of
 20 conviction from proceeding in which defendant was not
 21 represented by counsel, as it did in the case at bar in
 22 petitioners (cc# 143146 and 145127 EX-2 and 3), state has
 23 the burden to produce evidence to demonstrate the defen-
 24 dant validly waived right to counsel Davenport v. State
 25 915 P.2d 878, here the state did not produce any valid
 26 waver of counsel as require when J.O.C's clearly on their
 27 face in both 143146 and 145127 "the Defendant, IN propria
 28 persona" (without counsel), Instead the state argues

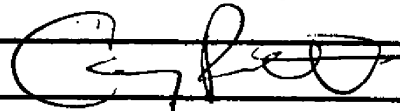
1 that even "if" clearly invalid convictions were successfully
2 challenged there would be (5) remaining to be considered,
3 demonstrating his deliberate indifference to ~~petitioner's~~
4 petitioner's right to due-process. The standard is set
5 in *McNulty v. State of Nevada* 826 P 2d 567 "In order
6 to use prior convictions for enhancement purposes, it is
7 essential that those convictions be constitutionally valid
8 see *Baldasar v. Illinois* 466 U.S. 222.

9 The court went on to rely on the District Attorney's
10 preparation and instead of factually determining that
11 each submitted prior conviction were in fact constitu-
12 tionally valid, "The constitutional validity of prior convict-
13 ions is a legal status to which a defendant may not stip-
14 ulate. No matter what the plea bargain, the district court
15 must make it's own determination as to the constitutional
16 validity of prior convictions" the "question of the validity
17 of the prior convictions must be determined by the district
18 court as a matter of law" *Staley v. State* 787 P 2d 396.
19 where records of the defendants prior convictions are devoid
20 of an affirmative showing that the defendant had been repre-
21 sented by counsel in any of those proceedings or had
22 validly waived his right to counsel, the defendant could
23 not be sentenced as a habitual criminal *Hamlet v. State*
24 455 P 2d 915.

CONCLUSION

For the foregoing reasons, petitioner request that his sentence under NRS. 207.010 be vacated or for the court conduct an Evidentiary hearing into allegations asserted in his petition. Petitioner also request the opportunity for oral argument

Respectfully submitted



Cary Pickett 57591

Dated this 30th day of March 2011

Certificate of Service by Mailing

I Cary Pickett, hereby certify, pursuant to NRCP 5(b), that on this 30th day of March, I mailed a true and correct copy of the foregoing petitioner's reply to States response to writ of habeas Corpus (Post-conviction) by depositing it in the High Desert State Prison, Legal First-Class Postage, fully pre-paid addressed as follows

District Attorney

David Rodgers

200 Lewis Street

Las Vegas NV 89101

Warden H.D.S.P

Scalia

P.O. Box 650

Indian Springs NV 89070

Dated this 30th day of March 2011

CARY PICKETT # 57591

Petitioner in proper person

P.O. Box 650 H.D.S.P

Indian Springs NV 89070

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 CLERK OF THE COURT

JACP
 DAVID ROGER
 Clark County District Attorney
 Nevada Bar #002781
 200 Lewis Avenue
 Las Vegas, Nevada 89155-2212
 (702) 671-2500
 Attorney for Plaintiff

DISTRICT COURT
 CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
 Plaintiff,

-vs-

CARY JERARD PICKETT,
 #0725059

Defendant.

Case No: C226282

Dept No: 1

JUDGMENT OF CONVICTION
 (PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime(s) of **TRANSPORT OF A CONTROLLED SUBSTANCE** (Category B, Felony), in violation of NRS 453.321; thereafter, on the 14th day of February, 2007, the Defendant was present in court for sentencing with his counsel, JAMES L. BUCHANAN II, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition to the \$25.00 Administrative Assessment Fee, \$60.00 Drug Analysis fee and \$150.00 DNA Analysis fee are IMPOSED, the Defendant is sentenced as follows: to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY (30) MONTHS in the Nevada Department of Corrections (NDC), SUSPENDED; placed on PROBATION for FIVE (5) YEARS.

CONDITIONS:

1. Enter and complete Drug Court.

CLERK OF THE COURT

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- 2. Search Clause for illegal substances.
- 3. Maintain full-time employment.

DATED this 20 day of February, 2007.

Kenneth C. Long
DISTRICT JUDGE

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Anna J. Williams
CLERK OF THE COURT

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EX #2

ORIGINAL

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1997 OCT 17 A 8:51

1 JOCB
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 GARY PICKETT, aka
12 Cary Jerard Pickett, #0725059

13 Defendant.

Case No. C143146
Dept. No. XI
Docket S

14
15 JUDGMENT OF CONVICTION (PLEA)

16 WHEREAS, on the 28th day of August, 1997, the Defendant GARY PICKETT, aka Cary
17 Jerard Pickett, appeared before the Court herein with his counsel and entered a plea of guilty to
18 the crime(s) of GRAND LARCENY (CATEGORY B FELONY), committed on or about the 3rd
19 day of May, 1997, in violation of NRS 205.220 and

20 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
21 Persona, being present in court with his counsel JORDAN SAVAGE, ESQ., as Stand By
22 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
23 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
24 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
25 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
26 Department of Prisons, suspended; placed on probation for an indeterminate period not to
27 exceed five (5) years. Conditions: 1. Search Clause for controlled substances and weapons.
28 2. Complete Drug Court Program, noting weapons were not involved. 3. Complete long-term

CE-05

CT 20 1997

1 counseling, vocational and educational programs as deemed necessary by the Division of Parole
2 and Probation. 4. Complete eight (8) hours community service per month within the first three
3 (3) years of probation. 5. Pursuant to NRS 176.185, Defendant to be supervised in the Nevada
4 Division of Parole and Probation's House Arrest Program for the first four (4) months of
5 probation. Defendant to receive eighty-nine (89) days credit for time served. Court referred
6 matter to Drug Court, and Ordered, set for further proceedings on October 6, 1997 at 9:00
7 o'clock a.m. in Department X.

8 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
9 Judgment of Conviction as part of the record in the above entitled matter.

10 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
11 State of Nevada.

12
13 
14 DISTRICT JUDGE

243

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26 DA#97-143146X/pm
27 LVMPD EV#9705030904
28 G/L-F
(TK1)

EX #3
ORIGINAL

16

1 JOCP
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 435-4711
8 Attorney for Plaintiff

FILED

1997 SEP 17 A. D. 53

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -VS-

11 CARY JERARD PICKETT, aka
12 Gary Pickett, #0725059

13 Defendant.
14

Case No.
Dept. No.
Docket

C145127
XI
S

JUDGMENT OF CONVICTION (PLEA)

16 WHEREAS, on the 18th day of September, 1997, the Defendant CARY JERARD
17 PICKETT, aka Gary Pickett, appeared before the Court herein with his counsel and entered a
18 plea of guilty to the crime(s) of BURGLARY (CATEGORY B FELONY), committed on or
19 about the 7th day of August, 1997, in violation of NRS 205.060 and

20 WHEREAS, thereafter on the 25th day of September, 1997, the Defendant, In Propria
21 Persona, being present in court with his counsel JORDAN, SAVAGE, ESQ., as Stand By
22 Counsel, and ARTHUR G. NOXON, Deputy District Attorney, also being present; the above
23 entitled Court did adjudge the Defendant guilty thereof by reason of his plea of guilty and, in
24 addition to the \$25.00 Administrative Assessment Fee, sentenced Defendant to a minimum of
25 thirty-six (36) months and a maximum of one-hundred twenty (120) months in the Nevada
26 Department of Prisons, to be served consecutive to sentence imposed in Case No. C143146,
27 suspended; placed on probation for an indeterminate period not to exceed five (5) years.
28 Conditions: 1. Search Clause for controlled substances and stolen property. 2. Complete Drug

CE-05

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1 Court Program, noting there was no use of weapons in this incident. 3. Complete long-term
2 counseling, vocational and educational programs as deemed necessary. 4. Defendant to be
3 supervised in the Nevada Division of Parole and Probation's House Arrest Program for the first
4 four (4) months of probation. Defendant to receive thirty-five (35) days credit for time served.
5 Court referred matter to Drug Court, and Ordered, set for further proceedings on October 6,
6 1997 at 9:00 o'clock a.m. in Department X.

7 THEREFORE, the Clerk of the above entitled Court is hereby directed to enter this
8 Judgment of Conviction as part of the record in the above entitled matter.

9 DATED this 16th day of October, 1997, in the City of Las Vegas, County of Clark,
10 State of Nevada.

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13 DISTRICT JUDGE
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26 DA#97-145127X/pm
27 LVMPD EV#9708071616
28 BURG-F
(TKI)

1 REX BELL
 2 DISTRICT ATTORNEY
 3 Nevada Bar #001799
 4 200 S. Third Street
 5 Las Vegas, Nevada 89155
 6 (702) 455-4711
 7 Attorney for Plaintiff
 8 THE STATE OF NEVADA

FILED
 DEC 14 10 35 AM '93

CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 GARY PICKETT,
 13 aka Cary Jerard Pickett
 14 #0725059

15 Defendant.

CASE NO. C109725

DEPT. NO. V

DOCKET NO. H

AMENDED

JUDGMENT OF CONVICTION (PLEA)

18 WHEREAS, on the 15th day of December, 1992, the defendant GARY
 19 PICKETT aka Cary Jerard Pickett, appeared before the Court herein
 20 with his counsel and entered a plea of guilty to the crime of
 21 ATTEMPT GRAND LARCENY (Felony) committed on the 11th day of
 22 November, 1992, in violation of NRS 205.220, 193.330; and
 23 WHEREAS, thereafter on the 21st day of January, 1993, the
 24 defendant being present in Court with his counsel MARK CICHOSKI,
 25 Deputy Public Defender, and JAY L. SIEGEL, Deputy District
 26 Attorney, also being present; the above entitled Court did adjudge
 27 the defendant guilty thereof by reason of his plea of guilty and
 28 sentenced defendant to THREE (3) years in the Nevada State Prison

DEC 07 1993

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1 to run concurrent with C107733. Credit for time served 14 days.

2 \$25.00 Administrative Assessment Fee.

3 WHEREAS, on the 18th day of November, 1993, Defendant's Motion
4 for Amended Judgment of Conviction to Include Jail Time Credits is
5 granted and Defendant given an additional 30 days credit for time
6 served.

7 THEREFORE, the Clerk of the above entitled Court is hereby
8 directed to enter this Judgment of Conviction as part of the record
9 in the above entitled matter.

10 DATED this 19th day of November, 1993, in the City of Las
11 Vegas, County of Clark, State of Nevada.


DISTRICT JUDGE

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26 92-109725X/kjh
27 LVMPD DR#9211111354
28 ATT G/L - F
TK4

FILED

MAR 5 10 03 AM '93

Letitia Lamm
CLERK

1 REX BELL
2 DISTRICT ATTORNEY
3 Nevada Bar #001799
4 200 S. Third Street
5 Las Vegas, Nevada 89155
6 (702) 455-4711
7 Attorney for Plaintiff
8 THE STATE OF NEVADA
9

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA)
11)
12 Plaintiff,)
13 vs.)
14)
15)

16 GARY PICKETT, aka)
17 Cary Jerard Pickett ID#0725059)
18 Defendant.)
19)
20)

CASE NO. C109725

DEPT. NO. V

DOCKET NO. H

JUDGMENT OF CONVICTION (PLEA)

21 WHEREAS, on the 15th day of December, 1992, the Defendant GARY
22 PICKETT, aka Cary Jerard Pickett, appeared before the Court herein
23 with his counsel and entered a plea of guilty to the crime of
24 ATTEMPT GRAND LARCENY (Felony), committed on the 11th day of
25 November, 1992, in violation of NRS 205.220, 193.330; and
26 WHEREAS, thereafter on the 21st day of January, 1993, the
27 Defendant being present in Court with his counsel MARK D. CICHOSKI,
28 Deputy Public Defender, and JAY L. SIEGEL, Deputy District
29 Attorney, also being present; the above entitled Court did adjudge
30 the Defendant guilty thereof by reason of his plea of guilty and,
31 in addition to a \$25.00 Administrative Assessment Fee, sentenced
32 Defendant to three (3) years in the Nevada Department of Prisons

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1 concurrent with C107733. Defendant granted fourteen (14) days
2 credit for time served.

3 THEREFORE, the Clerk of the above entitled Court is hereby
4 directed to enter this Judgment of Conviction as part of the record
5 in the above entitled matter.

6 DATED this 4th day of March, 1993, in the City of Las
7 Vegas, County of Clark, State of Nevada.

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11 DISTRICT JUDGE
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27 DA#92-109725X/da
28 LVMPD DR#92-11111354
ATT GL - F

EX-6

1 REX BELL
2 DISTRICT ATTORNEY
3 Nevada Bar #001799
4 200 S. Third Street
5 Las Vegas, Nevada 89155
6 (702) 455-4711
7 Attorney for Plaintiff
8 THE STATE OF NEVADA

150
Mar 9 10 30 AM '93
Letitia Loomis
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,
9 vs.
10 CARY JERARD PICKETT
11 aka Cary Jerrold Pickett
12 #0725059
13 Defendant.

CASE NO. C107733X
DEPT. NO. III
DOCKET NO. E

AMENDED
JUDGMENT OF CONVICTION (PLEA)

15 WHEREAS, on the 27th day of August, 1992, the Defendant, CARY
16 JERARD PICKETT aka Cary Jerrold Pickett, appeared before the Court
17 herein with his counsel and entered a plea of guilty to the crime
18 of COUNT I - BURGLARY (FELONY), committed on the 9th day of June,
19 1992, in violation of NRS 205.060; and
20 WHEREAS, thereafter, on the 10th day of December, 1992, the
21 Defendant being present in Court with his counsel DEBORAH OWEN, and
22 KAREN L. VAN DE POL, Chief Deputy District Attorney, also being
23 present; the above entitled Court did adjudge Defendant guilty
24 thereof by reason of his plea of guilty and sentenced Defendant, in
25 addition to a \$25 Administrative Assessment Fee, to: three (3)
26 years in the Nevada State Prison with whatever credit for time
27 served defendant is entitled to. Count II dismissed.
28 WHEREAS, on the 2nd day of March, 1993, Defendant not being

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1 present, represented by DEBORAH OWENS and STEVEN S. OWENS, Deputy
2 District Attorney, also being present the Court amended Judgment of
3 Conviction to reflect Defendant given ten (10) days credit for time
4 served.

5 THEREFORE, the Clerk of the above entitled Court is hereby
6 directed to enter this Judgment of Conviction as part of the record
7 in the above entitled matter.

8 DATED this 2 day of March, 1993, in the City of Las Vegas,
9 County of Clark, State of Nevada.


DISTRICT JUDGE

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26 92-107733X/11b
27 LVMPD DR/9206090810
28 Burg - P
TK 3

EX-7

FRANKIE SUE DEL PAPA
Attorney General
By: WILLIAM P. HENRY
Senior Deputy Attorney General
Nevada Bar No. 101
401 South Third Street, #500
Las Vegas, NV 89101
(702) 486-3420
Attorneys for Plaintiff

FILED

JUL 28 12 37 PM '94

Loretta Looman
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

STATE OF NEVADA,

Plaintiff,

vs.

CARY PICKETT a/k/a
GARY PICKETT,

Defendant.

CASE NO. C119000
DEPT. NO. VIII
DOCKET "M"

JUDGMENT OF CONVICTION

Date of Hearing: 7/08/94
Time of Hearing: 9 a.m.

On the 13th day of April, 1994, defendant CARY PICKETT a/k/a GARY PICKETT pled guilty to the crime of Count I - Escape, a felony, in violation of NRS 212.090.

On the 8th day of July, 1994, defendant CARY PICKETT a/k/a GARY PICKETT, being present with his counsel Douglas P. DeJulio, Deputy Public Defender, and William P. Henry, Senior Deputy Attorney General, also being present, the above-entitled court, in addition to requiring payment of a Twenty-five Dollar (\$25) administrative assessment, adjudged the defendant guilty of

CE-01

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(R4)

JUL 26 1994
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ATTORNEY
GENERAL'S
OFFICE
NEVADA
10-117

1 Count I - Escape, a felony, and imposed a sentence of two and one-
2 half (2-1/2) years in the Nevada Department of Prisons to run
3 consecutively with the sentence imposed in Case No. C109725.

4 Pursuant to plea negotiation between counsel, Count II was
5 dismissed.

6 THEREFORE, the clerk of the above-entitled court is directed
7 to enter this Judgment of Conviction as part of the record of the
8 above-entitled matter.

9 DATED this 26 day of July, 1994.

10
11 
12 DISTRICT COURT JUDGE *ly*

13 SUBMITTED BY:

14 FRANKIE SUE DEL PAPA
15 Attorney General

16 By: 

17 William P. Henry
18 Senior Deputy Attorney General
19 Nevada Bar No. 101
20 401 South Third Street, #500
21 Las Vegas, NV 89101
22 Attorneys for Plaintiff
23
24
25
26
27
28

ATTORNEY
GENERAL'S
OFFICE

NEVADA

06-107

Gary Rickett 57591
P.O. Box 650
Indian Springs NV
89070



1636195
#1.56

3

1 Cary Pickett 57591
2 Defendant In Proper Person
3 P.O. Box 650 H.D.S.P.
4 Indian Springs, Nevada 89018

FILED
APR 18 2011
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY NEVADA

10C262523-2
NOASC
Notice of Appeal (criminal)
1360837


7 warden scillia
8 State of NEVADA ETAL,
9 Respondent,
10 -v-
11 Cary Pickett,
12 Petitioner,
13 _____/

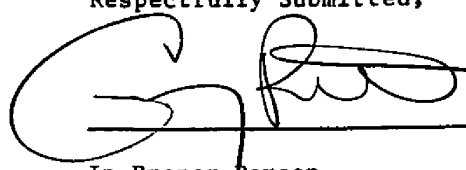
Case No. 10C262523-2
Dept. No. XVIII
Docket _____

14 NOTICE OF APPEAL

15 Notice is hereby given that the petitioner, Cary J.
16 PICKETT, by and through himself in proper person, does now appeal
17 to the Supreme Court of the State of Nevada, the decision of the District
18 Court DENIAL of his writ of Habeas Corpus Hearing date April
19 6 2011, date of written order UNKNOWN

21 Dated this date, April 12, 2011.

Respectfully Submitted,


In Proper Person

26 RECEIVED
27 APR 18 2011
28 CLERK OF THE COURT

3

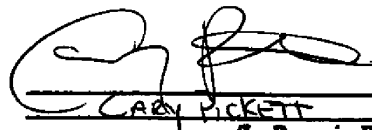
CERTIFICATE OF SERVICE BY MAILING

I, CARY PICKETT, hereby certify, pursuant to NRCP 5(b), that on this 12th
day of April, 2011, I mailed a true and correct copy of the foregoing, "Notice
of Appeal"
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

District Attorney office
David Rogers
200 S. Y. Lewis Ave
Las Vegas NV. 89155

Warden Seilia H.O.S.P
P.O. Box 650
Indian Spring NV. 89018

DATED: this 12 day of April, 2011.



Cary Pickett # 57591
/In Propria Persona
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Notice of Appeal
(Title of Document)

filed in District Court Case number 10C-262523-2

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

-OR-

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

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

(State specific law)

-or-

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

[Signature]
Signature

4-12-11
Date

CARY PICKETT 57591
Print Name

Petitioner in pro-pse
Title

1 Cary Pickett, NDOC# 57591
2 P.O. Box 650
3 Indian springs, NV 89070

FILED
APR 18 2011
CLERK OF COURT

5 Cary Pickett,
6 Petitioner

D.C. Case No. 10C262523-2

7 vs.

8 State of Nevada Et. Al
9 Warden Scillia HDSP

11 MEMORANDUM/AFFIDAVIT IN SUPPORT
12 OF APPEAL FROM EIGHTH JUDICIAL DISTRICT
13 COURT WRIT OF HABEAS CORPUS

15 To: The Honorable Supreme Court
16 Justices State of Nevada

10C262523-2
MEMO
Memorandum
1360847



17 State of Nevada }
18 County of Clark } ss.

20 Cary Pickett, Petitioner in pro-per, under penalty of perjury
21 being duly sworn, deposes and says that:

22 1. That the Eighth Judicial District court denied my petition
23 for Writ of Habeas Corpus citing Petitioner as failing to provide
24 proof to support his four (4) grounds for relief at his April 6,
25 2011 hearing.

26 2. That the assertions raised in two (2) of the grounds raised
27 in my petition are true and alleged ineffective assistance of
28 counsel claims that warranted the Eighth Judicial District Court

-1-

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CLERK OF THE COURT

1 to conduct an evidenciary hearing in order to provide the proof
2 required by the Court as proof.

3 3. That the allegation of counsel's ineffectiveness related
4 directly to his failure to investigate or ask any questions to
5 assert~~on~~ petitioner's prior felonies for constitutionally validity
6 prior to advising Petitioner to stipulate/plead guilty to habitual
7 criminal status and that two (2) of his prior convictions were in
8 fact invalid.

9 4. That being Petitioner was sentenced by the District Court
10 and two (2) invalid J.O.C.'s were used to adjudicate Petitioner
11 should cause concern to this Court as to how all three (3) entities
12 in the advocacy process could have missed (A) Defense Counsel
13 (B) the Prosecution and (C) the Court.


14 5. That the petition also asserted improperly adjudicated as
15 a habitual offender as the Court made its decision to adjudicate
16 Petitioner using two (2) prior convictions (#143146 and 145127)
17 that according to Nevada law were invalid for purposes of enhance-
18 ment under N.R.S. 207.010 being that Petitioner was not represented
19 by counsel and the State failed to acknowledge or disclosed to the
20 Court the truth of those convictions (J.O.C.'s) and further did
21 not provide any proof of valid waiver of counsel, however the Court
22 although Petitioner also submitted copies of those J.O.C.'s as
23 proof the Eighth Judicial District Court ignored them as proof
24 according to its ruling.

25 6. That based on Nevada Law, the adjudication process is the
26 responsibility of the State and the Cort to insure that only valid
27 prior convictions be used to support an enhanced sentence before
28 a defendant is adjudicated a habitual offender and not as claimed

1 by the State and the Court that even if invalid convictions are
2 used how many valid ones remain would allow a sentence to stand;
3 clearly the Court and the State got the standard wrong.

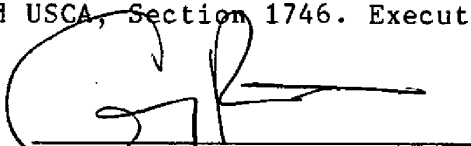
4 7. That this Court based on a review of the allegation and
5 ruling of the Eighth Judicial District Court should vacate his
6 sentence under N.R.S. 207.010 or in the alternative remand his case
7 back for an evidentiary hearing.

8
9 DATED: this 12th day of April, 2011.

10
11 
12 Cary Pickett, 57591
13 P.O. Box 650
14 Indian Springs, NV 89070

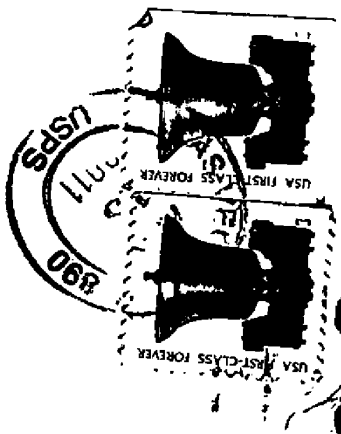
15 **UNDER PENALTY OF PERJURY STATEMENT**

16 I declare (or certified, verify, or state) under penalty of
17 perjury that the forgoing is true and correct in accordance with
18 N.R.S. 208.165 and USCA, Section 1746. Executed on April 12, 2011.

19
20 
21 Cary Pickett-57591
22
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28

Gary Pickett 57591
P.O. Box 1650
Indian Springs NV
89070

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



FILED

APR 20 2011

John J. [Signature]
CLERK OF COURT

1 ASTA

2
3
4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**
6

7 STATE OF NEVADA,)

8 Plaintiff(s),)

9 vs.)

10 CARY PICKETT,)

11 Defendant(s),)

) Case No: 10C262523-2

) Dept No: XVIII
)

10C262523-2
ASTA
Case Appeal Statement
1364373



12
13
14 **CASE APPEAL STATEMENT**

15 1. Appellant(s): Cary Pickett

16 2. Judge: David Barker

17 3. Appellant(s): Cary Pickett

18 Counsel:

19 Cary Pickett #57591
20 P.O. Box 650
Indian Springs, NV 89070

21 4. Respondent: THE STATE OF NEVADA

22 Counsel:

23 David Roger, District Attorney
24 200 Lewis Ave.
25 Las Vegas, NV 89101
(702) 671-2700

26 5. Respondent's Attorney Licensed in Nevada: Yes

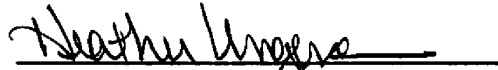
27 6. Appellant Represented by Appointed Counsel In District Court: No
28

- 1 7. Appellant Represented by Appointed Counsel On Appeal: N/A
2 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A
3 9. Date Commenced in District Court: March 3, 2010
4 10. Brief Description of the Nature of the Action: Criminal
5 Type of Judgment or Order Being Appealed: Post-Conviction Relief
6 11. Previous Appeal: No
7 Supreme Court Docket Number(s): N/A
8 12. Child Custody or Visitation: N/A
9

10 Dated This 20 day of April 2011.

11 Steven D. Grierson, Clerk of the Court
12

13 By:



14 Heather Ungermann, Deputy Clerk
15 200 Lewis Ave
16 PO Box 551601
17 Las Vegas, Nevada 89155-1601
18 (702) 671-0512
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ORIGINAL

24

1 **ORDR**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 ROY L. NELSON, III.
6 Chief Deputy District Attorney
7 Nevada Bar #007842
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

2011 MAY 19 P 2:12

Stephanie Graham
CLERK OF THE COURT

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 CARY J. PICKETT,
12 #0725059

13 Defendant.

CASE NO: 10C262523-2

DEPT NO: XVIII

10C262523-2
FFCO
Findings of Fact, Conclusions of Law and C
1422159



14 FINDINGS OF FACT, CONCLUSIONS OF
15 LAW AND ORDER

16 DATE OF HEARING: April 6, 2011

17 TIME OF HEARING: 8:15 A.M.

18 THIS CAUSE having come on for hearing before the Honorable David Barker,
19 District Judge, on the 6th day of April, 2011, the Petitioner not being present, Proceeding In
20 Forma Pauperis, the Respondent being represented by DAVID ROGER, District Attorney,
21 by and through Stephanie Graham, Deputy District Attorney, and the Court having
22 considered the matter, including briefs, transcripts, no arguments of counsel, and documents
23 on file herein, now therefore, the Court makes the following findings of fact and conclusions
24 of law:

25 FINDINGS OF FACT

26 1. On February 3, 2010, Cary J. Pickett, hereinafter "Defendant," was charged by
27 way of Criminal Complaint with five (5) counts of Burglary While in Possession of a
28 Firearm, seven (7) counts of Robbery With Use of a Deadly Weapon, five (5) counts of

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CLERK OF THE COURT

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1 Conspiracy to Commit Robbery, and six (6) counts of Possession of a Firearm by an Ex-
2 Felon.

3 2. On March 10, 2010, pursuant to negotiations, Defendant was charged by way
4 of Information with one count each of Burglary While in Possession of a Firearm,
5 Conspiracy to Commit Robbery, Robbery With Use of a Deadly Weapon, and Possession of
6 a Firearm by an Ex-Felon. On March 11, 2010, pursuant to a written Guilty Plea Agreement,
7 Defendant pled guilty to the same charges.

8 3. On May 10, 2010, Defendant was adjudged a Habitual Criminal and sentenced
9 as follows: as to Count 1 – Burglary While in Possession of a Firearm, to a MAXIMUM of
10 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
11 MONTHS; as to Count 2 – Conspiracy to Commit Robbery, to MAXIMUM of SIXTY (60)
12 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; as to
13 Count 3 – Robbery with Use of a Deadly Weapon, to a MAXIMUM of TWENTY-FIVE
14 (25) YEARS with a MINIMUM parole eligibility of TEN (10) YEARS, Count 3 to run
15 CONSECUTIVE to Count 1; as to Count 4 – Possession of a Firearm by an Ex-Felon, to a
16 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
17 FOUR (24) MONTHS, Count 4 to run CONCURRENT with Count 2, with EIGHTY-
18 EIGHT (88) DAYS credit for time served.

19 4. A Judgment of Conviction was filed on May 19, 2010.¹

20 5. Defendant did not file a Direct Appeal.

21 6. Defendant filed the instant petition on January 27, 2011.

22 7. Defendant's counsel rendered effective assistance.

23 8. Defendant stipulated to habitual criminal treatment as part of his plea
24 agreement.

25 9. Defendant has failed to provide any evidence supporting his claim that two out
26 of seven of his previous felony convictions which were the basis for his treatment as a
27

28

¹ Due to clerical errors, an Amended Judgment of Conviction was filed on September 24, 2010.

1 habitual criminal were constitutionally infirm.

2 10. Even if counsel had successfully challenged two of Defendant's previous
3 convictions as constitutionally infirm, five would have remained for the court to consider.
4 Defendant therefore cannot demonstrate prejudice.

5 11. Since Defendant stipulated to treatment as a habitual criminal, any arguments
6 by counsel against such treatment at sentencing would have been futile. Counsel cannot be
7 deemed ineffective for failing to make futile arguments.

8 12. Defendant's bare allegation that his counsel failed to make mitigation
9 arguments at sentencing is insufficient for relief.

10 13. The totality of the circumstances, including the relevant portions of
11 Defendant's GPA, the plea canvass, and taking into account the presence of counsel,
12 demonstrates Defendant's guilty plea was entered knowingly and voluntarily.

13 14. Defendant's claim that he was improperly sentenced as a habitual criminal is
14 not cognizable in a petition for post-conviction relief since Defendant's conviction was
15 based upon a plea of guilty.

16 15. Defendant has failed to provide evidence for consideration which supports the
17 grounds alleged.

18 CONCLUSIONS OF LAW

19 1. In order to assert a claim for ineffective assistance of counsel a defendant must
20 prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-
21 prong test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64
22 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this
23 test, the Defendant must show first that his counsel's representation fell below an objective
24 standard of reasonableness, and second, that but for counsel's errors, there is a reasonable
25 probability that the result of the proceedings would have been different. Strickland, 466 U.S.
26 at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev.
27 430, 432, 683 P.2d 504, 505 (1984) (adopting Strickland two-part test in Nevada).

28 ///

1 2. The court begins with the presumption of effectiveness and then must
2 determine whether or not the petitioner has proved disputed factual allegations underlying
3 his ineffective-assistance claim by a preponderance of the evidence. Means v. State, 120
4 Nev. 1001, 1012, 103 P.3d 25, 33 (2004).

5 3. Judicial review of a lawyer's representation is highly deferential, and a
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7 sound strategy. State v. LaPena, 114 Nev. 1159, 1166, 968 P.2d 750, 754 (1998) (quoting
8 from Strickland, 466 U.S. at 689, 104 S.Ct at 2052 (1984)). Strategy or decisions regarding
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10 circumstances." Doleman v. State, 112 Nev. 843, 848, 921 P.2d 278, 280 (1996) (quoting
11 Howard v. State, 106 Nev. 713, 722, 800P.2d 175, 180 (1990)).

12 4. Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only
13 be withdrawn to correct "manifest injustice." See also Baal v. State, 106 Nev. 69, 72, 787
14 P.2d 391, 394 (1990). The law in Nevada clearly establishes that a plea of guilty is
15 presumptively valid and the burden is on a defendant to show that the plea was not
16 voluntarily entered. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing
17 Wingfield v. State, 91 Nev. 336, 337, 535 P.2d 1295, 1295 (1975)). Manifest injustice does
18 not exist if defendant entered his plea voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394. To
19 determine whether a guilty plea was voluntarily entered the Court will review the totality of
20 the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721 P.2d at
21 367.

22 5. NRS 34.810(1)(a) states in relevant part:

23 1. The court shall dismiss a petition if the court determines that:

24 (a) The petitioner's conviction was upon a plea of guilty or guilty but mentally
25 ill and the petition is not based upon an allegation that the plea was
26 involuntarily or unknowingly entered or that the plea was entered without
effective assistance of counsel.

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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and it is, hereby denied.


DATED this MAY 19 2011 day of May, 2011.



DISTRICT JUDGE

AS

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY 

ROY L. NELSON, III.
Chief Deputy District Attorney
Nevada Bar #007842

10F02742B/GCU: ts/RN/ckb

FILED

MAY 31 2011

Heather Ungermann
CLERK OF COURT

NOED

DISTRICT COURT
CLARK COUNTY, NEVADA

CARY PICKETT,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

10C262523-2
NOED
Notice of Entry of Decision and Order
1441241



Case No: 10C262523-2
Dept No: XVIII

NOTICE OF ENTRY OF
DECISION AND ORDER

PLEASE TAKE NOTICE that on May 19, 2011, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 31, 2011.

STEVEN D. GRIERSON, CLERK OF THE COURT

By: *Heather Ungermann*
Heather Ungermann, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 31 day of May 2011, I placed a copy of this Notice of Entry of Decision and

Order in:

The bin(s) located in the Office of the District Court Clerk of:
Clark County District Attorney's Office
Attorney General's Office - Appellate Division

- ☒ The United States mail addressed as follows:
Cary Pickett # 57591
P.O. Box 650
Indian Springs, NV 89070

Heather Ungermann
Heather Ungermann, Deputy Clerk

6

ORIGINAL

FILED

2011 MAY 19 P 2:12

John H. Schuman
CLERK OF THE COURT

10C262523-2
FFCO
Findings of Fact, Conclusions of Law and C
1422150



1 **ORDER**
2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **ROY L. NELSON, III.**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #007842**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CARY J. PICKETT,
#0725059

Defendant.

CASE NO: 10C262523-2

DEPT NO: XVIII

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: April 6, 2011
TIME OF HEARING: 8:15 A.M.

THIS CAUSE having come on for hearing before the Honorable David Barker, District Judge, on the 6th day of April, 2011, the Petitioner not being present, Proceeding In Forma Pauperis, the Respondent being represented by DAVID ROGER, District Attorney, by and through Stephanie Graham, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On February 3, 2010, Cary J. Pickett, hereinafter "Defendant," was charged by way of Criminal Complaint with five (5) counts of Burglary While in Possession of a Firearm, seven (7) counts of Robbery With Use of a Deadly Weapon, five (5) counts of

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MAY 19 2011

CLERK OF THE COURT

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1 Conspiracy to Commit Robbery, and six (6) counts of Possession of a Firearm by an Ex-
2 Felon.

3 2. On March 10, 2010, pursuant to negotiations, Defendant was charged by way
4 of Information with one count each of Burglary While in Possession of a Firearm,
5 Conspiracy to Commit Robbery, Robbery With Use of a Deadly Weapon, and Possession of
6 a Firearm by an Ex-Felon. On March 11, 2010, pursuant to a written Guilty Plea Agreement,
7 Defendant pled guilty to the same charges.

8 3. On May 10, 2010, Defendant was adjudged a Habitual Criminal and sentenced
9 as follows: as to Count 1 – Burglary While in Possession of a Firearm, to a MAXIMUM of
10 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
11 MONTHS; as to Count 2 – Conspiracy to Commit Robbery, to MAXIMUM of SIXTY (60)
12 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS; as to
13 Count 3 – Robbery with Use of a Deadly Weapon, to a MAXIMUM of TWENTY-FIVE
14 (25) YEARS with a MINIMUM parole eligibility of TEN (10) YEARS, Count 3 to run
15 CONSECUTIVE to Count 1; as to Count 4 – Possession of a Firearm by an Ex-Felon, to a
16 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
17 FOUR (24) MONTHS, Count 4 to run CONCURRENT with Count 2, with EIGHTY-
18 EIGHT (88) DAYS credit for time served.

19 4. A Judgment of Conviction was filed on May 19, 2010.¹

20 5. Defendant did not file a Direct Appeal.

21 6. Defendant filed the instant petition on January 27, 2011.

22 7. Defendant's counsel rendered effective assistance.

23 8. Defendant stipulated to habitual criminal treatment as part of his plea
24 agreement.

25 9. Defendant has failed to provide any evidence supporting his claim that two out
26 of seven of his previous felony convictions which were the basis for his treatment as a
27

28

¹ Due to clerical errors, an Amended Judgment of Conviction was filed on September 24, 2010.

1 habitual criminal were constitutionally infirm.

2 10. Even if counsel had successfully challenged two of Defendant's previous
3 convictions as constitutionally infirm, five would have remained for the court to consider.
4 Defendant therefore cannot demonstrate prejudice.

5 11. Since Defendant stipulated to treatment as a habitual criminal, any arguments
6 by counsel against such treatment at sentencing would have been futile. Counsel cannot be
7 deemed ineffective for failing to make futile arguments.

8 12. Defendant's bare allegation that his counsel failed to make mitigation
9 arguments at sentencing is insufficient for relief.

10 13. The totality of the circumstances, including the relevant portions of
11 Defendant's GPA, the plea canvass, and taking into account the presence of counsel,
12 demonstrates Defendant's guilty plea was entered knowingly and voluntarily.

13 14. Defendant's claim that he was improperly sentenced as a habitual criminal is
14 not cognizable in a petition for post-conviction relief since Defendant's conviction was
15 based upon a plea of guilty.

16 15. Defendant has failed to provide evidence for consideration which supports the
17 grounds alleged.

18 CONCLUSIONS OF LAW

19 1. In order to assert a claim for ineffective assistance of counsel a defendant must
20 prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-
21 prong test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64
22 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this
23 test, the Defendant must show first that his counsel's representation fell below an objective
24 standard of reasonableness, and second, that but for counsel's errors, there is a reasonable
25 probability that the result of the proceedings would have been different. Strickland, 466 U.S.
26 at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev.
27 430, 432, 683 P.2d 504, 505 (1984) (adopting Strickland two-part test in Nevada).

28 ///

1 2. The court begins with the presumption of effectiveness and then must
2 determine whether or not the petitioner has proved disputed factual allegations underlying
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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and it is, hereby denied.


DATED this MAY 19 2011 day of May, 2011.



DISTRICT JUDGE

18

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY 

ROY L. NELSON, III.
Chief Deputy District Attorney
Nevada Bar #007842

10F02742B/GCU: ts/RN/ckb

FILED

JUN 14 2011

[Signature]
CLERK OF COURT

CARY PICKETT 57591
Defendant In Proper Person
P.O. Box 650 H.D.S.P.
Indian Springs, Nevada 89018

DISTRICT COURT
CLARK COUNTY NEVADA

CARY PICKETT,
PETITIONER,
-v-
THE STATE OF NEVADA,
RESPONDENT.

Case No. C 262523-2
Dept.No. XVIII
Docket _____


NOTICE OF APPEAL

Notice is hereby given that the PETITIONER, Cary Pickett,
_____, by and through himself in proper person, does now appeal
to the Supreme Court of the State of Nevada, the decision of the District
Court. DENYING Petition for writ of Habeas Corpus
May 19, 2011

Dated this date, JUNE 8, 2011.

Respectfully Submitted,

[Signature]
In Proper Person

10C262523-2
NOASC
Notice of Appeal (criminal)
1468977


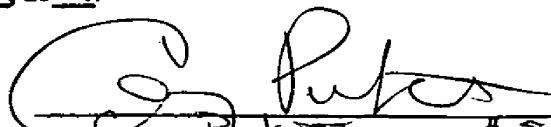
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JUN 14 2011
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, Cary Pickett, hereby certify, pursuant to NRCP 5(b), that on this 8
day of JUNE, 2011, I mailed a true and correct copy of the foregoing "Notice
of Appeal"
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

District Attorney
David Rodgers
200 S. Lewis
Las Vegas NV 89115

DATED: this 8 day of JUNE, 2011.


Cary Pickett # 5759
Appointed In Propria Persona
Post Office box 650 [HDSP]
Indian Springs Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Notice of Appeal
(Title of Document)

filed in District Court Case number C262523

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

-OR-

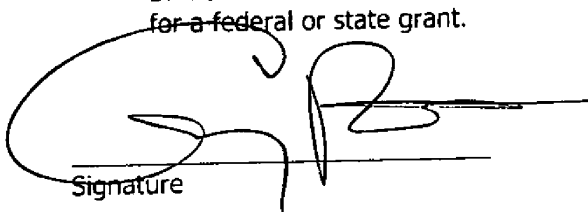
☐ Contains the social security number of a person as required by:

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

(State specific law)

-or-

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


Signature

June 8, 2011
Date

Cary Pickett
Print Name

Appellant
Title

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARY JERARD PICKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58191

FILED

MAY 09 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingerson*
DEPUTY CLERK

ORDER RE: ENTRY OF WRITTEN JUDGMENT OR ORDER
AND RECORD ON APPEAL

This is a proper person appeal from a decision denying a post-conviction petition for a writ of habeas corpus. This court's review of this appeal indicates that, as of the date of this order, the district court has not entered a written order denying the petition. The criminal court minutes indicate that the district court orally denied the petition in court on April 6, 2011. Prior to the entry of a final, written judgment or order, and the timely filing of a notice of appeal, the district court technically retains jurisdiction over appellant's case. See Bradley v. State, 109 Nev. 1090, 1094-95, 864 P.2d 1272, 1275 (1993). In a criminal case, a notice of appeal filed after announcement of the decision, but before entry of the written judgment or order is deemed to have been filed after such entry and on the day thereof. NRAP 4(b)(2). Thus, a copy of the written judgment or order is essential to a determination of this court's jurisdiction to consider this appeal.

Accordingly, the district court shall have 30 days from the date of this order within which to: (1) enter a written judgment or order or (2) inform this court that it is reconsidering its decision. In the event the

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CLERK OF THE COURT

SUPREME COURT
OF
NEVADA

(0) 1947A

11-13609

district court enters a written judgment or order (or has already entered a written judgment or order of which this court is unaware), the clerk of the district court shall immediately transmit a certified copy of the judgment or order to the clerk of this court.

Further, the clerk of the district court shall, within 60 days from the date of this order, transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall not include any physical, non-documentary exhibits or the original documentary exhibits filed in the district court, but copies of documentary exhibits submitted in the district court proceedings shall be transmitted as part of the record on appeal. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

It is so ORDERED.

Dayles, C.J.

cc: Hon. David B. Barker, District Judge
Cary Jerard Pickett
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

FILED

MAY 31 2011

Heather Ungermann
CLERK OF COURT

1 NOED

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 CARY PICKETT,

6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: 10C262523-2
Dept No: XVIII

10 NOTICE OF ENTRY OF
DECISION AND ORDER

11 PLEASE TAKE NOTICE that on May 19, 2011, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
15 mailed to you. This notice was mailed on May 31, 2011.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 By: *Heather Ungermann*
18 Heather Ungermann, Deputy Clerk

19 CERTIFICATE OF MAILING

20 I hereby certify that on this 31 day of May 2011, I placed a copy of this Notice of Entry of Decision and
21 Order in:

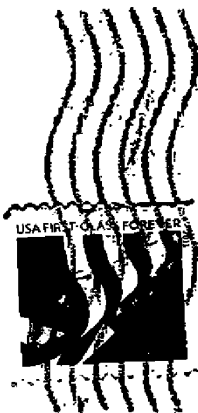
22 The bin(s) located in the Office of the District Court Clerk of:
23 Clark County District Attorney's Office
Attorney General's Office – Appellate Division

- 24 ☒ The United States mail addressed as follows:
25 Cary Pickett # 57591
26 P.O. Box 650
Indian Springs, NV 89070

27 *Heather Ungermann*
28 Heather Ungermann, Deputy Clerk

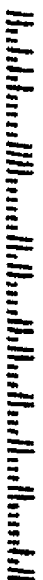
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PO Box 680
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89070

LAS VEGAS NV 890
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Clerk of the Court
200 S. Davis Ave
Las Vegas NV - 89155

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JUN 17 2011

John J. Blum
CLERK OF COURT

1 ASTA

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4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**
6

7 STATE OF NEVADA,)

8 Plaintiff(s),)

9 vs.)

10 CARY PICKETT,)

11 Defendant(s),)
12

) Case No: 10C262523-2

) Dept No: XVIII
)

10C262523-2

ASTA

Case Appeal Statement

1477164



13
14 **CASE APPEAL STATEMENT**

15 1. Appellant(s): Cary Pickett

16 2. Judge: David Barker

17 3. Appellant(s): Cary Pickett

18 Counsel:

19 Cary Pickett #57591
20 P.O. Box 650
Indian Springs, NV 89070

21 4. Respondent: THE STATE OF NEVADA

22 Counsel:

23 David Roger, District Attorney
24 200 Lewis Ave.
Las Vegas, NV 89101
25 (702) 671-2700

26 5. Respondent's Attorney Licensed in Nevada: Yes

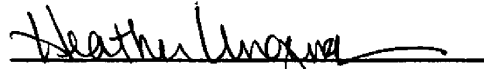
27 6. Appellant Represented by Appointed Counsel In District Court: No
28

- 1 7. Appellant Represented by Appointed Counsel On Appeal: N/A
2 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A
3 9. Date Commenced in District Court: March 3, 2010
4 10. Brief Description of the Nature of the Action: Criminal
5 Type of Judgment or Order Being Appealed: Writ of Habeas Corpus
6 11. Previous Appeal: Yes
7 Supreme Court Docket Number(s): 58191
8 12. Child Custody or Visitation: N/A
9

10 Dated This 17 day of June 2011.

11 Steven D. Grierson, Clerk of the Court
12

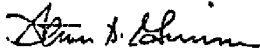
13 By:



14 Heather Ungermann, Deputy Clerk
15 200 Lewis Ave
16 PO Box 551601
17 Las Vegas, Nevada 89155-1601
18 (702) 671-0512
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FILED

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 CLERK OF THE COURT

ORIGINAL
 DISTRICT COURT
 CLARK COUNTY, NEVADA

TRAN

THE STATE OF NEVADA,

Plaintiff,

vs.

 CARY PICKETT, #0747918
 aka Cary Jerard Pickett,

Defendant.

CASE NO. C262523

DEPT. NO. XVIII

BEFORE THE HONORABLE DAVID B. BARKER, DISTRICT COURT JUDGE

MONDAY, MAY 10, 2010

 RECORDER'S TRANSCRIPT RE:
 SENTENCING

 10C262523-2
 TRAN
 Reporters Transcript
 1587241


APPEARANCES:

FOR THE STATE:

 ROY NELSON, ESQ.
 Chief Deputy District Attorney

FOR THE DEFENDANT:

CAESAR V. ALMASE, ESQ.

RECORDER/TRANSCRIBER:

RICHARD L. KANGAS

CLERK OF THE COURT

AUG 26 2011

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1 LAS VEGAS, CLARK COUNTY, NEVADA

2 MONDAY, MAY 10, 2010, 9:31 A.M.

3 * * * * *

4 THE COURT: Next case.

5 THE BAILIFF: Your Honor please, bottom of page 8.

6 THE COURT: Bottom of page 8, C262523, State of Nevada versus
7 Cary Pickett. The record should reflect the presence of Mr. Pickett, again in
8 custody with counsel, a representative of the State. This is the time set for
9 sentencing. Any legal cause or reason why judgment should not be entered?

10 MR. ALMASE: No, Your Honor.

11 THE COURT: Hearing no reason to delay adjudication, the
12 defendant is adjudicated guilty of: burglary while in possession of a firearm,
13 Count 1; Count 2, conspiracy to commit robbery; Count 3, robbery with use of a
14 deadly weapon; Count 4, possession of firearm by ex-felon.

15 My notes reflect the State's agreed to dismiss the remaining counts;
16 the defendant stipulates to large habitual criminal treatment under NRS 270.010.
17 The parties stipulate to two to five years on Count 1; the defendant treated as
18 habitual on Count 2, receive ten to twenty-five. So it's structured under habitual
19 criminal on the low of the three options available there, consecutive to Count 1,
20 for a total of twelve to thirty years Nevada Department of Corrections; other
21 counts to run concurrent.

22 Is that an accurate statement of the negotiations?

23 MR. ALMASE: That's correct, Judge.

24 THE COURT: Mr. Nelson, do you have any additional documents
25 you wish to offer in support of adjudication pursuant to 207.010?

1 MR. NELSON: I do, Judge. And with regard to Mr. Daniels earlier, I
2 handed the Court two judgments of convictions. Can I just make sure those are
3 marked and admitted as Court Exhibits 1 and 2?

4 THE COURT: Yes.

5 THE CLERK: They are, Your Honor.

6 THE COURT: They've already been marked by my clerk as Court's
7 Exhibits 1 and 2. And actually, let's keep the photocopies that you offered to
8 both me and the defense on that.

9 MR. NELSON: Yes, Judge.

10 THE COURT: All right.

11 MR. NELSON: Judge, I have I believe seven in total judgments of
12 conviction with regard to Cary Pickett.

13 THE COURT: I only counted six.

14 MR. NELSON: Okay. It might be six then.

15 One is C99915X; that is a certified judgment of conviction out of
16 Nevada for attempt grand larceny, which was treated as a felony.

17 I have C107733X, which is a judgment of – Nevada judgment of
18 conviction; that felony is for burglary, from 1992.

19 I have C109725, which is a certified Nevada judgment of conviction
20 from 1992 for attempt grand larceny.

21 I have C119000, a 1994 certified judgment of conviction for a felony
22 of escape.

23 I have C143146, which is a certified judgment of conviction for grand
24 larceny from 1997.

25 I have C145127, which is a certified judgment of conviction from

1 Nevada for the felony offense of burglary.

2 And I have C226282, which is a felony, certified judgment of
3 conviction from Nevada for transporting a controlled substance.

4 THE COURT: That's the one I didn't have, or didn't see.

5 MR. NELSON: And I ask that those be marked as Court Exhibits
6 and admitted.

7 THE CLERK: State's Exhibits?

8 THE COURT: Yeah, State's Exhibits in support of adjudication.

9 Mr. Almase, have you had an opportunity to review those certified
10 copies of judgments of conviction to determine whether or not to challenge any
11 for constitutional – on any constitutional grounds?

12 MR. ALMASE: Actually, Judge, I haven't received a copy of them,
13 but – here we go. If there's an issue with any of the representations by Mr.
14 Nelson, I would reserve the right to address that at a later date, however I see no
15 reason why there's any constitutional basis to challenge these judgments of
16 conviction at this point, Judge.

17 THE COURT: It does appear, as for his Codefendant Mr. Daniels,
18 that the D.A. did supply in advance copies, photocopies of those convictions.
19 And as I'm required to do, I went through and made an independent
20 determination of whether there's a certified copy of judgment of conviction for
21 each one, and I did that. The only one I didn't have was the transport controlled
22 substance, and when I looked at that this morning it does appear to be a certified
23 copy of a felony as stated, so it does appear to be an accurate –

24 MR. ALMASE: Very well, Judge.

25 THE COURT: All right. But –

1 MR. NELSON: Judge, I would also note –
2 THE COURT: – but the minutes will reflect that Mr. Almase reserves
3 any right to challenge those if necessary. But at this point there's no basis to
4 delay the process.
5 MR. ALMASE: Thank you, Judge.
6 MR. NELSON: I'd also note that he's registered in Nevada for all
7 seven of the felony convictions.
8 THE COURT: Okay. All right, the Court makes a finding that the
9 State has provided, and I've independently analyzed those as I'm required to do,
10 and the defendant is eligible for habitual criminal enhancement pursuant to
11 207.010.
12 Mr. Pickett, you're no different than Mr. Daniels. And the fact
13 remains that I support negotiations; I try to help the process. It's just part of the
14 realities of what we deal with here. With this multiple number of convictions you
15 would be eligible potentially for a life-without sentence, but the structure as
16 agreed upon and stipulated to was at the low range of that, the ten to twenty-five.
17 And it would be my inclination to follow that. Do you have anything else, any
18 additional information you would like to offer in mitigation, anything you'd like to
19 tell me?
20 THE DEFENDANT: No, sir. If you're inclined to follow the
21 recommendation, that's fine.
22 THE COURT: All right. Mr. Almase, anything else?
23 MR. ALMASE: Judge, I would just like to say that Mr. Pickett has
24 always taken responsibility for his actions, and he at no time tried to shirk what
25 occurred here. He's a very articulate individual, and I'm hopeful that he gets the

1 rehabilitation necessary and when he is paroled out that he will stay on the right
2 side of the law.

3 THE COURT: All right. In accordance with the law of the State of
4 Nevada: On Count 1, 24 to 60 months Nevada Department of Corrections. On
5 Count 2, the defendant is enhanced pursuant to habitual criminal; the sentence
6 will be 10 to 25 years, a minimum 10, maximum 25 years in Nevada Department
7 of Corrections consecutive to Count 1. Count 3, we'll do – since Count 3 really
8 isn't part of the structure, we'll do 24 to 60 –

9 MR. NELSON: Judge, maybe we could –

10 THE COURT: We can't do it. Yeah.

11 MR. NELSON: Why don't you just do Count 2, 24 to 60 and
12 adjudicate him under the NRS 207.010 for Count 3. That way you won't have to
13 mess around with the deadly weapon enhancement. I think that's the way –

14 THE COURT: You guys want –

15 MR. NELSON: – Mr. Almase and I intended it, and I may have
16 written it wrong in the plea.

17 THE COURT: Okay. Count 1, 24 to 60 months; Count 2, 24 to 60.
18 Count 3, adjudication pursuant to habitual criminal 207.010; the sentence will be
19 10 on the bottom, 25 on the top, consecutive to Count 1. Count 3, 24 to 60 –

20 MR. NELSON: That's Count 4.

21 THE COURT: Counts 1 and 3 will run consecutive; Counts 2 and 4
22 will run concurrent. Correct, to the balance?

23 MR. NELSON: You just said Count 3 24 to 60, I just believe –

24 THE COURT: Oh, I'm sorry.

25 MR. NELSON: – you meant Count 4.

1 THE COURT: I apologize.
2 MR. NELSON: Okay. Thank you.
3 THE COURT: Count 4, possession of firearm by ex-felon, will be 24
4 to 60.
5 MR. NELSON: Thank you, Judge.
6 THE COURT: Count 3 is the 10 to 25.
7 THE CLERK: Okay. And 1 and 3 are consecutive?
8 THE COURT: 1 and 3 are consecutive pursuant to the agreement,
9 Counts 2 and 4 concurrent. The spirit of the negotiations is that the total
10 sentence will be 12 on the bottom, 30 on the top; and that's the understanding of
11 the Court in the structure of the sentence.
12 Twenty-five dollar (\$25) administrative assessment fee. Restitution
13 joint and several with the codefendant of \$11,948.60. P&P is also indicating Mr.
14 Pickett to be individually responsible for restitution in the \$1,550. No DNA
15 sample is necessary because of the prior efforts to collect – or the prior
16 successful efforts to collect a DNA sample from Mr. Pickett. The \$250 IDF fee
17 does appear to be appropriate.
18 Is there any CTS against this sentence?
19 MR. ALMASE: 88 days.
20 THE COURT: 88 days CTS. Anything else, gentlemen?
21 MR. NELSON: That's it, Judge.
22 MR. ALMASE: No, Your Honor.
23 THE COURT: All right. Next case.
24 MR. ALMASE: Thank you, Judge.
25 PROCEEDING CONCLUDED AT 9:39 A.M.

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

Richard L. Kangas

RICHARD L. KANGAS
Court Recorder/Transcriber

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARY JERARD PICKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 58191
District Court Case No. C262523-2

FILED

NOV 08 2011

Tracie Lindeman
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 5th day of October, 2011.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
November 01, 2011.

Tracie Lindeman, Supreme Court Clerk

By: Niki Wilcox
Deputy Clerk



10C262523-2
CCJA
NV Supreme Court Clerks Certificate/Judgm
1687896



IN THE SUPREME COURT OF THE STATE OF NEVADA

CARY JERARD PICKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58191

FILED

OCT 05 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

In his petition filed on January 27, 2011, appellant claimed that he received ineffective assistance of counsel. To prove ineffective assistance of counsel, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, the outcome of the proceedings would have been different. Strickland v. Washington, 466 U.S. 668, 687-

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in Strickland). To prove prejudice sufficient to invalidate the decision to enter a guilty plea, appellant must demonstrate that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. Strickland, 466 U.S. at 697.

First, appellant claimed that his trial counsel was ineffective for advising him to enter a guilty plea which included a stipulation to large habitual criminal treatment under NRS 207.010 for the robbery count. Appellant claimed that trial counsel failed to challenge the change in terminology employed to describe the negotiations, failed to adequately investigate the validity of his prior convictions, and failed to adequately advise him of the habitual criminal adjudication process and the potential penalties for habitual criminal adjudication.

Appellant failed to demonstrate that his trial counsel's performance was deficient. Appellant's argument that he was not permitted to enter into a stipulation as a matter of law was incorrect as NRS 207.016(6) permits a court to impose an adjudication of habitual criminality based on a stipulation.² See also Hodges v. State, 119 Nev.

²Notably, appellant was provided adequate notice and the State presented proof of five valid prior felony convictions at the sentencing
continued on next page . . .

479, 484, 78 P.3d 67, 70 (2003). No substantive change occurred between the preliminary hearing and the plea canvass in the terminology to describe the plea negotiations. Appellant was further correctly informed of the penalty for large habitual criminal treatment in the written guilty plea agreement and during the plea canvass. Further, appellant failed to demonstrate that he was prejudiced as appellant received a substantial benefit in the instant case. In exchange for a guilty plea to one count of burglary while in possession of a firearm, one count of conspiracy to commit robbery, one count of robbery with a deadly weapon, and one count of possession of a firearm by an ex-felon and a stipulation to large habitual criminal treatment for the robbery count with an agreed upon sentence of ten to twenty-five years, the State agreed to the dismissal of twenty additional felony counts.³ Therefore, we conclude that the district court did not err in denying this claim.

... continued

hearing. Any error in presenting two additional, invalid prior convictions was harmless as the other five convictions presented, which contain either seals or certification stamps, were more than sufficient for large habitual criminal treatment. NRS 207.010(1)(b); NRS 207.016(5).

³In regard to the dismissed counts, appellant faced the possibility of being adjudicated a habitual criminal and life imprisonment for each count.

Second, appellant claimed that his trial counsel was ineffective for failing to investigate or present mitigating arguments at sentencing. Appellant failed to demonstrate that he was prejudiced. The district court imposed the sentence that appellant stipulated to receiving. Appellant failed to demonstrate by a reasonable probability that the district court would have dismissed the count of habitual criminality or that he would have received a lesser sentence had trial counsel presented mitigating arguments at sentencing. Therefore, we conclude that the district court did not err in denying this claim.

Next, appellant claimed that his plea was invalid because he was not personally canvassed about the habitual criminal adjudication process and any rights he waived by stipulating to large habitual criminal treatment. Appellant further claimed that he felt pressured into accepting the plea due to his co-defendant's acceptance of plea negotiations.

Appellant failed to carry his burden of establishing that the plea was not entered knowingly and intelligently. State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). Appellant was properly and personally canvassed about the terms of the negotiations and the potential penalties he faced by entry of his plea. In entering his plea, appellant acknowledged that it was being entered voluntarily. Therefore, we conclude that the district court did not err in denying this claim.

Finally, appellant claimed that the district court improperly adjudicated him a habitual criminal for a number of reasons. These challenges were outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based on a guilty plea. NRS 34.810(1)(a). Accordingly, we
ORDER the judgment of the district court AFFIRMED.⁴

Pickering J.
Pickering

Rose Sr. J.
Rose

Shearing Sr. J.
Shearing

⁴The Honorables Robert Rose and Miriam Shearing, Senior Justices, participated in the decision of this matter under general orders of assignment.

We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. David B. Barker, District Judge
Cary Jerard Pickett
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

SUPREME COURT
OF
NEVADA

(O) 1947A 



CERTIFIED COPY

This document is a full, true and correct copy of
the original on file and of record in my office.

DATE: November 01, 2011

Supreme Court Clerk, State of Nevada

By Niki Wilcox Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARY JERARD PICKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 58191
District Court Case No. C262523-2

REMITTITUR

TO: Steven Grierson, District Court Clerk

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

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

DATE: November 01, 2011

Tracie Lindeman, Clerk of Court

By: Niki Wilcox
Deputy Clerk

cc (without enclosures):

Hon. David B. Barker, District Judge
Cary Jerard Pickett
Attorney General/Carson City
Clark County District Attorney

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on NOV 08 2011.

HEATHER UNGERMANN

Deputy District Court Clerk

CARY PICKETT 57591
P.O. Box 7000 NNCC
CARSON CITY NV 89702
- IN PRO PER -

Electronically Filed
12/6/2017 8:52 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

27

MC
DA
PP

DISTRICT COURT CLARK COUNTY NEVADA

THE STATE OF NEVADA

Plaintiff

CASE No. C262523

VS

DEPT No. ~~XVHH~~

Department 19

CARY PICKETT

DATE: 01/03/18

Defendant, /

TIME: 8:30 AM

MOTION FOR MODIFICATION OF SENTENCE

COMES NOW DEFENDANT CARY PICKETT in PRO-PER
and submits to this court his motion for Modification
of sentence.

This motion is made and based upon this Courts
inherent authority to modify it's own SENTENCES;
all papers and pleadings, documents on file herein
and the following points and authorities.

RECEIVED

DEC 05 2017

CLERK OF THE COURT

Ⓢ

POINTS AND AUTHORITIES

I. SUPPORTING FACTS

RECEIVED

DEC 05 2017

CLERK OF THE COURT

Defendant entered a guilty plea and stipulated to
be treated as a habitual criminal. Defendant had
no prior experience or knowledge of the habitual
criminal adjudication process, more specifically he

did not know or understand that the Court had sole discretion over adjudication, and he could present mitigating evidence for the Courts consideration at sentencing.

As such no factual mitigating statements were made and defendant was sentenced by this Court on May 10th 2010 to 24 to 60 months with a consecutive 10 to 25 years pursuant to the habitual criminal. And joint and several restitution with co-defendants in the amount of \$11,948.60, individually \$1,550.00.

II. ARGUMENT

The power of this Court to modify such sentences lies in its inherent authority, which naturally provides it the authority to entertain motions to do so. "The District Courts have inherent authority to modify, suspend or otherwise correct sentences based upon materially untrue assumptions or mistakes which work to defendant's extreme detriment" Campbell v. District Court 114 Nev 410, 957 P2d 1141, 1142 (1998)

The Defendant is in no way alleging that the District Court nor the District Attorney's office erred or made any mistakes regarding sentencing or the plea agreement offered in this case. The Defendant is humbly expressing that he believes that it was

a materially untrue assumption for the court and the District Attorney's office to assume that the Defendant understood the habitual criminal adjudication process as it related to his ability to present mitigating evidence or the Courts ability to entertain such evidence.

A. THE DEFENDANTS PLEA MEMO

The Defendants plea agreement attached hereto reads as follows; "my decision to plead guilty is based upon the plea agreement in this case as follows; the state has agreed to dismiss the remaining counts Defendant stipulates to large habitual treatment under NRS 207.010. Parties stipulate to a 2-5 year sentence on count I. Defendant treated as a habitual under count II and receive 10-25 years sentence, consecutive to count I, for a total of 12-30 years in the Department of Corrections. All other counts to run concurrent.

The language as articulated above to any layman appears unequivocally decisive, more specifically the excerpt of "Defendant treated as a habitual under count 2 and receive 10-25 year sentence". In the case at bar the Defendant contends that it was a materially untrue assumption to believe that based upon the language above that the Defendant

understood or had enough knowledge to know that he could present mitigating evidence at sentencing.

This Defendant believes that based upon Staley v. State 106 Nev 75, 787 P2d 396, citing that; "It is within the discretion of the District Court to sentence a Defendant under the little habitual criminal statute rather than the Major habitual criminal statute if circumstances so warrant", can be applied in modification.

B. MITIGATING EVIDENCE NOT CONSIDERED

Paraphrasing Walker v. Deeds 50 F3d 670, (1995) adjudication to the status of a habitual criminal should disclose that the district court considered appropriate factors both for and against enhancement. In the case at bar the court did ask the Defendant if he wanted to say something prior to sentencing, however the court did state that it was inclined to support the plea agreement, therefore the Defendant declined to speak (see: attached sentencing transcript)

It is impossible to rewind time and know what the District Court would have done had mitigating evidence been presented. The Defendant merely request that this Court review these chronological entries from Parole and Probation (attached hereto) demonstrating the progress that the Defendant achieved towards becoming a productive member of society, while he was under supervision for 2004 until 2008.

The Defendant was released on parole Friday October 29, 2004. He first reported to P and P on Tuesday Nov 3, 2004 advising that he didn't make it on Monday due to his commitment to find employment which he had with the Aargon Collection Agency (SEE NEVADA 211 2004-11-03)

The chronological entries provide verification by the Division of parole and probation that I had full-time employment for my entire 4 year period with the same employer Aargon collection agency, paid his fee's and reported on time (SEE NEVADA's; 210, 209, 208, 203, 202). Additionally as required for my supervision Defendant entered the Drug Court program on 9-14-07 (SEE NEVADA 195), still working my same job (NEV 195) 10-19-07 verified further employment verification on (NEVADA 195, 194, 193, 192). And on 9-24-2008 Defendant graduated from the Drug Court in 100% compliance one year from entry (Drug Court is a 1yr commitment if candidate is in compliance with all requirements). (SEE NEVADA 192 9-24-2008)

Defendant completed his last period of supervision and was honorably discharged (SEE Attach order of the court). And Defendant continued his employment with Aargon until the day of his arrest on his lunch break for this offense.
+ Defendant is not claiming the year's after his

release on supervision where perfect I would only ask the courts consideration at this time.

C. PROPOSED SENTENCE MODIFICATION

Defendant is seeking to have his sentence modified from the 10-25 years pursuant to the major habitual statute to a 5-12 1/2 year sentence pursuant to the little habitual statute with credit for time actually served only. Additionally if the court will order that the restitution be severed and impose a \$5,000.00 restitution individually with a equal \$5,000.00 fine. The Defendant is willing through family to pay the entire \$10,000.00 at the hearing, providing the Court and the District Attorney's office have no opposition to the requested modifications.

III CONCLUSION

As demonstrated above the court relied on the plea agreement and the negotiations in rendering it's sentencing judgment, and absolutely no mitigating evidence was submitted, and as such the Defendant now prays that this Court will exercise it's inherent authority and consider modifying the sentence:

Dated this 21st day of November 2017

CARY PICKETT 51591
P.O. Box 7000 NNCC
CARSON CITY NV, 89702

INDEX OF ATTACHED DOCUMENTS

	DOCUMENT TITLE	REFERENCED ON PAGE NO.
#1	Guilty plea memo (pg's #1, 2, 3, 4)	(3)
#2	Sentencing Transcript (pg #5)	(4)
#3	chronological entries from Defendants most recent parole and probation supervision from Nov 2004 - Oct 2008 (pg's 22, 21, 20, 19, 14, 13, 6, 5, 4, 3, 2) (corresponding pg No. NEVADA: 211, 210, 209, 208, 203, 202, 195, 194, 193, 192, 191)	(4, 5)
#4	Petition and Order of Honorable Discharge	(5)
#5	Presentencing Investigation Report (verified employment with employer from Nov of 2004 thru Feb of 2010 by Division of Parole and Probation)	(5)

1 **GMEM**
2 **DAVID ROGER**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #002781
5 **ROY L. NELSON III**
6 **Chief Deputy District Attorney**
7 Nevada Bar #007842
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT

MAR 11 2010

STEVEN D. GRIERSON
CLERK OF THE COURT

SYLVIA COURTNEY

BY

DEPUTY

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **THE STATE OF NEVADA,**

11 **Plaintiff,**

12 **-vs-**

13 **CARY PICKETT, aka,**
14 **Cary Jerard Pickett, #0725059**

15 **Defendant.**

CASE NO: C262523
DEPT NO: XVIII

16 **GUILTY PLEA AGREEMENT**

17 I hereby agree to plead guilty to: **COUNT 1 - BURGLARY WHILE IN**
18 **POSSESSION OF A FIREARM (Felony - NRS 205.060 / Category B); COUNT 2 -**
19 **CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 199.480, 200.380 / Category**
20 **B); COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS**
21 **200.380, 193.165 / Category B) and COUNT 4 - POSSESSION OF FIREARM BY EX-**
22 **FELON (Felony - NRS 202.360 / Category B), as more fully alleged in the charging**
23 **document attached hereto as Exhibit "1".**

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

26 The State has agreed to dismiss the remaining counts. Defendant stipulates to large
27 habitual treatment under NRS 207.010. Parties stipulate to a 2-5 year sentence on Count 1.
28 Defendant treated as habitual under Count 2 and receive 10-25 year sentence, consecutive to

1 Count 1, for a total of 12-30 years in the Nevada Department of Corrections. All other
2 counts to run concurrent.

3 CONSEQUENCES OF THE PLEA

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

6 **I understand that as a consequence of my plea of guilty as to Count 1, the Court**
7 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
8 **term of not less than two (2) years and a maximum term of not more than fifteen (15) years.**
9 **The minimum term of imprisonment may not exceed forty percent (40%) of the maximum**
10 **term of imprisonment. I understand that I may also be fined up to \$10,000.00.**

11 **I understand that as a consequence of my plea of guilty as to Count 2, the Court**
12 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
13 **term of not less than one (1) year and a maximum term of not more than six (6) years. The**
14 **minimum term of imprisonment may not exceed forty percent (40%) of the maximum term**
15 **of imprisonment. I understand that I may also be fined up to \$5,000.00.**

16 **I understand that as a consequence of my plea of guilty as to Count 3, the Court**
17 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
18 **term of not less than two (2) years and a maximum term of not more than fifteen (15) years,**
19 **plus a consecutive minimum term of not less than one (1) year and a maximum term of not**
20 **more than fifteen (15) years for the use of a deadly weapon enhancement. The minimum**
21 **term of imprisonment may not exceed forty percent (40%) of the maximum term of**
22 **imprisonment.**

23 **I understand that as a consequence of my plea of guilty as to Count 4, the Court**
24 **must sentence me to imprisonment in the Nevada Department of Corrections for a minimum**
25 **term of not less than one (1) year and a maximum term of not more than six (6) years. The**
26 **minimum term of imprisonment may not exceed forty percent (40%) of the maximum term**
27 **of imprisonment. I understand that I may also be fined up to \$5,000.00.**

28 I understand that the law requires me to pay an Administrative Assessment Fee.

1 Further, I understand that if I am sentenced under the under the "small" habitual
2 criminal enhancement, the Court must sentence me to a term not less than FIVE (5) years
3 and a maximum of TWENTY (20) years in the Nevada Department of Corrections. I
4 understand that if I am sentenced under the "large" habitual criminal enhancement the Court
5 must sentence me to LIFE without the possibility of parole; life with the possibility of
6 parole, parole eligibility begins after a minimum term of TEN (10) years has been served;
7 OR a definite term of TWENTY FIVE (25) years, parole eligibility begins after a minimum
8 of TEN (10) years has been served.

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

13 I understand that I am eligible for probation for the offense to which I am
14 pleading guilty to in Count 1, 2, and 4. I understand that, except as otherwise provided by
15 statute, the question of whether I receive probation is in the discretion of the sentencing
16 judge.

17 I understand that I am not eligible for probation for the offense to which I am
18 pleading guilty to in Count 3.

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

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

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

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

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

3 I understand that if the State of Nevada has agreed to recommend or stipulate a
4 particular sentence or has agreed not to present argument regarding the sentence, or agreed
5 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
6 when the offense could have been treated as a felony, such agreement is contingent upon my
7 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
8 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
9 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
10 right to argue for any lawful sentence.

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

14 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
15 United States, I may, in addition to other consequences provided for by federal law, be
16 removed, deported, excluded from entry into the United States or denied naturalization.

17 I understand that the Division of Parole and Probation will prepare a report for the
18 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
19 sentencing, including my criminal history. This report may contain hearsay information
20 regarding my background and criminal history. My attorney and I will each have the
21 opportunity to comment on the information contained in the report at the time of sentencing.
22 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
23 may also comment on this report.

24 WAIVER OF RIGHTS

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

27 ///

28 ///

1 MR. NELSON: Judge, I would also note --

2 THE COURT: -- but the minutes will reflect that Mr. Almase reserves
3 any right to challenge those if necessary. But at this point there's no basis to
4 delay the process.

5 MR. ALMASE: Thank you, Judge.

6 MR. NELSON: I'd also note that he's registered in Nevada for all
7 seven of the felony convictions.

8 THE COURT: Okay. All right, the Court makes a finding that the
9 State has provided, and I've independently analyzed those as I'm required to do,
10 and the defendant is eligible for habitual criminal enhancement pursuant to
11 207.010.

12 Mr. Pickett, you're no different than Mr. Daniels. And the fact
13 remains that I support negotiations; I try to help the process. It's just part of the
14 realities of what we deal with here. With this multiple number of convictions you
15 would be eligible potentially for a life-without sentence, but the structure as
16 agreed upon and stipulated to was at the low range of that, the ten to twenty-five.
17 And it would be my inclination to follow that. Do you have anything else, any
18 additional information you would like to offer in mitigation, anything you'd like to
19 tell me?

20 THE DEFENDANT: No, sir. If you're inclined to follow the
21 recommendation, that's fine.

22 THE COURT: All right. Mr. Almase, anything else?

23 MR. ALMASE: Judge, I would just like to say that Mr. Pickett has
24 always taken responsibility for his actions, and he at no time tried to shirk what
25 occurred here. He's a very articulate individual, and I'm hopeful that he gets the

subj_chronos.txt
Subject: -81855- -PICKETT-CARY- Entered by: -2540- -For CID: -2540-
-Regarding: -2004-11-10 12:41:53- -,AV,HC,FF,SC
s home went over pa, no violations noted. Stated sister will be getting a bigger
place and if it was ok to move. Iformed it was ok as long as he is still residing w/
sister.
Zeemer/2540

Subject: -81855- -PICKETT-CARY- Entered by: -2540- -For CID: -2540-
-Regarding: -2004-11-05 14:20:42- -tc to s works and is away from the house until
evenings, po left message to call asap to set up intake.
Zeemer/2540

Subject: -81855- -PICKETT-CARY- Entered by: -2443- -For CID: -2443-
-Regarding: -2004-11-03 08:32:47- -FF,OV ORIENTATION
S RELEASED FROM PRISON ON 10-28-04 HOWEVER WENT TO CCDC FIRST
RELEASED FROM CCDC ON 10-29-04
HOWEVER FAILED TO REPORT FOR ORIENTATION UNTIL TODAY
EXPLAINED TO S HE WAS TO REPORT STRAIGHT TO P&P UPON HIS RELEASE. (NEXT BUSINESS DAY)
STATED HE HAS OBTAINED EMPLOYMENT AARGON COLLECTION AGENCY AND WORKS FROM 10AM-7PM
MONDAY-THURS 8AM-5PM ON FRIDAY
GIVEN PO NAME AND # WITH INSTRUCTIONS TO CALL PO
ALSO INSTRUCTED TO REG TODAY WITH METRO

CARRAO/2443

Subject: -81855- -PICKETT-CARY- Entered by: -975- -For CID: -1000-
-Regarding: -2004-10-15 10:21:08- -PPI Case Review
- RUAPP Case
- NDOP Time Tracking log completed
- PPI Screen completed
- CHR phones and address information updated in OTIS
- Central File location shows Records on old case, this case is paperless
- IOS and NOOC Sent Keys updated in OTIS
- PA and SC's entered into OTIS
- Case activated and ownership moved to the District.

Sweeks, 975

Subject: -81855- -PICKETT-CARY- Entered by: -2540- -For CID: -2540-
-Regarding: -2004-09-24 10:42:44- -parole to hold ccdc 10/28/04 per residence plan.
Zeemer/2540

Subject: -81855- -PICKETT-CARY- Entered by: -660- -For CID: -660-
-Regarding: -2004-09-17 12:12:42- -Completed file L02-0707 &A setup, sent to OS .
mfopiano/660

Subject: -81855- -PICKETT-CARY- Entered by: -838- -For CID: -838-
-Regarding: -2004-09-15 11:39:55- -File#L02-0707,A recd for setup

838/ssmith

Subject: -81855- -PICKETT-CARY- Entered by: -785- -For CID: -785-
-Regarding: -2004-09-14 10:46:45- -CASE TO FILE SET- UP FOR PO ZEEMER.

JKF/785.

Subject: -81855- -PICKETT-CARY- Entered by: -1000- -For CID: -1000-
-Regarding: -2004-09-14 08:13:25- -Faxed parole docs to Cary @ SDCC for inmates
signature.

1Stewart/1000

subj_chronos.txt
4:30PM S HOME ALONE. CURSORY SEARCH OF RES DONE NO VIOLATIONS NOTED. S IN
COMPLIANCE
KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-03-10 09:45:06- -UA TAKEN NEGATIVE FOR ALL DRUGS.
KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-02-08 16:13:51- -FEB MR ,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC
SF PAID

RV MAIL
EV SPOKE WITH EMPLOYER
SC1 ATTENDING AA/NA
SC2 REMINDED NO ALC
SC3 REMINDED NO BARS/LOUNGES
SC4 NOT NECESSARY
SC5 ATTENDING STRAWBERRY FIELDS
UA TAKEN THIS DATE
KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -1557-
-Regarding: -2005-01-14 18:27:46- -DONS HOLD PLACED
Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -18- -Regarding:
-2005-01-14 18:24:40- -DONS CONTACT - WITH DETAIN
Subject: -81855- -PICKETT-CARY- Entered by: -2230- -For CID: -2230-
-Regarding: -2005-01-12 10:13:10- -,HA - 1-11-05
Arrived 5621 Mt. Athos at 1957 hrs.
Spoke to mother. Stated that s was at work.
Lupe/2230

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-01-06 12:57:31- -,AV ,EV ,SF ,OF ,FF ,OV
S RETURNED ASA ORDERED. HE BROUGHT ALL REQUIRED PAPERWORK TO VERIFY EMPLOYMENT AND
RESIDENCE. HE ALSO PAID \$30 SF.
KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-01-06 09:07:26- -JAN MR ,OF ,MR ,FF ,OV ,SC
SF NOT PAID S WILL PAY LATER, TODAY
EV WILL BRING IN LATER, TODAY
RV WILL BRING LATER, TODAY
SC1 ATTENDING AA/NA
SC2 NO ALC
SC3 NO BARS/LOUNGES
SC4 NOT NECESSARY
SC5 WAS REFERRED TO STRAWBERRY FIELDS
KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -2540- -For CID: -2540-
-Regarding: -2004-11-18 09:07:30- -,AV ,EC ,EV ,SF ,OF ,MR ,FF ,OV ,SC
ev: aargon collection just started first check this friday
av: hc
fees: \$30
sc1: aa na 2 a week
2: no drinking
3: no bar
4: inp: not ref
5: opsac : given ref. sheet
6: warrants clear.
Zeemer/2540

subj_chronos.txt
verified employment w/aargon collection agency
completed attendance to strawberry fields
next ov scheduled for 7/11/05 at 715a per s request

Aragaki/3461

Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-06-23 09:09:13- -,SF ,MR ,FF ,OV ,SC
verified attendance to aa
outstanding warrants taken care of
last consumed alcohol 7 years ago/no bars/
verified employment w/aargon collection agency/
completed attendance to strawberry fields

Aragaki/3461

Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-06-07 16:39:45- -tc ov set for 6/23/2005 9am

Aragaki/3461

Subject: -81855- -PICKETT-CARY- Entered by: -785- -For CID: -785-
-Regarding: -2005-05-20 13:33:15- -MAY MR/OV

S REPORTED MR TAKEN BY RECEPTIONIST. PHOTO COPY OF P/S AND POWER BILL.

JKF/785.

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-04-14 15:43:07- -TX SUMMARY-
S IS DOING EVERYTHING THAT HE IS SUPPOSED TO DO. REGULARLY ATTENDS AA/NA AND IS
WORKING FT. CURRENT ON ALL FEES

LAST MR 4-14-05

LAST HC 3-10-05

LAST UA 3-9-05

TX TO 89031

KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-04-14 15:42:58- -APR MR ,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC

SF PAID

RV MAIL

EV SPOKE WITH EMPLOYER

SC1 ATTENDING AA/NA

SC2 REMINDED NO ALC

SC3 REMINDED NO BARS/LOUNGES

SC4 NOT NECESSARY

SC5 COMPLETED STRAWBERRY FIELDS

KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-03-10 11:04:53- -MAR MR ,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC

SF PAID

RV MAIL

EV SPOKE WITH EMPLOYER

SC1 ATTENDING AA/NA

SC2 REMINDED NO ALC

SC3 REMINDED NO BARS/LOUNGES

SC4 NOT NECESSARY

SC5 COMPLETED STRAWBERRY FIELDS

KCHRISTOPHERSON/018

Subject: -81855- -PICKETT-CARY- Entered by: -18- -For CID: -18- -Regarding:
-2005-03-10 09:47:16- -,AV ,HC ,FF

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NEVADA 209

subj_chronos.txt
resulted in finding of drugs within residence. s released. u/a showed positive for cocaine. s denies any use. sending out for testing.

SC1 not discussed at this time
SC2-No alcohol in last 8 yrs
sc3- no bars in last 8 years
sc4-6 completed
next o/v scheduled for aug 15th 0700
ARAGAKI/3461

.....
Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-08-11 08:47:47- -,UA ,FF ,OV ,SC
s was contacted by pd at his x gf house. pd had warrant and found drugs u/a showed positive for cocaine. to be enrolled in inpatient program by next fri.

SC1 WILL BRING COPY OF AA ATTENDANCE

SC2-No alcohol

sc3- no bars

sc4-6 completed

next o/v scheduled for aug 15th 0700

Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-08-11 07:47:22- -tcp-s will be in office w/in 30 m.....approx
830a
ARAGAKI/3461

.....
Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-08-10 21:28:12- -,HA
ha made at 2022 hrs./ no one hm lights off
ARAGAKI/3461

.....
Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -286-
-Regarding: -2005-08-10 19:04:38- -NO DONS HOLD PLACED
Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -3461-
-Regarding: -2005-08-10 18:57:39- -DONS CONTACT - WITH DETAIN
Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-08-04 13:00:56- -TC-CALLED AND ASKED FOR MAJOR CROSS AND ZIP..NOT
IN MAPQUEST
89031 ANNE/DECATUR.
ARAGAKI/3461

.....
Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-07-11 07:42:38- -,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC
AV-UMC.MAIL.5651-MT.ATHOS
EV-81 HRS 6-16-6/30/

SF=PAID

MR-SUBMITTED

OV - SCHEDULED FOR aug 15TH 0700 HRS

SC1 WILL BRING COPY OF AA ATTENDANCE

SC2-No alcohol

sc3- no bars

sc4-6 completed

next o/v scheduled for aug 15th 0700

ARAGAKI/3461

.....
Subject: -81855- -PICKETT-CARY- Entered by: -3404- -For CID: -3404-
-Regarding: -2005-06-28 12:04:05- -Purged C143146, file to Central Records, Gcheney
3404.
Subject: -81855- -PICKETT-CARY- Entered by: -3461- -For CID: -3461-
-Regarding: -2005-06-23 09:28:40- -contin ov
verified attendance to aa
outstanding warrants taken care of
last consumed alcohol 7 years ago/no bars/

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NEVADA 208

subj_chronos.txt
Subject: -81855- -PICKETT-CARY- Entered by: -896- -For CID: -896-
-Regarding: -2006-04-27 07:27:33- -4/27/06 @ 0645 hrs ,AV ,HC ,CC at Ferguson House
s had still been sleeping on sofa, other tenants starting to wake, NVN
Perdue/896

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-04-26 14:27:44- -S WILL BE AT 2881 N RANCHO # 2106
ON APRIL 29 AND 30 AND MAY 4--PER HOUSE PASS APPROVED BY
PENNY JACKSON AND THIS OFFICER

BARTLETT/3496

Subject: -81855- -PICKETT-CARY- Entered by: -660- -For CID: -660-
-Regarding: -2006-04-25 14:33:40- -Reinstated file L02-0707A setup, updated PA &
OTIS, sent to Sgt M-Neal.
mfopiano/660

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-04-18 13:06:33- -,HC 4/17/06--1900--CURSORY SEARCH--NO ISSUES
NOTED--

BARTLETT/3496

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-04-17/13:05:43- -,AV ,EV ,SF ,OF ,MR ,MR ,FF ,OV ,SC
RV--1400 FERGUSON HOUSE NLV 89030
EV--AARGON COLLECTIONS--LETTER PROVIDED
SF-- DUE 50.00

REST--NA/
SC--

WARRANTS CHECK NEGATIVE

1. WILL ATTEND HALF WAY HOUSE PROGRAMMING AT THIS TIME
2. NO DRINKING--UNDERSTANDS
3. DO NOT ENTER BAR--UNDERSTANDS
4. STRAWBERRY FIELDS DONE--NO FILE AT THIS TIME--WILL CHECK
5. N/A

6. WARRANTS CHECK NEGATIVE

MANDATORY HALF WAY HOUSE UNTIL FURTHER NOTICE...

CURFEW 8PM TO 5AM

HC THIS EVENING 6ISH OR SO

NEXTOV---- MAY 3--1115

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-04-13 12:09:17- -TC TO 809-2245---MRS PICKET...SHE PICKER HER SON
UP HERE AT OUR
OFFICE AND IS TAKING HIM TO THE HALFWAY HOUSE----
SPOKE WITH S ON THE PHONE--HE WILL BE IN FOR OV
ON APRIL 17---AT NOON

BARTLETT/3496

Subject: -81855- -PICKETT-CARY- Entered by: -3709- -For CID: -3709-
-Regarding: -2006-04-13 11:09:40- -,FF ,OV
S was dropped off by prison van. S was given po's name and phone# and instructed to
register with metro near him. csaikt
Subject: -81855- -PICKETT-CARY- Entered by: -838- -For CID: -838-
-Regarding: -2006-04-13 10:22:37- -File#L06-0707A recd for setup/reinstated

838/ssmith

✓ Subject: -81855- -PICKETT-CARY- Entered by: -262- -For CID: -3496-
-Regarding: -2006-04-12 09:43:44- -L02-0707A CASE ASSIGNED TO BARTLETT/3496
OWNERSHIP CONFIRMED IN OTIS - Y
SC'S LISTED ACCURATELY ON INSTANCE PAGE - Y

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NEVADA 203

subj_chronos.txt
Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-06-06 15:28:15- -,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC
RV-US MAIL
EV--AARGON COLLECTIONS--LETTER PROVIDED--40/WK
SF--DUE-50:00
REST--NA/
SC--

WARRANTS CHECK NEGATIVE
1. WILL ATTEND HALF WAY HOUSE PROGRAMMING AT THIS TIME
2. NO DRINKING--UNDERSTANDS
3. DO NOT ENTER BAR--UNDERSTANDS
4. STRAWBERRY FIELDS DONE--NO FILE AT THIS TIME--WILL CHECK
5. N/A
6. WARRANTS CHECK NEGATIVE

NEXTOV---- JULY 11---1530

BARTLETT/3496

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-05-08 16:32:53- -TCR FROM S---HE WAS INFORMED HE COULD MOVE TO
HIS APARTMENT
ON N RANCHO--OTIS UPDATED...

BARTLETT/3496

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-05-04 09:43:44- -TC FROM PENNY JACKSON 877-9850--SHE IS OF THE
OPINION THAT THIS
S IS READY TO LEAVE THE HALF WAY HOUSE--SHE STATES HE IS
DOING WELL---WILL REVIEW

BARTLETT/3496

Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-05-03 15:00:01- -AB105
Subject: -81855- -PICKETT-CARY- Entered by: -3496- -For CID: -3496-
-Regarding: -2006-05-03 12:46:28- -,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC
RV--1400-FERGUSON-HOUSE-NLV-89030 ---ok
EV--AARGON COLLECTIONS--ID PROVIDED
SF-- DUE 50.00
REST--NA/
SC--

WARRANTS CHECK NEGATIVE 5/3/06 *****
1. WILL ATTEND HALF WAY HOUSE PROGRAMMING AT THIS TIME
2. NO DRINKING--UNDERSTANDS
3. DO NOT ENTER BAR--UNDERSTANDS
4. STRAWBERRY FIELDS DONE--NO FILE AT THIS TIME--WILL CHECK
5. N/A
6. WARRANTS CHECK NEGATIVE
MANDATORY HALF WAY HOUSE UNTIL FURTHER NOTICE...
CURFEW 8PM TO 5AM
HC THIS EVENING 6ISH OR SO
NEXTOV---- june 6---1445

bartlett/3496

Subject: -81855- -PICKETT-CARY- Entered by: -112- -For CID: -3496-
-Regarding: -2006-04-27 10:24:35- -,AV ,HC ,FF 1400 FERGUSON NORTH LAS VEGAS. S.
DRIVES UP IN SUV. SAID HE IS LIVING THERE BARTLETT IS PO. NO VIOLATIONS. SAID HE
JUST GETTING OFF WORK.

PADDY 112

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NEVADA 202

subj_chronos.txt
Subject: -81855- -PICKETT-CARY- Entered by: -39- -For CID: -39- -Regarding:
-2007-12-17 14:38:45- -FILE TO SGT CUMMINGS FOR ASSIGNMENT TO DRUG COURT OFFICER

ZANA 039

Subject: -81855- -PICKETT-CARY- Entered by: -979- -For CID: -39- -Regarding:
-2007-12-12 16:37:31- -FILE V07-3383 TO SGT. ZANA FOR CASE ASSIGNMENT
ZIP CODE 89131

JVELASCO/979.

Subject: -81855- -PICKETT-CARY- Entered by: -3044- -For CID: -3044-
-Regarding: -2007-12-04 14:39:43- -FILE SENT TO SCLV
R. TIPTON

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-11-01 07:57:54- -,AV, EV, SF, MR, FF, OV, SC- Proof of Cert. of
Discharge, Judgement of Conviction, and registered felon to file

~~AV- ver by mail dated 8/22/07. Apiary Wind St., 89131~~

~~EV- ver by PS dated 10/19/07. Aargon Agency/ Debt Collector~~

~~SF- paid \$30. owes \$320. S. warned to start paying immed.~~

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase II
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplyment @ Aargon

S. to call PO in December for next OV date

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3664- -For CID: -3664-
-Regarding: -2007-10-30 12:14:53- -Purged C145127/File sent to HQ Records/coconnell
3664.

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-10-29 13:21:59- -S. sched. for OV on 11/01/07. He can not make it
in any sooner b/c of work. Being that I don't even have a file on him I will cut
him some slack.

only reported working

O'connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-10-29 09:36:41- -Still waiting on file for this S. I have made
Sgt. Cummings aware, quite a while ago, that I have no idea what is going on w/
this guy or his file.

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-09-20 13:12:17- -S. called today to update address and phone
number. Told S. I would contact him in near future for intake

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-09-20 13:08:58- -,WAIVE- no file yet and less than 10 days left
in the month

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -983- -For CID: -742-
-Regarding: -2007-09-17 08:52:08- -TC to HQ requesting file to SC as S was rel
and reported on 09/14/07. S has SC of
Drug Court. Paperwork to Sgt. Cummings
for assignment. File to follow

ccarter/983.

Subject: -81855- -PICKETT-CARY- Entered by: -4066- -For CID: -4066-
-Regarding: -2007-09-14 15:46:45- -,FF, OV

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subj_chronos.txt

EV- ver by PS dated 02/15/08. Aargon Agency/ Debt Collector
SF- paid \$30. owes \$320 but claims that the fees from his old Parole case got added to the fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase III. Scheduled for IV on 03/19/08
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplyment @ Aargon

Next OV is 4/09/08 @ 0700

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-02-06 07:18:37- -,AV ,EV ,SF ,MR ,FF ,OV ,SC

AV- ver by mail dated 1/21/08. 8724 Apiary Wind St., 89131

EV- ver by PS dated 01/31/08. Aargon Agency/ Debt Collector

SF- paid \$30. owes \$320 but calims that the fees from his old Parole case got added to the fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase III
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplyment @ Aargon

Next OV is 3/5/08 @ 0700

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-01-09 07:19:33- -,AV ,EV ,SF ,MR ,FF ,OV ,SC

AV- ver by mail dated 1/1/08. 8724 Apiary Wind St., 89131

EV- ver by PS dated 1/04/08. Aargon Agency/ Debt Collector

SF- paid \$30. owes \$320 but calims that the fees from his old Parole case got added to the fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase III
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplyment @ Aargon

Next OV is 2/6/08 @ 0700

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-12-18 08:19:39- -PA agreement signed and sent to Court

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2007-12-18 08:09:04- -,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC- Finally rec.
file on this S. and did all intake paperwork w/ him.

AV- ver by mail dated 12/07/07. 8724 Apiary Wind St., 89131

EV- ver by PS dated 12/05/07. Aargon Agency/ Debt Collector

SF- paid \$30. owes \$320 but calims that the fees from his old Parole case got added to the fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase III
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplyment @ Aargon

Next OV is 1/9/08 @ 0720

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -742- -For CID: -742-
-Regarding: -2007-12-17 15:09:54- -File to O Connell

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subj_chronos.txt

Next OV is 08/6/08 @ 0710

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-06-27 13:36:20- -,AV,HC,FF,SC- S. home with brothers wife and
kid. It's his brother's home. No violations. nice home well kept

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -3668-
-Regarding: -2008-06-22 14:37:09- -NO DONS HOLD PLACED
Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -3668-
-Regarding: -2008-06-22 14:27:23- -DONS CONTACT - DETAIN
Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-06-04 07:09:41- -,AV,EV,SF,MR,FF,OV,SC

AV- ver by mail dated 05/28/08 8724 Apiary Wind St., 89131

EV- ver by PS dated 05/15/08 Aargon Agency/ Debt Collector

SF- owes \$350 but claims that the fees from his old Parole case got added to the
fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase IV
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplment @ Aargon

Next OV is 07/02/08 @ 0700

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-05-07 07:24:54- -need to call North re: Restitution discretion

o'connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-05-07 07:17:31- -,AV,EV,SF,MR,FF,OV,SC

AV- ver by mail dated 4/16/08 8724 Apiary Wind St., 89131

EV- ver by PS dated 04/30/08 Aargon Agency/ Debt Collector

SF- paid \$30. owes \$320 but claims that the fees from his old Parole case got added
to the fees on his current case rather than going inot Stale fees. Must
investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase IV
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplment @ Aargon

Next OV is 06/04/08 @ 0710

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-04-09 07:22:16- -,AV,EV,SF,MR,FF,OV,SC

AV- ver by mail dated 03/29/08 8724 Apiary Wind St., 89131

EV- ver by PS dated 03/31/08 Aargon Agency/ Debt Collector

SF- paid \$30. owes \$320 but claims that the fees from his old Parole case got added
to the fees on his current case rather than going inot Stale fees. Must
investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase IV
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT emplment @ Aargon

Next OV is 4/09/08 @ 0700

O'Connell/3668

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-
-Regarding: -2008-03-05 07:15:38- -,AV,EV,SF,MR,FF,OV,SC

AV- ver by mail dated 02/19/08 8724 Apiary Wind St., 89131

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subj_chronos.txt

SF- Paid \$60/ Subj. was on Parole and was revoked, and SF's kept running, PO called finance and left mess to return call

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Graduated 9/24/2008-~~1~~
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- compliant

Next OV 12/2 @ 815

Aldis 3960

Subject: -81855- -PICKETT-CARY- Entered by: -3960- -For CID: -3960-
-Regarding: -2008-09-08 17:15:32- -,FF ,OV

Obtain DNA

Aldis 3960

Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -3960-
-Regarding: -2008-08-31 07:13:59- -NO DONS HOLD PLACED
Subject: -81855- -PICKETT-CARY- Entered by: -821- -For CID: -3960-
-Regarding: -2008-08-31 07:09:23- -DONS CONTACT - DETAIN
Subject: -81855- -PICKETT-CARY- Entered by: -3955- -For CID: -3955-
-Regarding: -2008-08-06 07:35:53- -aug 6.....provided travel pass for s to go to
Illinois with daughter aug 9-13...will not miss choices..s in phase 4....copy in
file

adillinger/3955

Subject: -81855- -PICKETT-CARY- Entered by: -3955- -For CID: -3955-
-Regarding: -2008-08-06 07:23:20- -aug 6.....,AV ,EV ,SF ,OF ,MR ,FF
OV ,SC

AV- 8724 Apiary wind St., 89131 verified mail

EV- Aargon Agency/Debt Collector

SF- Paid \$30. owes \$350 but claims that the fees from his old Parole case got added to the fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase IV graduates sept
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- compliant

next mr oct

adillinger/3955

Subject: -81855- -PICKETT-CARY- Entered by: -742- -For CID: -4173-
-Regarding: -2008-07-11 16:50:59- -SYSTEM ENTRY changing supervising officer to CID
indicated

Subject: -81855- -PICKETT-CARY- Entered by: -742- -For CID: -742-

-Regarding: -2008-07-11 07:54:27- -To Drug court bank

Subject: -81855- -PICKETT-CARY- Entered by: -3668- -For CID: -3668-

-Regarding: -2008-07-02 07:14:23- -,AV ,EV ,SF ,MR ,FF ,OV ,SC

AV- ver by HV on 6/27. 8724 Apiary wind St., 89131

EV- forgot proof. Aargon Agency/ Debt Collector

SF- Paid \$30. owes \$350 but claims that the fees from his old Parole case got added to the fees on his current case rather than going inot Stale fees. Must investigate.

SC-

1. ENTER DRUG COURT COUNSELING PROGRAM- Phase IV
2. SEARCH FOR CONT. SUBS. OR TESTING FOR CS- discussed/understood
3. MAINTAIN STEADY EMPLOYMENT- FT employment @ Aargon

subj_chronos.txt

Subject: -81855- -PICKETT-CARY- Entered by: -2765- -For CID: -2765-
-Regarding: -2010-03-29 07:35:56- -File rec'd on 03/25. Setup. 6 business victims
and 7 person victims. R.Chatham/2765.

Subject: -81855- -PICKETT-CARY- Entered by: -3404- -For CID: -2765-
-Regarding: -2010-03-25 13:55:20- -c262523 reassigned to 2765/chatham gc
Subject: -81855- -PICKETT-CARY- Entered by: -4074- -For CID: -4074-
-Regarding: -2010-03-25 10:39:10- -vic letter mailed

aboehmer/4074.

Subject: -81855- -PICKETT-CARY- Entered by: -4074- -For CID: -4074-
-Regarding: -2010-03-25 10:31:12- -case rec'd and logged

aboehmer/4074.

Subject: -81855- -PICKETT-CARY- Entered by: -3404- -For CID: -4074-
-Regarding: -2010-03-16 14:08:35- -c262523 assigned to 4074/boehmer gc
Subject: -81855- -PICKETT-CARY- Entered by: -34- -For CID: -34- -Regarding:
-2008-12-11 12:01:19- -c226282 purged, forwarded to Hdqtrs GSU.
B. Simon 034

Subject: -81855- -PICKETT-CARY- Entered by: -3904- -For CID: -3904-
-Regarding: -2008-11-26 09:58:45- -Address confirmed 11/26/2008. Adjustment made
for refund of Sup Fees Stale Claim FY08 \$160.00. Paperwork submitted to DPS Admis
SVCS.

dsh

Subject: -81855- -PICKETT-CARY- Entered by: -3904- -For CID: -3904-
-Regarding: -2008-11-26 09:54:04- -S address confirmed 11/26/08. \$120 overpaid SF
refund done on PVE 650 SF000000464.

dsh

Subject: -81855- -PICKETT-CARY- Entered by: -3960- -For CID: -3960-
-Regarding: -2008-11-13 15:15:10- -EHD/FILE TO PURGE/EHD MAILED TO SUBJ

Aldis 3960

Subject: -81855- -PICKETT-CARY- Entered by: -742- -For CID: -742-
-Regarding: -2008-10-27 06:57:54- -dc to court
Subject: -81855- -PICKETT-CARY- Entered by: -3960- -For CID: -3960-
-Regarding: -2008-10-20 12:46:17- -EHD COMPLETED/FILE EHD TO SGT CUMMINGS

Aldis 3960

Subject: -81855- -PICKETT-CARY- Entered by: -3904- -For CID: -3904-
-Regarding: -2008-10-01 11:14:02- -Audited Sup Fee Acct. There is an exemption from
1/1/2002 thru 9/13/2007. Sup fees billed during that time period have been reversed
leaving a \$310.00 credit on the acct. Actual time billed should be 9/07 - 10/08 = 14
month x \$30.00 per month = \$420.00. Amount pd up thru 10/08= \$730.00. \$730.00
minus \$420.00= <\$310.00>

Per Officer Aldis S is due for an early discharge. We will hold the \$310 credit on
the acct; any future sup fee charges will be taken from the credit, when discharge
happens we will start the refund process.

dsh/acct maint

Subject: -81855- -PICKETT-CARY- Entered by: -3960- -For CID: -3960-
-Regarding: -2008-10-01 09:15:01- -,AV ,EV ,SF ,OF ,MR ,FF ,OV ,SC
MR- Oct. 2008

AV- Mail dated 9/26/2008

EV- Aargon Agency/ Debt Collector- 9/15/2008

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NEVADA 191

Case No. C226282

Petition and Order for Honorable Discharge from Probation:

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

THE STATE OF NEVADA,

Plaintiff

vs.

PICKETT, Cary Gerard

Defendant

PETITION

To the Honorable Judge Ken Cory, of the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, the Undersigned Chief Probation Officer for the State of Nevada now reports as follows concerning the above Defendant: Said Defendant was placed on probation by order of this Court for a term not to exceed 5 years, said Order being dated the 14th day of February, 2007. Said Probationer has satisfactorily completed all of the conditions of probation, while under supervision in the State of Nevada.

THEREFORE, the undersigned recommends that said Probationer be honorably discharged and released from further supervision.

Dated this 20th day of October, 2008.

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


Bernard W. Curtis, Chief Parole and Probation Officer

ORDER HONORABLY DISCHARGING PROBATIONER

In accordance with NRS 176A.850

With Restoration of Civil Rights

In this cause it appearing that the above-named Defendant was heretofore placed on probation under the authority of the Chief Parole and Probation Officer of the State of Nevada, and it further appearing from the petition of said Probation Officer that the period of such probation expires upon Judge's signature.

IT IS HEREBY ORDERED that said Probationer be honorably discharged from said probation.

IT IS FURTHER ORDERED that as of the date this order is signed by the Court, said probationer is restored to his civil rights to vote and serve as a juror in a civil action;

IT IS FURTHER ORDERED that FOUR YEARS from the date this order is signed by the Court, said probationer will be restored his civil rights to hold office;

IT IS FURTHER ORDERED that SIX YEARS from the date this order is signed by the Court, said probationer will be restored his civil rights to serve as a juror in a criminal action.

KENNETH G. CORY

Ken Cory, District Judge

Dated this 20 day of Oct 2008

NEVADA 0115

DEPARTMENT OF PUBLIC SAFETY
Division of Parole and Probation Discharge Request

To the Honorable Ken Cory
Eighth Judicial District Court
Department I
Clark County, Nevada

Date: October 20, 2008
Command: Southern
File No.: V07-3383
Criminal Case: C226282
Supervision Grant: 02/14/2007
Original Expiration: 02/14/2012
Adjusted Expiration: 02/14/2012

Offense: Transport of Controlled Substance (Category B)

Sentence: \$25 Administrative Assessment fee. 12-30 months Nevada Department of Corrections, suspended; Probation not to exceed 5 years

Name: PICKETT, Cary Jerard

Address: 8724 Apairy Wind St.
Las Vegas, NV 89131

Employment

Employer: Aagon Agency
Address: 3025 W. Sahara Las Vegas, NV 89131
Type of Work: Collections

Special Conditions:

1. Enter/Complete Drug Court- (Graduated September 24, 2008)
2. Search clause for illegal substances- (Compliant)
3. Maintain full-time employment- (Compliant)

Fees/Fine: \$30.00/month Balance: \$00.00

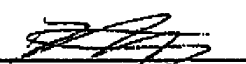
Type of Discharge: HONORABLE WITH RESTORATION OF CIVIL RIGHTS

Recommendations: PICKETT, Cary Jerard has fulfilled the conditions of supervision satisfactorily. Therefore, the Division recommends an Early Honorable Discharge with Restoration of Civil Rights from supervision be granted.

Pursuant to NRS 176A.500(5), this subject's original expiration date may reflect adjustment to an earlier date.

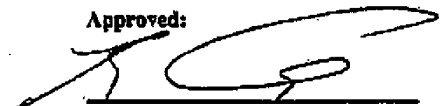
Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

Officer:


D. Aldis, DPS Officer II
Division of Parole and Probation
Southern Command, Las Vegas, Nevada

DA/
31853_V07-3383_DS

Approved:


K. Cummings, DPS Sergeant
Division of Parole and Probation
Southern Command, Las Vegas, Nevada

NEVADA 0116

12/12/2011 17:00 1100042000

PRESENTENCE INVESTIGATION REPORT
CARY PICKETT, AKA: CARY JERARD PICKETT
CCH:C262523

Page 3

Social History: The following social history is as related by the defendant and is unverified unless otherwise noted:

Childhood: The defendant described his childhood relationship as "great". No incidents of abuse or neglect reported.

Immediate Family Members- Names and Addresses: The defendant maintains close contact with his father, mother and two sisters who all live in Illinois.

Marital Status: Married

Prior Marriages/Long Term Relationships: 1/0

Children (number, sex, age): (3) adult children

Custody Status of Children: N/A

Monthly Child Support Obligation: N/A

Employment Status: Currently unemployed; however, the defendant has been employed by AAargon Collection Agency, as a collector, twice. Once for 2 ½ years and after a break for another 5 years.

Number of Months Employed Full-Time in the 12 Months Prior to Instant Offense: 12

Income: None reported

Other Sources: None reported

Assets: \$20,000 (vehicle)

Debts: \$16,000 (loans)

Education: The defendant graduated from high school in 1983 and attended one year of college. No degree attained.

Military: None reported

Health and Medical History: No past or present physical health concerns reported.

Mental Health History: No past or present mental health concerns reported.

Gambling History: No gambling issues reported.

Substance Abuse History: The defendant first tried alcohol at the age of 17 and then used it on a casual basis until February, 2010. He also first tried marijuana at the age of 17 and continued to use it on a casual basis until 1985. He began using cocaine at 21 and then progressed through regular use to addiction and used until he turned 32. He also tried mushrooms, two times, when he was 20. He denied the experimentation with or use of any other controlled substance(s). He would spend approximately up to \$100 per day to support his drug habit. He reportedly has been in treatment for drug abuse in in-patient status for approximately one month; however, he did not complete the program.

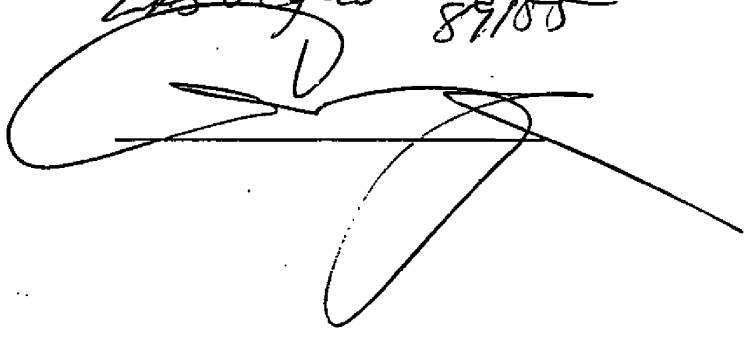
NEVADA 0044

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CERTIFICATE OF SERVICE BY MAIL

Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner Defendant named herein and that on this 21st day of November 2017, I mailed a true a correct copy of the foregoing document to the following:

OFFICE OF THE DISTRICT
ATTORNEY
200 Lewis Ave
Las Vegas NV
89105

A large, stylized handwritten signature in black ink, written over the address information.

FINANCIAL CERTIFICATE

I request that an authorized officer of the institution in which I am confined, or other designated entity, such as Inmate Services for the Nevada Department of Prisons (NDOC), complete the below Financial Certificate.

I understand that:

(1) if I commence a petition for writ of habeas corpus in federal court pursuant to 28 U.S.C. § 2254, the filing fee is \$5.00, and that such fee will have to be paid by me if the current account balance (line #1 below), or the average account balance (line #2 below), or the average deposits to my account (line #3), whichever is greater, is \$20.00 or more;

(2) if I commence a civil rights action in federal court pursuant to 42 U.S.C. § 1983, the filing fee is \$350.00, which I must pay in full; and

(a) if my current account balance (line #1 below) is \$350.00 or more, I will not qualify for *in forma pauperis* status and I must pay the full filing fee of \$350.00 before I will be allowed to proceed with the action;

(b) if I do NOT have \$350.00 in my account as reflected on line #1 below, before I will be allowed to proceed with an action I will be required to pay 20% of my average monthly balance (line #2 below), or the average monthly deposits to my account (line #3 below), whichever is greater, and thereafter I must pay installments of 20% of the preceding month's deposits to my account in months that my account balance exceeds \$10.00 (if I am in the custody of the NDOC, I hereby authorize the NDOC to make such deductions from deposits to my account, and I further understand that if I have a prison job, then the 20% of my paycheck that is guaranteed to me as spendable money will be sent to the court for payment of the filing fee); and

(c) I must continue to make installment payments until the \$350.00 filing fee is fully paid, without regard to whether my action is closed or my release from confinement.

Type of action (check one): ☐ civil rights

☒ habeas corpus

CARY PICKETT
INMATE NAME (printed)

57591
SIGNATURE & PRISON NUMBER

1. CURRENT ACCOUNT BALANCE
2. AVERAGE MONTHLY BALANCE*
3. AVERAGE MONTHLY DEPOSITS*
4. FILING FEE (based on #1, #2 or #3, whichever is greater)

\$221.55
\$95.60
\$160.00
\$ 5.00

* for the past six (6) months, from all sources, including amount in any savings account that is in excess of minimum amount that must be maintained

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

(Please sign in ink in a
color other than black.)

October 20, 2017
DATE

K. Bae
AUTHORIZED OFFICER

Asst Asst III
TITLE

Financial Certificates
0057591 - PICKETT, CARY J
(4/21/2017 - 10/20/2017)

Date	Description	Deposit	Withdrawal	Balance
04/21/2017	Opening Balance			\$133.61
04/21/2017	Commissary		(\$10.43)	\$123.18
04/27/2017	Commissary		(\$14.75)	\$108.43
04/28/2017	Commissary		(\$8.41)	\$100.02
05/01/2017	Commissary		(\$55.00)	\$45.02
05/01/2017	Commissary		(\$15.00)	\$30.02
05/05/2017	Commissary		(\$27.01)	\$3.01
05/09/2017	Keefe	\$40.00		\$43.01
05/09/2017	Legal Copies		(\$4.00)	\$39.01
05/10/2017	Keefe	\$100.00		\$139.01
05/10/2017	Commissary		(\$10.00)	\$129.01
05/11/2017	Exception	\$50.00		\$179.01
05/11/2017	Legal Copies		(\$0.10)	\$178.91
05/12/2017	Commissary		(\$52.99)	\$125.92
05/15/2017	Commissary		(\$7.60)	\$118.32
05/16/2017	Commissary		(\$19.20)	\$99.12
05/20/2017	Legal Copies		(\$1.60)	\$97.52
05/20/2017	Legal Copies		(\$3.60)	\$93.92
05/22/2017	Commissary		(\$30.36)	\$63.56
05/23/2017	Commissary		(\$12.68)	\$50.88
05/25/2017	Legal Postage		(\$2.45)	\$48.43
05/30/2017	Commissary		(\$20.53)	\$27.90
05/30/2017	Commissary		(\$10.50)	\$17.40
06/07/2017	Keefe	\$100.00		\$117.40
06/08/2017	Commissary		(\$10.00)	\$107.40
06/12/2017	Commissary		(\$20.87)	\$86.53
06/12/2017	Commissary		(\$7.60)	\$78.93
06/14/2017	Legal Copies		(\$0.50)	\$78.43
06/14/2017	Legal Copies		(\$2.60)	\$75.83
06/16/2017	Commissary		(\$33.21)	\$42.62
06/19/2017	Legal Postage		(\$1.82)	\$40.80
06/22/2017	Commissary		(\$37.75)	\$3.05
06/24/2017	Keefe	\$100.00		\$103.05
06/24/2017	Trust 2		(\$100.00)	\$3.05
06/27/2017	Trust 2	\$10.00		\$13.05
06/27/2017	Commissary		(\$10.00)	\$3.05
06/29/2017	Legal Postage		(\$2.94)	\$0.11
07/03/2017	Trust 2	\$20.47		\$20.58
07/03/2017	Commissary		(\$20.47)	\$0.11
07/07/2017	Trust 2	\$41.98		\$42.09
07/07/2017	Commissary		(\$41.98)	\$0.11
07/12/2017	Keefe	\$100.00		\$100.11
07/13/2017	Commissary Refund	\$5.50		\$105.61
07/13/2017	Trust 2		(\$5.50)	\$100.11
07/13/2017	Commissary Refund	\$2.75		\$102.86
07/13/2017	Trust 2		(\$2.75)	\$100.11

Financial Certificates
0057591 - PICKETT, CARY J

Date	Description	Deposit	Withdrawal	Balance
07/14/2017	Trust 2	\$19.33		\$119.44
07/14/2017	Commissary		(\$19.33)	\$100.11
07/19/2017	Commissary Refund	\$20.47		\$120.58
07/19/2017	Trust 2		(\$20.47)	\$100.11
07/20/2017	Commissary Refund	\$4.33		\$104.44
07/20/2017	Trust 2		(\$4.33)	\$100.11
07/21/2017	Trust 2	\$22.87		\$122.98
07/21/2017	Commissary		(\$22.87)	\$100.11
07/28/2017	Trust 2	\$9.10		\$109.21
07/28/2017	Commissary		(\$9.10)	\$100.11
08/04/2017	Trust 2	\$9.30		\$109.41
08/04/2017	Commissary		(\$9.50)	\$99.91
08/11/2017	Commissary		(\$27.43)	\$72.48
08/17/2017	Keefe	\$100.00		\$172.48
08/18/2017	Commissary		(\$18.80)	\$153.68
08/21/2017	Legal Copies		(\$2.40)	\$151.28
08/25/2017	Commissary		(\$12.72)	\$138.56
08/30/2017	Commissary		(\$20.47)	\$118.09
09/01/2017	Commissary		(\$17.75)	\$100.34
09/03/2017	Keefe	\$45.00		\$145.34
09/06/2017	Keefe	\$100.00		\$245.34
09/06/2017	Commissary		(\$95.78)	\$149.56
09/08/2017	Commissary		(\$34.75)	\$114.81
09/15/2017	Commissary		(\$27.66)	\$87.15
09/19/2017	Keefe	\$100.00		\$187.15
09/22/2017	Commissary		(\$37.14)	\$150.01
09/29/2017	Commissary		(\$5.45)	\$144.56
10/06/2017	Commissary		(\$18.31)	\$126.25
10/07/2017	Keefe	\$25.00		\$151.25
10/14/2017	Keefe	\$100.00		\$251.25
10/16/2017	Commissary		(\$29.70)	\$221.55
10/20/2017	Closing Balance			\$221.55

Date	Description	Deposit	Withdrawal	Balance
04/21/2017	Opening Balance			\$0.00
06/24/2017	Trust 2	\$100.00		\$100.00
06/27/2017	Trust 2		(\$10.00)	\$90.00
07/03/2017	Trust 2		(\$20.47)	\$69.53
07/07/2017	Trust 2		(\$41.98)	\$27.55
07/13/2017	Trust 2	\$5.50		\$33.05
07/13/2017	Trust 2	\$2.75		\$35.80
07/14/2017	Trust 2		(\$19.33)	\$16.47
07/19/2017	Trust 2	\$20.47		\$36.94
07/20/2017	Trust 2	\$4.33		\$41.27
07/21/2017	Trust 2		(\$22.87)	\$18.40
07/28/2017	Trust 2		(\$9.10)	\$9.30
08/04/2017	Trust 2		(\$9.30)	\$0.00

Financial Certificates
0057591 - PICKETT, CARY J

Date	Description	Deposit	Withdrawal	Balance
10/20/2017	Closing Balance			\$0.00

Date	Description	Deposit	Withdrawal	Balance
	No Activity			
04/21/2017	Opening Balance			\$0.00
10/20/2017	Closing Balance			\$0.00

Date	Description	Deposit	Withdrawal	Balance
	No Activity			
04/21/2017	Opening Balance			\$400.00
10/20/2017	Closing Balance			\$400.00

Financial Certificates

0057591 - PICKETT, CARY J

Date	Daily Balance	Daily Deposit	Number Of Deposit
04/21/2017	\$123.18	\$0.00	0
04/22/2017	\$123.18	\$0.00	0
04/23/2017	\$123.18	\$0.00	0
04/24/2017	\$123.18	\$0.00	0
04/25/2017	\$123.18	\$0.00	0
04/26/2017	\$123.18	\$0.00	0
04/27/2017	\$108.43	\$0.00	0
04/28/2017	\$100.02	\$0.00	0
04/29/2017	\$100.02	\$0.00	0
04/30/2017	\$100.02	\$0.00	0
05/01/2017	\$30.02	\$0.00	0
05/02/2017	\$30.02	\$0.00	0
05/03/2017	\$30.02	\$0.00	0
05/04/2017	\$30.02	\$0.00	0
05/05/2017	\$3.01	\$0.00	0
05/06/2017	\$3.01	\$0.00	0
05/07/2017	\$3.01	\$0.00	0
05/08/2017	\$3.01	\$0.00	0
05/09/2017	\$39.01	\$40.00	1
05/10/2017	\$129.01	\$100.00	1
05/11/2017	\$178.91	\$50.00	1
05/12/2017	\$125.92	\$0.00	0
05/13/2017	\$125.92	\$0.00	0
05/14/2017	\$125.92	\$0.00	0
05/15/2017	\$118.32	\$0.00	0
05/16/2017	\$99.12	\$0.00	0
05/17/2017	\$99.12	\$0.00	0
05/18/2017	\$99.12	\$0.00	0
05/19/2017	\$99.12	\$0.00	0
05/20/2017	\$93.92	\$0.00	0
05/21/2017	\$93.92	\$0.00	0
05/22/2017	\$63.56	\$0.00	0
05/23/2017	\$50.88	\$0.00	0
05/24/2017	\$50.88	\$0.00	0
05/25/2017	\$48.43	\$0.00	0
05/26/2017	\$48.43	\$0.00	0
05/27/2017	\$48.43	\$0.00	0
05/28/2017	\$48.43	\$0.00	0
05/29/2017	\$48.43	\$0.00	0
05/30/2017	\$17.40	\$0.00	0
05/31/2017	\$17.40	\$0.00	0
06/01/2017	\$17.40	\$0.00	0
06/02/2017	\$17.40	\$0.00	0
06/03/2017	\$17.40	\$0.00	0
06/04/2017	\$17.40	\$0.00	0
06/05/2017	\$17.40	\$0.00	0
06/06/2017	\$17.40	\$0.00	0
06/07/2017	\$117.40	\$100.00	1
06/08/2017	\$107.40	\$0.00	0

Financial Certificates

0057591 - PICKETT, CARY J

Date	Daily Balance	Daily Deposit	Number Of Deposit
06/09/2017	\$107.40	\$0.00	0
06/10/2017	\$107.40	\$0.00	0
06/11/2017	\$107.40	\$0.00	0
06/12/2017	\$78.93	\$0.00	0
06/13/2017	\$78.93	\$0.00	0
06/14/2017	\$75.83	\$0.00	0
06/15/2017	\$75.83	\$0.00	0
06/16/2017	\$42.62	\$0.00	0
06/17/2017	\$42.62	\$0.00	0
06/18/2017	\$42.62	\$0.00	0
06/19/2017	\$40.80	\$0.00	0
06/20/2017	\$40.80	\$0.00	0
06/21/2017	\$40.80	\$0.00	0
06/22/2017	\$3.05	\$0.00	0
06/23/2017	\$3.05	\$0.00	0
06/24/2017	\$3.05	\$100.00	1
06/25/2017	\$3.05	\$0.00	0
06/26/2017	\$3.05	\$0.00	0
06/27/2017	\$3.05	\$0.00	0
06/28/2017	\$3.05	\$0.00	0
06/29/2017	\$0.11	\$0.00	0
06/30/2017	\$0.11	\$0.00	0
07/01/2017	\$0.11	\$0.00	0
07/02/2017	\$0.11	\$0.00	0
07/03/2017	\$0.11	\$0.00	0
07/04/2017	\$0.11	\$0.00	0
07/05/2017	\$0.11	\$0.00	0
07/06/2017	\$0.11	\$0.00	0
07/07/2017	\$0.11	\$0.00	0
07/08/2017	\$0.11	\$0.00	0
07/09/2017	\$0.11	\$0.00	0
07/10/2017	\$0.11	\$0.00	0
07/11/2017	\$0.11	\$0.00	0
07/12/2017	\$100.11	\$100.00	1
07/13/2017	\$100.11	\$0.00	0
07/14/2017	\$100.11	\$0.00	0
07/15/2017	\$100.11	\$0.00	0
07/16/2017	\$100.11	\$0.00	0
07/17/2017	\$100.11	\$0.00	0
07/18/2017	\$100.11	\$0.00	0
07/19/2017	\$100.11	\$0.00	0
07/20/2017	\$100.11	\$0.00	0
07/21/2017	\$100.11	\$0.00	0
07/22/2017	\$100.11	\$0.00	0
07/23/2017	\$100.11	\$0.00	0
07/24/2017	\$100.11	\$0.00	0
07/25/2017	\$100.11	\$0.00	0
07/26/2017	\$100.11	\$0.00	0
07/27/2017	\$100.11	\$0.00	0

Financial Certificates

0057591 - PICKETT, CARY J

Date	Daily Balance	Daily Deposit	Number Of Deposit
07/28/2017	\$100.11	\$0.00	0
07/29/2017	\$100.11	\$0.00	0
07/30/2017	\$100.11	\$0.00	0
07/31/2017	\$100.11	\$0.00	0
08/01/2017	\$100.11	\$0.00	0
08/02/2017	\$100.11	\$0.00	0
08/03/2017	\$100.11	\$0.00	0
08/04/2017	\$99.91	\$0.00	0
08/05/2017	\$99.91	\$0.00	0
08/06/2017	\$99.91	\$0.00	0
08/07/2017	\$99.91	\$0.00	0
08/08/2017	\$99.91	\$0.00	0
08/09/2017	\$99.91	\$0.00	0
08/10/2017	\$99.91	\$0.00	0
08/11/2017	\$72.48	\$0.00	0
08/12/2017	\$72.48	\$0.00	0
08/13/2017	\$72.48	\$0.00	0
08/14/2017	\$72.48	\$0.00	0
08/15/2017	\$72.48	\$0.00	0
08/16/2017	\$72.48	\$0.00	0
08/17/2017	\$172.48	\$100.00	1
08/18/2017	\$153.68	\$0.00	0
08/19/2017	\$153.68	\$0.00	0
08/20/2017	\$153.68	\$0.00	0
08/21/2017	\$151.28	\$0.00	0
08/22/2017	\$151.28	\$0.00	0
08/23/2017	\$151.28	\$0.00	0
08/24/2017	\$151.28	\$0.00	0
08/25/2017	\$138.56	\$0.00	0
08/26/2017	\$138.56	\$0.00	0
08/27/2017	\$138.56	\$0.00	0
08/28/2017	\$138.56	\$0.00	0
08/29/2017	\$138.56	\$0.00	0
08/30/2017	\$118.09	\$0.00	0
08/31/2017	\$118.09	\$0.00	0
09/01/2017	\$100.34	\$0.00	0
09/02/2017	\$100.34	\$0.00	0
09/03/2017	\$145.34	\$45.00	1
09/04/2017	\$145.34	\$0.00	0
09/05/2017	\$145.34	\$0.00	0
09/06/2017	\$149.56	\$100.00	1
09/07/2017	\$149.56	\$0.00	0
09/08/2017	\$114.81	\$0.00	0
09/09/2017	\$114.81	\$0.00	0
09/10/2017	\$114.81	\$0.00	0
09/11/2017	\$114.81	\$0.00	0
09/12/2017	\$114.81	\$0.00	0
09/13/2017	\$114.81	\$0.00	0
09/14/2017	\$114.81	\$0.00	0

**PLEADING
CONTINUES
IN NEXT
VOLUME**