

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD LEE MITCHELL,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-21-830001-W

Docket No: 83390

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
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PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

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A-21-830001-W

Richard Mitchell, Plaintiff(s)

vs.

Nevada State of, Defendant(s)

I N D E X

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Richard Mitchell # 120901
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

FILED

FEB 24 2021

CLERK OF COURT

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

Richard Mitchell

Petitioner,

vs.

State of Nev. et al.
with intent willfully nothing
et al.

Respondent(s).

Case No. A-21-830001-W

Dept. 23

Dept. No.

Docket

Hearing Requested

* ORIGINAL *

PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

INSTRUCTIONS:

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

RECEIVED

FEB - 4 2021

CLERK OF THE COURT

Richard Lee Mitchell
Petitioner

8th District Court
Clark County, NEVADA

vs.

State of Nevada et al.
Warden William Huthings
et al.

Case # C-18-332717-1

Dpt # 23

Docket #

Respondents

* not a Death Penalty Case *
Jury Trial Demands

Original Hearing Requested

Petition for writ of Habeas Corpus
Post Conviction

1. Name of Institution and Country in which you
are presently imprisoned or where and how you
are presently restrained of your liberty
* Southern Desert Correctional Center *

2. Name and location of Court which entered
The Judgment of Conviction: UNDER Attack:
8th District Courts in and for
Clark County

3. Date of Judgment of Conviction 1/17/2019 & 12/10/2018

4. Case # C-17-328865-1 & Controlling case # C-18-332717-1

5. (a) Length of Sentence

Count #1 - 240 months maximum with 84 months minimum

Count #2 - 240 months maximum with 84 months minimum

Habitual Criminal Sentence of 7 to 20 years in Sec # C-17-328865-1

Controlling case C-18-332717-1 receiving 120 months max and 48 month min.

(b) if Sentence is death state any date upon which execution is scheduled N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes ☒ No ☐

if yes; list crime, case number and sentence being served at this time, nature of offense involved in conviction being challenged.

C-18-332717-1 \ C-17-328865-1 7 to 20 years

7. Nature of offense involved in conviction being challenged: Attempted Robbery
NRS. 200.380 193.330 subsection 193.330 does not exist see statutory exhibit 34

8. What was your plea?

(a) Not Guilty

(c) Guilty but Mentally Ill

(b) Guilty X

(d) Nolo Contendere

9. If you entered a plea of Guilty but Mentally Ill to one count of an indictment or information, and a plea of Not Guilty to another count of an indictment or information, or if a plea of guilty or Guilty but mentally ill was negotiated, give detail: N/A

10. If you were found Guilty after a plea of Not Guilty, was the finding made by: (a) Jury Trial N/A (b) Judge without Jury X.
11. Did you testify at the Trial? Yes _____ No X
12. Did you appeal from the Judgment of Conviction? Yes _____ No X
13. If you did appeal answer the following:
- (a) Name of Court: N/A
- (b) Case Number or Citation: N/A
- (c) Result: N/A
14. If you did not appeal explain briefly why you did not: See page 1-14
see Court Case Shomon pages I-II
15. Other than a Direct Appeal from the Judgment of Conviction and Sentence, have you previously filed any petitions application or motion with respect to this judgment in any court State or Federal? Yes _____ No X
16. If your answer to NO.#15 was "yes" give the following information;
- (a) (1) Name of Court: N/A
- (2) Nature of proceeding: N/A
- (3) Grounds raised: N/A
- I
- II
- (4) Did you receive an Evidentiary Hearing on your petition application?
Yes _____ No X
- (5) Result: N/A
- (6) Date of Results: N/A

(7) If Known, Citations of any written opinion or date of orders entered pursuant to such result: N/A

(b) as to any second petition application or motion, give the same information.

(1) Name of Court: N/A

(2) Nature of proceeding: N/A

(3) Grounds raised: N/A

(4) Did you receive an Evidentiary Hearing on your petition application? Yes No X

(5) Results: N/A

(6) Date of results: N/A

(7) If Known, Citations of any written opinion or date of orders entered pursuant to such result: N/A

(c) as to any third party application or motion give the same information.

(1) Name of Court: N/A

(2) Nature of proceeding: N/A

(3) Grounds raised: N/A

I

II

III

IV

V

VI

VII

(4) Did you receive an Evidentiary Hearing on your petition application? Yes No X

(5) Results: N/A

(6) Date of result: N/A

(7) If known citations of any written opinion or date of orders entered pursuant to such result: N/A

17. Has any grounds being raised in this petition been previously presented to this or any other court by way of petition for Habeas Corpus, motion application or any other Post-Conviction proceeding? Yes No X

If so identify:

(a) Which of the grounds is the same: N/A

(b) The proceedings in which these grounds were raised: N/A

(c) Briefly explain why you are again raising these grounds:

Grounds newly discovered

Introduction

* Opening Claims *

NRS 176.105 (1)(c) NRS 177.015 (3)

NRS 176.033 (1)(c)

NRS 176.033(1)(c) requires the District Court to set "an amount of restitution" when it determines that restitution is appropriate as part of a sentence. When the District Court determines that restitution is appropriate as part of a sentence, it must include the amount and "Terms" of the restitution in the "Judgment of Conviction" NRS 176.105(1)(c) the "Judgment of Conviction" must set forth....

any terms of imprisonment [298 P.3d 1171] the amount and terms of any fine, restitution or administrative assessment. Consistent with these statutory requirements, this court has held that the... District Court is not allowed [129 Nev.221] Toward awarding restitution in uncertain terms "Botts v. State 109 Nev. 567, 569, 854 P.2d 856, 857 (1993)" In cases where a District Court has violated this prescription this court historically has remanded for District Court to set an amount of restitution i.g.

Washington v. State, 112 Nev. 1067, 1075, 922 P.2d 547, 551-52 (1996)

Smith v. State, 112 Nev. 871, 873, 920 P.2d 1002, 1003 (1996)

Doc v. State, 112 Nev. 733, 736, 917 P.2d 959, 960-61 (1996)

Botts, 109 Nev. at 569. 854 P.2d at 857

None of our prior decision addressed whether the Judgment was final given its failure to comply with NRS 176.105(1). See NRS 177.015(3) we lack jurisdiction over any Appeal. See Castillo v. State 106 Nev. 349, 352, 792, P.2d 1133 1135 (1990)

Introduction

* Opening Claims *

Explaining that court has jurisdiction only when statute or Court rule provides for appeal our recent decision in *Whitehead v. State* 128 Nev. 259, 285 P.3d 1053 (2012) is controlling. In that case we consider whether a "Judgment of Conviction" that imposed restitution but did not specify the amount of restitution was sufficient to trigger the one-(1) year period under NRS 34.726 for filing a post conviction petition for a Writ of Habeas Corpus. Id at 263 285 P.3d at 1055

Based on the requirement in NRS 176.105(1)(c) that the amount of restitution be included in the "Judgment of Conviction" if the court imposes restitution, we conclude that a "Judgment of Conviction" that imposes a Restitution obligation but does not specify its terms is not a "Final Judgment!" and therefore it does not trigger the one year period for filing a Habeas petition. Id given our decision in *Whitehead* that such a judgment is not a Final Judgment.

See: *Jon Robert Shattte v. The State of Nevada* 129. Nev 219; 298 P.3d 1170; 2013 Nev. 29; 129. Nev. Adv. Rep. 23 #60799 (April 18, 2013)

* Opening Claims *

Ground #1

Unconstitutional J.O.C.

My J.O.C. doesn't instruct terms, the Judgment of Conviction must clearly instruct the form of punishment with sentencing structures and method or form of restitution payment procedures and process a general payment structure arrangement a remedy must be set available in sentencing J.O.C., if not the J.O.C. is null and void, unenforceable and issuer could never become time barred because the clock for procedurally barred and time bar never starts without a complete sentencing ordered by sentencing courts as restitution is found. The defendant is hereby adjudged guilty of said offense and in addition to the \$25.00 Administrative Assessment and \$150.00 DNA Analysis Fee including testing genetic marker the defendant is sentenced also to, this is an illegal sentence in violation of NRS 176.105 Subsection (c), NRS 176.185 (1)(c) NRS 176. A-100 as found in Miller v. Hayes 95 Nev. 927. 604 P.2d 117 (1979)

There's no restitution commitment issued rendering the J.O.C. null and void and causing the defendant never to start his sentence, sentence is not final and therefore in violation of NRS 177.015 (3) Manuel Revueta v. The State of Nevada 86 Nev. 224. 467 P.2d (1970) Nev. Laws 482 NO. 6100 (March 26, 1970)

September 15, 1969 district judge signed and caused to be filed a J.O.C. against Revueta without passing terms, there's no penal sentence nor term of payment amount of any fine restitution or administrative assessment in reference to NRS 176.105 found in the incomplete as also in J.O.C. # ^{C-17-32865-1} ~~C-18-332717-1~~ Smith v. State of Nevada. An incomplete J.O.C. entered against Mitchell ^{#1209011} is and was incomplete because it did not contain any sentence structure for payment of Administrative Assessment Fee \$25.00 nor any payment structure for \$150.00 DNA Analysis against NRS 176.105, the source of NRS 176.105 is rule 32(b) Fr. Crim p.18 USCA in

5-C

Ground #1

Opening Claims

Sanders v. Johnson 165 F.2d 736 (9th Cir 1948) where the written judgment failed to include all matters prescribed by the Rule 32(b) F.R.Crim.P. 18 USCA that Court said the enactment of Rule 32(b) had for the purpose the prescribing of a uniform practice. For the guidance (86 Nev. 2273) of trial courts in pronouncing judgment so that by following its provision confusion such as exist in these cases⁵ would not result, however it is the process actually employed which determines the legality of a conviction and not a failure to make written evidence of it in the judgment in the event of failure to make such written evidence recourse to all the records of the courts may be had and where all legal essentials are there-by to appeal Habeas Corpus will not lie in case # ^{C-17-328865-1} C-18-332717-1 the legal essential of a full complete penal sentence is missing before us and the record expressly reveals that it was purposely excluded from the written judgment of conviction. The failure to exclude the penal sentence in the written J.O.C. rendered it incomplete at the time it was offered in evidence and the Court should act correctly by denying the respondents request to deny this Writ on the basis of judgment. The petitioner has found that the judgment is incomplete and as the records reflect the court must affirm with the correct ruling, trial court signed incomplete and put in effect a incomplete null and void J.O.C., a review of the record will indicate and concur the respondents could never use harmless error, however this sentence will never expire. As due to a incomplete J.O.C. petitioner will never expose the terms of the sentence as found in Boley v. State supra said there is substantial evidence of guilt and conclude the error we shall review the point with great care 18S 176.105. A judgment of conviction shall set forth the plea, the verdict or finding and the adjudication and sentence if the defendant is found not guilty or for any reason is entitled to discharge from judgment, the court shall enter accordingly the judgment shall be signed by the judge and entered by the clerk with regards

5-D

Ground #1

Opening Claims

to technical error. Here Mitchell and State only agreed upon a Voluntary and Knowing plea Mitchell only expressly waived any defects associated with the minimum and maximum term of his sentence as the record reflects there fore Mitchell's J.O.C. is unconstitutional and has no legal existence, is without any validity and any sentence would be null and void and could be questioned by any private Suitor in any action or proceeding it would be a misnomer to term to uphold an incomplete sentence which the term of this sentence can not exist without authority of a finalized commitment issued by Sentencing judge rendering the J.O.C. valid as the power within a J.O.C. cannot exist with only part of the sentence handed down. There's now no authority of law and the entire sentence is without authority. This J.O.C. is unconstitutional and cannot support any sentence for such an act is no law it confers no judicial rights, impose no duties, affords no protection, furnishes no shield and gives no authority it is in legal contemplation and is to be regarded as never having been possessed of any legal force or effect and is always to be treated as though it never existed upon review of the record, the court must reverse remand and vacate. Following the rules of Nevada Constitution and fully comply with the Double Jeopardy Clause of article #2 section #8 Nevada Constitution, a District Court may correct an illegal sentence when necessary to the sentence into compliance with the pertinent statute only when there is no other matter to correct the illegal sentence. Miranda v. State 114 Nev. 385, 956 P.2d 1377 114 Nev. Adv. Rep. 49 (1998) The Court cannot increase the severity of the sentence in Double Jeopardy nor can the court retry the defendant which would be a violation of the 5th U.S. Amendment Double Jeopardy Clause, District Court cannot validly change the sentence in which would also be a Double Jeopardy violation of the 5th Amendment. The entire unconstitutional J.O.C. must be vacated as J.O.C. # ^{C-17-328065-1} ~~C-18-332717-1~~ doesn't conform

5-E

Ground #1

Opening Claims

to the statutes in effect at the time of the petitioner's offense, petitioner must be released from current confinement due to the courts failure to follow the validity of the statutes in effect at the time of J.B.G. Signing 12/10/2018 & 1/14/2019, any other prison time is unconstitutional. It is the process actually employed which determines the legality of a conviction. The courts must make written evidence and reverse to all records of the courts and relief must be granted by mode of Habeas Corpus.

5-F

* Opening Claim *

Ground #2 Ineffective Assistance of Counsel
In violation of the 6th Amendment

By and through the research of the records the record will reflect that assigned counsel ^{Amanda S. Gregory} ~~Belinda T. Harris~~ was ineffective by never filing a direct appeal nor did counsel inform Mitchell that a direct appeal of the Courts decision, through due diligence counsel should have known defendants J.O.C. was incomplete and sentence was therefore unenforceable. Counsel ^{Amanda S. Gregory} ~~Belinda T. Harris~~ should have been but was unfamiliar with NRS 176.185(d) c) NRS 176.185 subsection(c) NRS 176. A.100, also counsel gave defendant the wrong information concerning his sentence and the structure of his sentencing guidelines. Counsel never presented any of the above mentioned facts showing bias and prejudice towards Mitchell in case # ²⁻¹⁷⁻⁹²⁸⁸⁶⁵⁻¹ ~~2-18-33277-1~~ allowing the courts to enforce a erroneous plea agreement unfavorable to the defendant.

5-6

* opening Claims *

Ground #3

8th Amendment Violation

Signed original J.O.C. # ^{C-17-328865-1} ~~C-18-332717-1~~ fails for some reason to completely instruct defendant with payment methods in which Mitchell is also sentenced to Administrative Assessment Fee of \$25.00 and \$150.00 DNA Analysis Fee including genetic markers. Mitchell's J.O.C. doesn't include required methods (Facts) that cannot be found in the original J.O.C. nor (can any) complaint relate back to an original pleading that is missing a sentencing relevant fact thus the majority approach has allowed the sentencing courts in this case to accomplish exactly what the guidelines forbid. Impose an incomplete never ending sentence that will one day become additional punishment for defendant that should be under clear "Knock and announce" statute. Here petitioner reasonable expected to believe a court order is true and correct, but here with "plain error" in # ^{C-17-328865-1} ~~C-18-332717-1~~ the plea agreement waiver of petitioner's rights are therefore unenforceable. See: Buchanan 59. F.3d at 914-16. Here in petitioner plea agreement the courts are expected to know the law and sentencing requirements they hand down but the court didn't fully inform the petitioner of these unfavorable non-disclosed sentencing stipulation found in J.O.C. # ^{C-17-328865-1} ~~C-18-332717-1~~ during discussion on this issue will the District Court order? as in "Buchanan" and delay the facts in order for Buchanan to file a motion for modification to the plea agreement that permitted both parties to argue for downward departure and or plain departure which resulted in consecutive prison terms. See: United States v. Buchanan 59. F.3d. 904 (9th cir 1995) What really went on here in # ^{C-17-328865-1} ~~C-18-332717-1~~ almost (3) three-years ago was petitioner plea agreement is and was a product of ineffective assistance of counsel, these are the facts no matter what we do here today Mitchell can prove beyond doubt ineffective assistance of counsel during sentencing and direct appeal. Here petitioner argues that there was no waiver and not a knowing and voluntary fact of the order of J.O.C. that must clearly instruct the form of punishment and the method

S-H

Ground #3

Opening Claims

or form of restitution payment or Administrative Assessment and additional Sentencing to DNA Analysis including testing genetic markers, there was no canvass regarding the J.O.C. and additional Sentencing restitution Administrative Assessment DNA testing which would have unveiled "plain error." If canvassed which the District Court need not warn a defendant specifically that he has waived his rights when the court is in compliance during colloquial so long as the record indicates a knowing and Voluntary Waiver. United States v. Desantiago Martinez 38. F3d. 394-94 (9th Cir 1992) here there is a direct conflict between a trial judges unambiguous oral pronouncement of sentence and the erroneous in written judgment the oral pronouncement must control. The courts reasoning is the defendant must be told to his face and then a written order must make final and correct all oral pronouncements also known as a Judgment of Conviction imposing the full and correct sentence or the defendant can never legally start the term, therefore the defendant here has no reasonable expectation of the sentence imposed and any further instructions found in the "Common scheme or sentencing plan" found in the J.O.C. in order to prevent multiple punishments for substantially identical offense conduct this part provides rules for grouping offenses together. Conviction on multiple counts do not result in a sentence enhancement unless they represent additional conduct that is not otherwise accounted for by the sentencing guidelines in essence counts that are grouped together are treated as constituting a single offense for purpose of the guidelines. NRS 176.105 subsection (c) NRS 176.185(NC) NRS 176.A.100

5-I

Closing Argument

I believe that my civil rights have been violated under the 14th Amendment Rights to Due Process and Equal Protection. On 12/10/2018 said Judge Ronald J. Israel signed J.O.C. # C-17-328865-1 and on 12/10/2018 Filed the incomplete null and void J.O.C. into effect in violation of NRS 176.105 subsection(c) NRS 176.185 (1)(c) NRS 176.A.100 in violation of the U.S. Constitution 14th Amendment Due Process and Equal Protection Clause. This incomplete #1) J.O.C. includes Administrative Assessment Fee of \$25.00, #2) \$150.00 DNA Analysis Fee including testing to determine genetic markers, #3) \$300.00 DNA Collection Fee as part of the sentence in Case # C-17-328865-1, also on 1/14/2019 said Judge Douglas W. Herndon signed J.O.C. # C-18-332717-1 and on 1/17/2019 Filed the incomplete null and void J.O.C. into effect in violation of NRS 176.105 subsection(c), NRS 176.185 (1)(c), NRS 176.A.100 in violation of the U.S. Constitution 14th Amendment Due Process and Equal Protection Clause. This incomplete #1) J.O.C. includes Administrative Assessment Fee of \$25.00, #2) \$150.00 DNA Analysis Fee including testing to determine genetic markers, #3) \$300.00 DNA Collection Fee, #4) \$100.00 restitution to CVS, #5) \$250.00 Fine and #6) \$250.00 Indigent Defense Civil as part of the sentence and hereby adjudged guilty of said offense in addition with said Judges Ronald J. Israel in Case # C-17-328865-1 and Judge Douglas W. Herndon hands down a incomplete unenforceable J.O.C. without a payment structure for fines as the J.O.C. is stated.

5-J

Opening Claim

Now comes plaintiff: Richard L. Mitchell #1209011 requesting the courts allow....
Collateral attack on Judgment of conviction # C-17-328865-1 and # C-18-332717-1
[Inside and Outside] proceedings in which the said Judgment was rendered with
the main purpose being to impeach and overturn the unconstitutional judgment
of conviction # C-17-328865-1 and # C-18-332717-1 which is now through Due Diligence
found to be unconstitutionally signed 12/10/2018 and 1/14/2019 and found
[Adrift] floating without constitutional duration filed 12/10/2018 and 1/17/2019.

Closing Facts *

In closing, 8th District Court Judges Ronald J. Israel and Douglas W. Herndon
error in instruction for payment therefore making both J.O.C. # C-17-328865-1
and # C-18-332717-1 null and void and unenforceable, Court must reverse vacate
and remand.

5-K

Opening Statements

Now comes: Petitioner: Mr. Richard L. Mitchell #129011 in Pro-Se, in arrest of judgment of conviction #C-17-328865-1 ¹²⁻¹⁸⁻³³⁷⁷⁻¹ informing the Courts of a challenge to the said dangerous/deadly weapons charge found in Count # 2 of..... J.O.C. discovered by and through due diligence a unconstitutional "Newly Discovered" weapons enhancement; which the above mentioned Count and charge are in error and unconstitutional and any Sentence derived from Count #1,2,3 is..... illegal and unconstitutional.

The U.S. District Court is now giving jurisdiction to remand and reverse with..... instructions concerning the said invalid J.O.C., after finding of facts: and correct conclusion of law thus..... ordering the lower Courts to enter and render..... the correct information of a Constitutionally legal Sentence, by and through ordering..... an amended J.O.C. #C-17-328865-1 ¹²⁻¹⁸⁻³³⁷⁷⁻¹ due to defaults founds apparent in Sentencing phase of Count # 1,2,3

See frame work in form of "Attachments" numbers 1 thru 14
"DD Weapon" involved in the commission of the said crime

See: Case #C-17-328865-1 Dept # XXVIII Second amended information found also in J.O.C. Count #2 - Resisting public officer with use of a dangerous/deadly weapon did willfully unlawfully and feloniously resist, delay or obstruct officer... M. Miramontes, Las Vegas Metropolitan Police Department, a public officer discharging or attempting to discharge any legal duty to wit: by refusing to comply with..... lawful command of said officer M. Miramontes. Defendant using a dangerous/deadly

pg. 6

Weapon to wit: a "Baseball Bat" or defendant removing, taking or attempting to take or remove the dangerous weapon from his person or in the immediate presence of the public officer in course of such resistance obstruction; or delay in which I am requesting the "Body Cam" footage of the said event in which "Bodycam" footage is mandatory on (December 9th 2017) informing the.... Courts the arrest was approximately an hour to an hour and a half after the commission of the said [CVS] attempt robbery located at 1408 W. Craig Road.

Background

* Supporting Facts *

United States v. Davis et al #18-431 18 U.S.C 924(c) authorize of heightened criminal for carrying or having possession of a dangerous or deadly weapon possession of a firearm or a dangerous / deadly weapon in connection with any Federal or State "Crimes" of violence" is defined in two subparts: the elements clause 924(c)(3)(A) and the residual clause 924(c)(3)(B) which 9th district courts error.

In the sentencing phase See: C-18-232717-1 and #C-17-928365-1 where here defendant committed the said crimes on (Dec 8th 2017) without the use of a dangerous or deadly weapon and then was arrested (Dec 9th 2017) on a different attempt robbery also without the use of a dangerous or deadly weapon. But in the above mentioned case # the Courts apply a larger sentence

Background

* Supporting Facts *

of 4 to 10 years in violation of Nevada law. Facts "Oral pronouncement of guilt" during a plea canvas doesn't finalize an plea agreement nor an order as with an "Oral pronouncement" of any sentence it can not become active or finalized without a signature from the presiding court as here petitioners guilt plea agreement was provided by attorney of record October 2018 agreed to by Noreen Demonte Chief Deputy District Attorney Bar #9213 Sign by District Attorney (Noreen Demonte) But Never Signed By Defendant (Richard Lee Mitchell) See: Exhibit #1 plea agreement page #6. Thus rendering this sentence unconstitutional and [null and void] and unenforceable! In which defendant here concerning a dangerous/deadly weapon enhancement using the elements of petitioners cases! Do not qualify to apply to a dangerous or deadly weapon enhancement, there was never... a weapon used in the commission of any crime!, Nor did petitioner ever wave, flash or brandish any deadly or dangerous weapon with threats nor attempted intimidation of threats to any peace officer Request "Bodycam" surveillance video (Dec. 9th 2017) in which petitioner #C-17-329865-1 was actively open 6 months prior See: Exhibit #2 file date (12/29/2017) for said crimes committed (12-9-2017) not relating to #C-18-332717-1 file date (6-14-2018) See: Exhibit #3 on or about (The 8th day of December 2017). This alone is impossible, the stamp file dates are over one year

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Back ground

* Supporting Facts *

a part, how can the robbery dates be one day apart? I am sure "Mr. Mitchell" hasn't mastered the craft of time travel! Which according to report of record petitioner was apprehended at Terribles Hurst, and shot, facts the [Baseball Bat] was being used by petitioner as a head prop due to his car "head shocks" failure and the said shocks being damaged could no longer support the weight of the head. Petitioner being afraid when approached by L.H.M.P.D and trying to let the head down when being (commanded) Knew he never used any weapon in commission of any crimes, but only thought about all the police killings going on in the country and his guilt of "Grand Larceny" only removing \$108.00 dollars from the (cash register)... not using a weapon in commission of any crimes but guilty never willfully unlawfully or feloniously brandish, or wave any weapon nor did he feloniously resist delay or obstruct justice. He never had anything to discharge any legal duty to wit: using a dangerous/deadly weapon to wit: a baseball bat. He never attempted to take or remove any dangerous deadly weapon from his person nor intimidate the response of a public officer in course of such resistance and said obstruction or delay "Common Sense" Facts a "baseball bat" is 3 to 4 feet long or longer, it would be impossible to hide or attempt to remove such a large object or said weapon from your person. Respectfully presented plaintiff request... Bridgman Bortage

Background

Supporting Facts

From that said event (December 9th 2017) Mr. Mitchell
event #17FN2665X

pg. 10

* Good Cause Should *

Breach of Plea Deal/Habitual Criminal Sentencing

There is good cause for raising the claim in the instant petition based on newly discovered evidence #1 Breach of plea deal/habitual criminal #2 Sentencing Guideline violations #3 Legal innocence on deadly dangerous weapon, plaintiff is morally guilty of robbery & the legal claim here. But deadly/dangerous weapons - with a weapon enhancement is unconstitutional and "Excessive Punishment" Mr. Mitchell is facing punishment for mental illness and drug addiction in which Mitchell was intoxicated from hard liquor and cocaine to which he was on a 10 day drug binge and suffers mental issues. Petitioner is filing this petition more than 1 year following the filing of the JDC, here plaintiff states briefly the reason for the delay new discover legal innocence plaintiff state his sentence also violates the Eighth Amendment if it is grossly disproportionate to his crime. Harmelin v. Michigan 501 U.S. 957, 1001 (1991) Solem v. Helm 463 U.S. 277, 296-97 (1983)

In Davis v. U.S. we find that weapon enhancements are illegal and unconstitutional.

Mitchell uses issues found in (Snow v. State) questions of law that are of such importance that only the petition for Writ of Habeas Corpus would allow

#1 Here in case #C-18-332717-1 and #C-17-329865-1 with appointed public defenders deficiencies and counsel performance are sever and cannot be characterized as a strategic judgment as first prong of Strickland is met. U.S. v. Aray 378 Fed 702 (3rd Cir 1998) Plaintiff explains Counsel never challenged plaintiff's plea agreement as agree/no

Habitual Sentence - See plea # C-18-332717-1 Controlling Sentence, now
See plea habitual criminal sentence # C-17-328865-1 here counsel fails to
satisfy 6th Amendment requirements while depriving plaintiff of his 14th
Amendment rights of equal protection and due process of law. McDonald
v. Johnson 139 F.3d 1036 (5th cir 1998). Petitioner is entitled to a
evidentiary hearing on #1 #2 #3 in good cause shown. Berria v. Parke
III, F.3d 256, 258, 259 (7th cir 1997) Cyler v. Sullivan 446 U.S.
355, 100 S.Ct. 1708, 64 L.Ed.2d 333, 1980. Id @ 348 100 S.Ct at 1718
under "Cyler" the court must presume pre-judiced if the conflict of interest
between facts the records reflect and counsel's reviewing the records the
courts must find (1) That counsel actual actively represented conflicting
interest as here found in plea agreement # C-17-328865-1 and plea agreement
C-18-332717-1 as the records here reflect counsel adversely affected his
performance with a conflict of interest by never objecting to the states
breach of plea as agreed to no habitual sentencing. See # C-18-332717-1
plea deal. This was never resolved between counsel and defendant ID.
under Cyler @ 348 100 S.Ct at 1718. Here counsel ineffectiveness adverse
affected counsels performance although here Mitchell's case as in "Cyler"
involved a conflict of interest between client and counsel the pre-judiced
extends to a conflict between a client and his lawyers personal interest
Munhall v. Reed 847 F.2d 576 583 (9th circuit) 488 U.S. 909 S.Ct 260
102, L.Ed 249 (1998) U.S. v. Craig 967 F.2d 1018 (5th cir) the court
must conduct a Garcia Hearing once it has been alerted of the existence
of fraud on a defendant due to actual conflict of interest. Placing the
defendant at a disadvantage Grubbs v. Singletary 900 F.Supp 425
MD Fla. (1995) Counsels Failure to comply 6th Amendment Anders v.
California 386 U.S. 738 743, [87 S.Ct 1396 1399, 18 L.Ed 493 (1967)]

II

That refers to anything in writing that is on the record that could possibly be arguably in support of defendant's claim - See plea agreement #C-18-332717-1 on habitual sentence plain and clear in writing this alone with habitual sentencing and no objection is ineffective assistance of counsel, Counsel's failure implies the "omission to a decision not to introduce factually evidence in form of a plea agreement that was available when the opportunity or a decision by counsel not to seek the opportunity it then concluded" the word "but" cannot bear a strict liability reading under which a federal court would disregard the reason for the short coming of the record ID ^37^ rule 6 of the rule governing 28 U.S.C. 2254 and 2255 proceeding entitles litigant to request discovery process available under federal rule of civil procedure if Good Cause is shown rule 26(a) through 36 provides a wide range of discovery devices available including but not limited to: disposition, production of document and other physical materials which petitioner request with "Good Cause Show as appointed counsel for indigent prisoners is necessary for effective utilization of discovery (even with sentencing structure of the plea being changed!) See 1/300 A(4) as U.S.S.C. held that the attorney was required to submit for the court's decision and consideration reference to anything in the record that might be arguable - (Supporting facts) Support ID 436 citing United States v. Edwards 777 F.2d 364, 365 as the courts have long held that lawyers whom disregard specific instruction from the courts and defendants act in a manner that's professionally unreasonable ID (Flores v. Ortega 528 U.S. at 477 (2000)) In closing records of plea deal due to ineffective assistance of counsel most importantly however the U.S. Supreme Court has held that "it is solely the defendant whom has authority in deciding what to pursue

III

It is also recognized that the accused has the ultimate authority to make certain decisions regarding his case, here counsel's ineffectiveness deprived plaintiff of that as found in Fay v. Noia the role of attorney giving advice was limited: view the new deliberate by-pass standard Fay looked to the courts decisions in Johnson v. Zerbst 304 U.S. 485 here petitioner was refused this and his claims ignored but in U.S. v. Gallaway 56 F.3d 1239 (10th cir) 1995 ineffective assistance of counsel claims raised in District Court does not allow (Time Bar) nor (procedurally bar) ineffective assistance claims on (2254) (2255) motion as found in U.S. v. Gallaway new claims are based on different grounds which Strickland test now required a De-Novo review, Berryman v. Morton 100 F.3d 1034 (3rd cir 1996)

Good Cause Shown

2 Sentencing Guideline Violations

Count #2 Sentencing guideline violations were committed and allowed by attorney Belinda T. Harris. See plea agreement (Exhibit) #1 where she presents incorrect sentence structure. (Exhibit #1 page #1) also see page #6 where I never signed this said plea agreement, #1 the plea deal presented in case #C-17-328865-1 original plea is erroneous stating attempt robbery 1 to 10 years Category B Felony - NAS 200.380 Subsection 193,330 - NDC 50144 See State #1209011, there is no Subsection 193,330 correct subsection not known^{nor} presented. #2 Resisting Public Officer with use of a deadly dangerous weapon (Category D-Felony NAS-199,380) Here in both guilty pleas and judgment of conviction's #C-17-328865-1 and #C-18-332717-1 the deadly weapon claim is mentioned. The deadly/dangerous weapon

TV

Charge was said to be part of #C-17-328865-1 and has no connection to C-18-332717-1, here both guilty plea agreements are in conflict. even knowing I never signed the presented plea as stated in #328865-1 on page #3 line #3 thru #4 I agree to be sentenced to a term not less than (5) years minimum and a maximum of (20) years and probation was also an option; Mitchell received "7 to 20 years" that's breach of plea deal. Now in plea deal #C-18-332717-1 it states that the State agrees not to seek habitual criminal treatment, lastly the state has no opposition to current time with #C-17-328865-1 in which the controlling case, case #C-18-332717-1 clearly states that the state agrees not to seek habitual criminal treatment and run concurrent with case #C-17-328865-1 on 12/10/20 Chief Deputy District Attorney Bar #8313 agreed to defendant Richard Lee Mitchell's case. Case #C-17-328865-1 to be added concurrent to the controlling sentence in #C-18-332717-1 which under the color of law the greater and or controlling sentence rules on any concurrent agreement the correct sentence is (2) years to (15) years running all counts concurrent controlling case in Securities law a charge that has actual control on significant influence over the sentence, The greater case renders the time statute. The courts also never served Mitchell with an habitual criminal proceeding set aside from his criminal offenses under due process conferring proper authority to apply habitual criminal statutes, this hearing never took place no habitability implied warrant served on Mitchell and hearing here in case #C-18-332717-1 is the controlling device that controls as stated no habitual concurrent. See: U.S. v. Day 9th Cir 39, (5th Cir 1992) as in this case Mitchell conceded that he was notified of the terms of the plea bargain, however he alleges that the advice that he received was so incorrect and so insufficient

V

that it undermined his ability to make an intelligent decision whether to accept the offer. See Navarez Diaz v. U.S. 870 F.2d 417 (7th Cir 1989) here in #C-18-332717-1 and #C-17-328865-1 trial counsel Belinda T. Harris and Amanda S. Gregory ineffectiveness constituted "cause" and the courts failure along with the prosecutors failure to adequately inform defendant that mere presence at time crimes were committed did not constitute the elements of the offense amounted to a fundamental miscarriage of justice and required evidentiary hearings. See: Toro v. Fairman 940 F.2d 1065 (7th Cir 1991) here Mitchell's defense counsels failure to review or request body cam footage of said deadly dangerous weapons charge resisting arrest can constitute ineffective assistance of counsel but defendant now present to the courts that there exist a reasonable probability that result of sentencing proceeding would have been different concerning dangerous deadly weapon charge. See Lloyd v. Smith 889 F.2d 1416 (5th Cir 1990) is here Mitchell's attorney failure to investigate Mitchell's mental defects and drug and alcohol abuse amounted to ineffective assistance of counsel ^43C^ See: Murray v. U.S. 772 F.2d (9th Cir 1985) Mitchell was never informed by counsel whom had a duty to advise Mitchell of his rights to appeal if there is an error during the guilty plea proceeding ^96A^ here Mitchell never reviewed a direct appeal nor was he informed of rights to appeal nor did counsel ever file an appeal concerning the said Small habitual and the term of "5 to 20 years with" Mitchell receiving a "7 to 20 year" term also with controlling case #C-18-332717-1 stating no habitual criminal treatment and concurrent with #C-17-328865-1 Mitchell was deprived of the 14th Amendment rights of equal protection of law and due process in which counsel in Mitchell's case are aware that Mitchell is

VI

not pleased with the finding of habitual criminal sentencing him to "7 to 20 years" and failed to file a direct appeal depriving plaintiff of due process as also found in Anthony Lazada v. State, if not for counsel's errors Mitchell would have insisted on going to trial concerning "habitual criminal sentencing" and the dangerous deadly weapon charge. Counsel also failed to produce Mitchell's California records in order to support habitual enhancement which counsel also failed to argue the (prior Bad Act Rule) here Mitchell has no prior Nevada convictions.

U.S. v. Steirans 68, F.3d 288 (9th cir 1995) defense counsel's failure to file a notice of appeal in this guilty plea case was ineffective assistance of counsel.

U.S. v. Beer's 76, F.3d 204 (8th cir 1996) counsel's failure to file a timely notice of appeal constitutes ineffective assistance of counsel and required vacating judgment of conviction and sentence and entering a new judgment thereby enabling defendant to appeal within 10 days.

Montemardino v. U.S. 68, F.3d 416 (11th cir 1995) where defendant requested counsel to appeal his sentencing guideline violations in a "Guilty Plea" case and counsel fails to do so such constitutes ineffectiveness of counsel and requires an evidentiary hearing to resolve the claim.

Here Mitchell states: Castellanos v. U.S. 26, F.3d 717 (7th cir 1994) defense counsel's failure to perfect an appeal at defendant's request constituted ineffective assistance and defendant did not have to show that he would have

VII

prevailed on direct appeal to "establish" cause and prejudiced" the appeal was reinstated to remedy the ineffectiveness claim.

Lazade v. Deeds (1991) 498 U.S. 116 L&D 3d 956 111 set 867
defense counsel failure to inform petitioner of his right to appeal constitutes ineffective assistance of counsel.

As here See Exhibit #2 case #C-18-332717-1 page #5 line #6 the right to appeal this plea was waived unconstitutionally including any challenge based upon reasonable constitutional jurisdiction or other grounds that challenge the legality of the proceedings as stated in NRS-177.015 (4) (This was never explained to Mitchell however the only recourse Mitchell has is he remains free to challenge this conviction through other post-conviction remedies including a Writ of Habeas Corpus petition pursuant to NRS chapter 34, as Mr. Mitchell informs the Federal Courts of direct appeal deprivation followed by violation of Constitutional right by 8th Dist Court and counsel.

Good Cause Shown

#3 Legal Innocence

legal innocence on enhancement deadly/dangerous weapon charge, newly discovered tangible claim leading to unconstitution convictions, resulting from due process of law violation equal protection violation resulting in cruel and unusual punishment due to a defective 30.6. newly discovered prejudice by arresting officers #1 Never presenting bodycam footage but add an enhancement for weapons deadly/dangerous use See Court #32886

VIII

in case # 332717-1 also included in sentencing phase case # 332717-1 plaintiff request with Good Cause Showing the courts use of morally guilty of the said crimes of robbery, attempt robbery on the factually predicate grand larceny but plaintiff is Legal Innocence under U.S.C. § 2254(e)(2) ii Factual predicate that could not been discovered previously but only by and through the (exercise) of due diligence was this discovery uncovered Chamber v. U.S. 22 F3d 939 (9th cir 1994). If the defendant's conduct during his factual act of the offense of robbery and or said attempt robbery he was not found to use any form of weapon only a said note and there's no bodycam footage of resisting arrest then the statute under which he received a conviction for the deadly dangerous weapon without tangible proof must be declared unconstitutional in its decision. Also see: U.S. v. X-citement video Inc 982 F.2d 1245 (9th circuit) where there's no valid statute on the books prohibiting such conduct the defendant is entitled to relief while perhaps (Morally Guilty) of grand larceny, robbery or attempt robbery but legally innocent of deadly dangerous weapon. Plaintiff cannot be made guilty for mental issues and the thought of imminent danger right then inor can plaintiff be made guilty for the lost of reality and a mental break down during arrest in the process of being shot with a bean bag which left life long scars and being shot with a 9mm pistol, plaintiff was just trying to stop the pain interjected by police officers. There's no such law on the books that entitle anyone to continue to allow being shot, where there was no valid statute on the book prohibiting a citizen from protecting his life. The petitioner relies on (Legal Innocence) and is entitled to collateral relief due to excessive force used as counsel failed to request excessive force theory counsel was ineffective. (U.S. v. Span 25 F3d 138 (9th cir 1993)

IX

* MEMORANDUM *

ALL Attachments the Two sided photos on Both sides



12/8/17

1355 HRS

SEE Back Side

ATTACHMENT

1 - A

1 of 6

→ OVER



12/8/17 1346 HR LEAVING

Attachment #1

4 OF 4

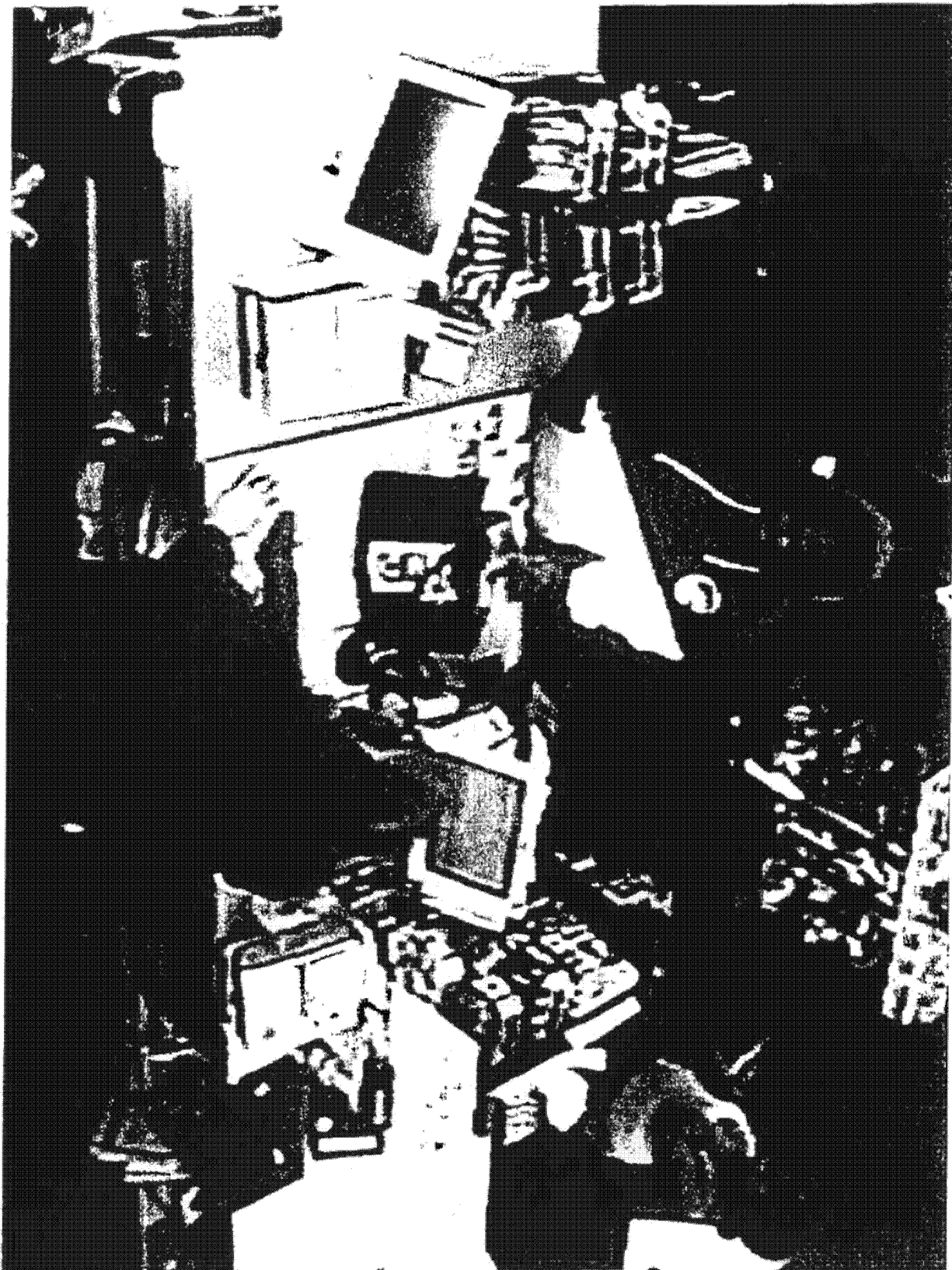


12/8/17 1345 HR ENTERS

Attachment #1

5 OF 4 → OVER

12/8/17 1355 Hrs



Attachment #1
6 of 6

1 NOTC

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 CHRISTOPHER P. PANDELIS
6 Chief Deputy District Attorney
7 Nevada Bar #009143
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-18-332717-1

12 RICHARD LEE MITCHELL,
13 #7763112

DEPT NO: III

14 Defendant.

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

17 TO: RICHARD LEE MITCHELL, Defendant; and

18 TO: AMANDA GREGORY, ESQ., Counsel of Record:

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

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

26 1. That on or about 2007, the Defendant was convicted in the State of
27 California, for the crime of Force / Assault with Deadly Weapon Not Firearm: GBI Likely
28 Use Deadly/Dangerous Weapon (2 Counts) (felonies).

Handwritten: #1-B

1 2. That on or about 2005, the Defendant was convicted in the State of
2 California, for the crime of Possession Controlled Substance (felony).

3 3. That on or about 1995, the Defendant was convicted in the State of
4 California, for the crime of Grand Theft w/ Prior (felony).

5 4. That on or about 1992, the Defendant was convicted in the State of
6 California, for the crime of Receiving Stolen Property (felony).

7 5. That on or about 1991, the Defendant was convicted in the State of
8 California, for the crime of Possession Drugs, etc., in Prison/Jail/etc. (felony).

9 6. That on or about 1990, the Defendant was convicted in the State of
10 California, for the crime of Grand Theft from Person (felony).

11 7. That on or about 1986, the Defendant was convicted in the State of
12 California, for the crime of Robbery with Weapon (felony).

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

16 BY


17 CHRISTOPHER F. PANDELIS
18 Chief Deputy District Attorney
19 Nevada Bar #009143

20 **CERTIFICATE OF FACSIMILE TRANSMISSION**

21 I hereby certify that service of the above and foregoing was made this 22nd day of June,
22 2018 by facsimile transmission to:

23 AMANDA GREGORY, ESQ.
24 (702) 294-0231

25 BY /s/ E. Goddard

26 E. Goddard
27 Secretary for the District Attorney's Office

28 17FN2665X/erg/L-5

PUT THE
MONEY
IN
HERE

Attachment # 2
2 of 2

Case 3

**NORTH LAS VEGAS POLICE DEPARTMENT
VOLUNTARY STATEMENT**

Crim#	ROBB	Location:	1408 W. CRAIG
Name:	Melanie Froude		
EMAIL address:			

Details: A Black Man walked up to my register with his hand in his hoodie pocket. He threw a bag up at about the counter a skid put all the money in the bag. then keep saying hurry up and moving his hand in his pouches. Then I said, give me the money in the black box. I only gave him the money in the cash register. Then he ran out the door.

(If necessary, continue dated narrative on reverse side.)

I have read this statement consisting of 1 pages and affirm to the truth and accuracy of the facts contained herein. This statement was completed at (location): 1408 W. CLAY

Date and time of statement: 12/8/17 1430

Name of person writing statement if different from above:

M: V. 21
Officer Signature

Melanie Rose
Signature of Person Giving Statement

Form 20.157 (Rev. 10/2014)

17FN2665X - MITCHELL, RICHARD

Page 19 of 23

Attachment # 7-A

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

Page 1 of 2

DECLARATION OF ARREST

I.D.#: 7763112

True Name: Richard Lee Mitchell

Date of Arrest: 12/22/2017

Time of Arrest:

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with The North Las Vegas Police Department, Clark County, Nevada, being so employed for a period of 13 yrs - 5 mos. That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of Robbery and Burglary at the location of CVS Pharmacy, 1408 W. Craig Rd, NLV, NV and that the offense occurred at approximately 1355 hrs hours on the 8th day of December, 2017. In the county of Clark or City of Las Vegas, NV.

DETAILS FOR PROBABLE CAUSE:

On Friday, December 8th, 2017 at approximately 1403 hours, North Las Vegas Police Officer's E. Jordan and Manuel Vital were dispatched to the CVS Pharmacy, located at 1408 W. Craig for a reported robbery. Further dispatch information described the alleged suspect to be a black male wearing a gray hoodie with dark pants last seen leaving the area in an older model Honda Accord with California plates.

Upon our arrival, Officer Vital contacted the CVS Cashier, Melanie Aoude, who told him the following: Aoude indicated she was behind the register closest to the main entrance, when an unknown black male, later identified through investigation as Richard Mitchell, walked up to the register, threw a bag and a note on the counter. Aoude stated the note read "Put the money in here". According to Aoude, Mitchell also demanded she put the money in the bag. Aoude stated she could see Mitchell put his hand in his sweater pouch and pointed at her. Aoude indicated she got scared because she thought it was a gun, so she opened the register and put the money in the bag. Aoude also stated the suspect demanded the money in a small black box in the register, but she was nervous and did not do it. Mitchell then left out the main entrance in an unknown direction of travel. Aoude stated that Mitchell did not touch the counter and she could not remember if he was wearing gloves at the time of the incident. However, Aoude did indicate that Mitchell had walked into the store approximately ten minutes earlier, prior to returning and robbing the store.

Officer Vital then spoke to the CVS Supervisor, Nancy Rueda and requested to look at the video surveillance. Upon reviewing the video surveillance, He was able to confirm that Mitchell had entered the store approximately ten minutes prior to the actual robbery. He entered the store was at 1345:20 walked over to the liquor isle and exits the store at 1346:10. Mitchell left the store with nothing. At approximately 1355:41 the Mitchell returns. He immediately walks up to Aoude's register tosses what appears to be a bag on the counter and begins communicating with Aoude. Mitchell is then seen putting his right hand in what appears to be the sweaters front pocket. Mitchell has his back to the camera and the camera was not able to clearly capture all of the suspect's actions. At 1356:20 He leaves the store. According To Nancy Rueda, Mitchell took \$108 in multiple denominations from the register and left in an older Green two door Honda Accord with California plates. ↖

On December 11, 2017, I, Det. Peter Smirga, was assigned this Robbery report for follow up investigation. I reviewed the report and submitted a request to the NLVPD CSI Bureau for a copy of the recovered surveillance video.

On December 13, 2017, I received a call from the CVS Store Manger, Lan Vong, she told me that she believes that the suspect, Mitchell, was shot by the Las Vegas Metropolitan Police Department during a Robbery attempt. She saw this on the news.

On this same date, I contacted LVMPD Sgt. McDonald and he provided me that name of their suspect, Richard Mitchell, as well as a picture of his car, Green Honda Accord with California registration plates. Sgt. McDonald told me that Mitchell was booked into the Clark County Detention Center on Attempted Robbery and Burglary charges.

17FN2665X - MITCHELL, RICHARD

Page 4 of 23

Attachment #7-3

On December 21, 2017, I reviewed the video surveillance video from December 8, and was not able to identify Mitchell from this video. The video was not of good quality and was at an angle of the front door that was washed out from the sun.

On December 21, 2017, I contacted Aoude and requested that she look at a photo line up. Aoude agreed and I met her at the CVS, 1408 W. Craig Rd, NLV, NV. I gave Aoude a NLVPD Witness Instructions for Photo Identification form and had her read it. She told me that she understood the instructions, I then showed her six individual photographs of individuals with similar facial characteristics with Mitchell as the 4th photograph. Aoude positively identified Mitchell as the suspect who committed the Robbery on December 8, 2017. I also showed a photograph of the green Honda Accord that LVMPD Sgt. McDonald provided me. Aoude told me that it looked like the Honda Mitchell was driving on December 12 after the Robbery.

I then contacted CVS Supervisor Elsa Gloria and asked her if the surveillance cameras above the cash register are working and she told me that they do. Gloria and I reviewed these cameras from December 8, and were able to see a front view of Mitchell committing the Robbery. Gloria provided me a copy of this surveillance video which I later booked into evidence at the NLVPD along with the photo line up.

On December 22, 2017, Mitchell was still in custody at the Clark County Detention Center. As a result of the positive identification of Mitchell by Aoude as well as the video surveillance of the Robbery I am charging Mitchell with Burglary and Robbery.

On December 22, 2017, Mitchell was still in custody at the Clark County Detention Center. As a result of the positive identification of Mitchell by Aoude as well as the video surveillance of the Robbery I am charging Mitchell with Burglary and Robbery.

UNLAWFUL DISSEMINATION OF THIS
RESTRICTED INFORMATION IS PROHIBITED.
VIOLATION WILL SUBJECT THE OFFENDER
TO CRIMINAL AND CIVIL LIABILITY.

DEC 22 2017

RELEASE TO: DA'S OFFICE

DATE: _____
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
BY: 1583

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

ROU
Declarant's Signature
PETER SMIRGA 1689
Print Declarant's Name

17FN2665X - MITCHELL, RICHARD

Page 5 of 23

Attachment #7-1



INFORMATION - ONLY

Case No. 171208021388
E-Police No.
Report No. 171208021388.2
Report Date: 12/18/2017

1
Page 1 of 1

Subject	N407 - ROBBERY-WDW	Routing	
Case Report Status	V - Verified	Case Status	O - Open
Case Attachments	Yes	Date Entered	12/18/2017 2:28:45 PM
		Entered By	NL2542 - Niemann, Carina
Occurred On (and Between)	12/8/2017 2:03:11 PM	Date Verified	12/19/2017 2:28:35 PM
		Verified By	NL1026 - Ojeda, Pamela
Location	1408 W CRAIG RD	Date Approved	
Jurisdiction	N	Approved By	
Grid	NG1 - 0	Connecting Cases	
Sector	G	Disposition	Active
Map		Clearance Reason	
Census/Geo		Date of Clearance	
Call Source	911	Reporting Agency	North Las Vegas Police Department
		Division	
		Notified	
Vehicle Activity		Means	
Vehicle Traveling		Other Means	
Cross Street		Motive	
		Other Motives	

Offense Detail: 50137 - Robbery - 200.38

Offense Description	50137 - Robbery - 200.38	Location	08 - Department/Discount Store
IBR Code	120 - Robbery	Offense Completed?	Yes
IBR Group	A	Hate/Bias	88 - None (No Bias)
Crime Against	PR	Domestic Violence	No
Using		Fraud Related	No
Tools Used		No, Prem. Entered	
Criminal Activity		Entry Method	
Weapons	95 - Unknown	Type Security	
		Gang Related	No

Report Narrative

On Wednesday, December 13, 2017 the CSI Bureau received a Process Request from Detective Smirga P#1659. He requested that a copy of the surveillance video booked under this case number be forwarded to him.

On Monday, December 18, 2017 at approximately 1317 hours I retrieved the "DVD with video footage of incident" from the NLV Evidence Vault. I opened the evidence envelope and removed the DVD. I copied the contents to a second DVD.

I placed the original DVD back into the evidence envelope, sealed, and re-booked it back into the NLV Evidence Vault. I labeled the created copy with the case number and sent it via inter-office mail to Detective Smirga, along with the Process Request paper.



Follow-Up Report

Case No. 171208021388
E-Police No.
Report No. 171208021388.3
Report Date: 12/21/2017

1

Page 1 of 4

Subject	N407 - ROBBERY	Routing	
Case Report Status	V - Verified	Case Status	O - Open
Case Attachments	Yes	Date Entered	12/21/2017 10:08:43 AM
		Entered By	NL1689 - Smirga, Peter
Occurred On (and Between)	12/8/2017 2:03:11 PM	Date Verified	12/22/2017 9:32:12 AM
		Verified By	NL1028 - Ojeda, Pamela
Location	1408 W CRAIG RD	Date Approved	
Jurisdiction	N	Approved By	
Grid	NG1 - 0	Connecting Cases	
Sector	G	Disposition	Active
Map		Clearance Reason	
Census/Geo		Date of Clearance	
Call Source	911	Reporting Agency	North Las Vegas Police Department
		Division	
		Notified	
Vehicle Activity		Means	
Vehicle Traveling		Other Means	
Cross Street		Motive	
		Other Motives	

Offense Detail: 50137 - Robbery - 200.38

Offense Description	50137 - Robbery - 200.38	Location	08 - Department/Discount Store
IBR Code	120 - Robbery	Offense Completed?	Yes
IBR Group	A	Hate/Bias	88 - None (No Bias)
Crime Against	PR	Domestic Violence	No
Using		Fraud Related	No
Tools Used		No. Prem. Entered	
Criminal Activity		Entry Method	
Weapons	95 - Unknown	Type Security	
		Gang Related	No

Offense Detail: 50424 - Burglary, (1st) - 205.060.2

Offense Description	50424 - Burglary, (1st) - 205.060.2	Location	08 - Department/Discount Store
IBR Code	220 - Burglary/Breaking & Entering	Offense Completed?	Yes
IBR Group	A	Hate/Bias	88 - None (No Bias)
Crime Against	PR	Domestic Violence	No
Using		Fraud Related	No
Tools Used		No. Prem. Entered	
Criminal Activity		Entry Method	N - No Force Used
Weapons		Type Security	06 - Camera
		Gang Related	No

Suspect S2: Mitchell, Richard

Suspect Number	S2	DOB	11/27/1963	Place of Birth	CA
Name	Mitchell, Richard	Age	54	SSN	551-15-3804
AKA		Sex	M - Male	DLN	
Alt(s)		Race	B - Black	DLN State	
CS No	7763112	Ethnicity	N - Not of Hispanic Origin	DLN Country	
MF No		HL	5' 9"	Occupation/Grade	
Address	6439 10th	WT	195	Employer/School	
CSZ	Los Angeles, CA 90043	Eye Color	BRO - Brown	Employer Address	
		Hair Color	BLK - Black	Employer CSZ	
		Hair Style		Res. County	Los Angeles
		Hair Length		Res. Country	USA - United States of America
		Facial Hair		Resident Status	N - Nonresident
		Complexion		Suspect MO	
Email Address		Build		Other MO	
Scars/Marks/Tattoos		Teeth		Habitual Offender	
Alt(s)				Status	

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Attachment #9 → OVER



Crime Report

Case No. 171208021388
E-Police No.
Report No. 171208021388.1
Report Date: 12/8/2017

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Other Entity: O1 - Rueda, Nancy

Entity Code O1
Entity Type CARD - Carded

Name Rueda, Nancy
AKA
Alert(s)

Address
CSZ

Email Address
Alert

Entity Notes

Telephone Numbers
Number Type
CELL - Cell

DOB
Age
Sex F - Female
Race W - White
Ethnicity H - Hispanic Origin
Ht. 5' 6"
Wt. 140
Eye Color BRO - Brown
Hair Color BRO - Brown
Facial Hair
Complexion
Build

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School
Employer Address
Employer CSZ
Res. County
Res. Country
Resident Status
Supervisor
CVS
1408 W. Craig
NLV, NV 89031
Clark
USA - United States
of America
R - Resident

Property Description Item 1: 2801 - Merchandise - Cassette Tape, CD - DVD

Item No. 1
Property Category 2801 - Merchandise - Cassette Tape, CD
IBR Type 19 - Merchandise
UCR Type K - Miscellaneous
Status E - Evidence (Including Other Seized Property And Tools)

Impound Sheet
Count 1
Value 5
Manufacturer Unk
Model unk
Serial No. unk
VIN
OAN
License No.
Color GLD - Gold
2nd Color
Size
Description DVD
Vehicle Year
License Year
State
Body Style

Recovered Data
Owner V1 - [E] CVS Pharmacy

Evidence Tag
Alert(s)

Drug Info

Check Info

Credit/Debit Card
Info

Drug Type
Drug Quantity

Check Date
Check Number
Payee Name
Holder Name

Holders Name

Recovered Value
Disposition Booked

Drop Off Location Nwac3 - Nwac - Evidence

Drug Measure

Routing Number
Account Number
Bank Name
Check Amount

Issuers Name

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Crime Report

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Property Description Item 3: 2102 - Bills - Misc./Assorted - \$108 in us currency

Item No. 3
Property Category 2102 - Bills - Misc./Assorted
GR Type 20 - Money
UCR Type A - Currency, Notes, Etc...
Status S - Stolen/Etc.
(Bribed/Defrauded/Embezzled/Ransomed/Etc.)

Impound Sheet
Count 1
Value 108
Manufacturer US
Model US
Serial No.
VIN
OAH
License No.
Color
2nd Color
Size
Description \$108 in us currency
Vehicle Year
License Year
State
Body Style

Recovered Date
Owner V1 - [E] CVS Pharmacy

Evidence Tag
Alert(s)

Drug Info
Drug Type
Drug Quantity

Check Info
Check Date
Check Number
Payee Name
Holder Name

Credit/Debit Card
Info
Holder Name
Card Type
Exp Month/Yr

Firearms Info
Caliber
Size

Recovered Value
Disposition stolen

Drop Off Location None - None

Drug Measure

Routing Number
Account Number
Bank Name
Check Amount

Issuers Name

Card Number
Comp Phone

Date Last Seen 12/8/2017
Length

Property Notes taken from register in unknown denominations.

Attachment # 11-A
→



Crime Report

Case No. 171208021388
E-Police No.
Report No. 171208021388.1
Report Date: 12/8/2017

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Subject: N407 - ROBBERY-WDW		Routing	
Case Report Status: V - Verified	Case Status: O - Open	Date Entered: 12/8/2017 3:17:00 PM	Reporting Officer: NL1923 - Vital, Manuel
Case Attachments: Yes	Date Entered By: NL1923 - Vital, Manuel	Date Verified: 12/8/2017 4:17:25 PM	Assisted By: NL1385 - Jordan, Emmitt
Occurred On (and Between): 12/8/2017 2:03:11 PM	Verified By: NL0701 - Glazier, Thomas	Date Approved:	
Location: 1408 W CRAIG RD	Approved By:	Disposition: Active	
Jurisdiction: N	Connecting Cases:	Clearance Reason:	
Grid: NG1 - D	Disposition:	Date of Clearance:	
Sector: Q	Clearance Reason:	Reporting Agency: North Las Vegas Police Department	
Map:	Date of Clearance:	Division:	
Census/Geo:	Reporting Agency:	Notified:	
Call Source: 911	Division:	Means:	
Vehicle Activity:	Notified:	Other Means:	
Vehicle Traveling:	Means:	Motive:	
Cross Street:	Other Means:	Other Motives:	

Offense Detail: 50137 - Robbery - 200.38

Offense Description: 50137 - Robbery - 200.38	Location: 08 - Department/Discount Store
IBR Code: 120 - Robbery	Offense Completed? Yes
IBR Group: A	Has/Bias: BB - None (No Bias)
Crime Against: PR	Domestic Violence: No
Using:	Fraud Related: No
Tools Used:	No. Prim. Entered:
Criminal Activity:	Entry Method:
Weapons: 85 - Unknown	Type Security:
	Gang Related: No

Suspect S1: Name, No

Suspect Number: S1	DOB:	Place of Birth:
Name: Name, No	Age: 50	SSN:
AKA:	Sex: M - Male	DLN:
Alt(s):	Race: E - Black	DLN State:
CS No:	Ethnicity: U - Unknown	DLN Country:
MF No:	Ht: 6' 5"	Occupation/Grade:
Address:	Wt: 506	Employer/School:
CSZ:	Eye Color: BRO - Brown	Employer Address:
	Hair Color: BRO - Brown	Employer CSZ:
	Hair Style:	Res. County:
	Hair Length:	Res. Country:
	Facial Hair:	Resident Status: U - Unknown
	Complexion:	Suspect MO:
	Build:	Other MO:
	Teeth:	Habitual Offender Status:
Email Address:		
Scars/Marks/Tattoos:		
Active:		

Notes: Dark Hooded Sweat Shirt with Gray Sweat Pants

Telephone Numbers
Number Type Phone Number

Victim V1: [E] CVS Pharmacy

Victim Code: V1	Victim Of: 50137 - Robbery - 200.38
Victim Type: B - Business	
Name: [E] CVS Pharmacy	Emergency Contact Name:

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Attachment # 12



Follow-Up Report

Case No. 171208021388
E-Police No.
Report No. 171208021388.3
Report Date: 12/21/2017

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Property Description Item 6: 1303 - Photograph - Photo Line Up

Item No. 6
Property Category 1303 - Photograph
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)
Impound Sheet
Count 1
Value
Manufacturer
Model
Serial No.
VIN
OAN
License No.
Color
2nd Color
Size
Description Photo Line Up
Vehicle Year
License Year
State
Body Style

Recovered Date 12/21/2017
Owner

Recovered Value
Disposition

Evidence Tag
Alert(s)

Drop Off Location Nwac3 - Nwac - Evidence

Drug Info

Drug Type
Drug Quantity

Drug Measure

Check Info

Check Date
Check Number
Payee Name
Holder Name

Routing Number
Account Number
Bank Name
Check Amount

Credit/Debit Card
Info

Holder's Name
Card Type
Exp. Month/Yr

Issuer's Name
Card Number
Camp Phone

Firearms Info

Caliber
Size

Date Last Seen 12/21/2017
Length

Property Notes

Report Narrative

On Friday, December 8th, 2017 at approximately 1403 hours, North Las Vegas Police Officer's E. Jordan and Manuel Vital were dispatched to the CVS Pharmacy, located at 1408 W. Craig for a reported robbery. Further dispatch information described the alleged suspect to be a black male wearing a gray hoodie with dark pants last seen leaving the area in an older model Honda Accord with California plates.

Upon our arrival, Officer Vital contacted the CVS Cashier, Melanie Aoude, who told him the following: Aoude indicated she was behind the register closest to the main entrance, when an unknown black male, later identified through investigation as Richard Mitchell, walked up to the register, threw a bag and a note on the counter. Aoude stated the note read "Put the money in here". According to Aoude, Mitchell also demanded she put the money in the bag. Aoude stated she could see Mitchell put his hand in his sweater pouch and pointed at her. Aoude indicated she got scared because she thought it was a gun, so she opened the register and put the money in the bag. Aoude also stated the suspect demanded the money in a small black box in the register, but she was nervous and did not do it. Mitchell then left out the main entrance in an unknown direction of travel. Aoude stated that Mitchell did not touch the counter and she could not remember if he was wearing gloves at the time of the incident. However, Aoude did indicate that Mitchell had walked into the store approximately ten minutes earlier, prior to returning and robbing the store.

Officer Vital then spoke to the CVS Supervisor, Nancy Rueda and requested to look at the video surveillance. Upon

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Attachment #13-A

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
ARREST REPORT

17F2808X/8

☒ City ☐ County ☒ Adult ☐ Juvenile Sector/Beat W2

ID/EVENT# 7763112		ARRESTEE'S NAME (Last) (First) (Middle) Mitchell Richard Lee			S.S.# 551-15-3604		
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) Transient							
CHARGES Attempt Robbery (2x); Resisting a P/O with a Deadly Weapon, MDPP							
OCCURRED DATE 12-09-2017		DAY OF WEEK Saturday		TIME 1050		LOCATION OF ARREST (Number, Street, City, State, Zip Code) 1591 N. Decatur, LV NV 89106	
RACE B	SEX M	D.O.B. 11-27-63	HT. 5-9	WT. 164	HAIR Black	EYES Brown	PLACE OF BIRTH California
ARRESTING OFFICER #1: Detective Jason Leavitt				P#: 5814		ARRESTING OFFICER #2: 	
CONNECTING REPORTS (Type or Event Number) TCR, DOA, AR,							

APPROVED BY (PRINTED NAME): DA Christopher Lall/DA Michelle Fleck

CIRCUMSTANCES OF ARREST:

On 12/09/17, at 0950 hours, Donna Faasse was working as a cashier at the Speedee Mart located at 6703 W. Alexander Rd., Las Vegas, Nevada 89108. Faasse was behind the counter when a black male adult entered the store and immediately approached the counter. The male, who was later identified as Richard Mitchell, date of birth [REDACTED], was described as an older black male, heavier build who wore a red and yellow hat and a dark colored jacket. Mitchell threw a dark colored bag, described as possibly being a reusable grocery style, on the counter. He then placed a folded note on the counter. Faasse did not immediately acknowledge Mitchell who then tapped the counter and opened the note. The note said something about putting the money in the bag to which Faasse believed it was a joke due to Mitchell smiling. Faasse pushed the bag and note back to the suspect and walked away to call the police when Mitchell stated, "What if I have a gun." With the mention of a gun, Faasse believed Mitchell was attempting to rob the business and became fearful of being harmed. She watched as he exited the store and got into a two door dark colored Honda with no rear plate. While on the phone with LVMPD, Faasse was able to observe the car did have a front license plate, from California, as it exited the area.

LVMPD officers responded to the Speedee Mart and took an Incident Crime Report for an attempt robbery since Mitchell was not able to actually obtain any property from the business. Faasse completed a taped statement with detectives which will be available once it is transcribed.

On 12/09/17, at 1020 hours, Irma Hinojosa was working as a cashier at the CVS Pharmacy located at [REDACTED] Las Vegas, Nevada 89108. Hinojosa described a black male later identified as Mitchell who entered the business and approached the counter. Mitchell was described as wearing a black hat, gray sweater, blue jeans and had a black cloth shopping bag. He placed the bag on the counter and demanded money from the register. Hinojosa stated she initially believed he was kidding and told him no, that she did not have a key and access. Hinojosa stated she moved away from the register, and Mitchell proceeded around the counter, and entered the teller area. Mitchell then proceeded where the register was and attempted to open the cash drawer. Mitchell was unsuccessful in opening the drawer and collected his shopping bag and exited the

LVMPD 602 (Rev. 5/16/11) WORD 2010

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Attachment #14 A

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/EVENT #: 7763112

store. Hinojosa stated no other customers were in the check-out area at the time. She did not see Mitchell after he left the store.

LVMPD officers responded to the CVS Pharmacy and took an Incident Crime Report for an attempt robbery since Mitchell was not able to actually obtain any property from the business. LVMPD Crime Scene Analyst responded to the location and processed the register which Mitchell touched. A taped voluntary statement was conducted with Hinojosa which will be available once it has been transcribed.

Due to two attempt robberies in such a short time frame with similar suspect descriptions, LVMPD patrol officers saturated the area to attempt to locate.

Officers Miramontes #9813 and Jegge #16432 were a two man patrol unit. They observed a dark colored two door Honda with no rear license plate parked on the North West side of the Terrible Herbst located at [REDACTED] Las Vegas, Nevada 89108. Officers Miramontes and Jegge pulled their marked LVMPD patrol vehicle into the parking lot and behind the Honda. Both officers believed this was likely the robbery vehicle and that Mitchell was inside of the Terrible Herbst attempting to rob it. They decided to place their vehicle into a position to block the Honda from being able to leave when the driver door opened and Mitchell stepped out. As Mitchell stepped out of the Honda he wore a black jacket, light colored shirt, blue jeans, white shoes and sunglasses. Mitchell had a baseball bat in his hand and took a defiant stance as Officer Miramontes began to offer verbal commands.

Officer Miramontes continued to give commands for Mitchell to drop the bat as other officers arrived. Officer Stephens #13344 arrived and deployed a less than lethal shotgun when Mitchell placed the bat between his legs, zipped up his jacket then again began swinging the bat around in a defiant manner. Officer Stephens then fired four rounds from the less than lethal shotgun which hit Mitchell in the upper body and chest area. Mitchell did not drop the baseball bat and began screaming and swinging the bat at the glass door to the Terrible Herbst, and caused it to break. Officers prepared to fire another volley of less than lethal rounds at Mitchell when he opened the door to the business and prepared to run inside.

Shot Sergeant Garcia #7204 who had arrived and observed Mitchell's actions and his erratic behavior believed that Mitchell entered the business the employees life's would be endanger. Sergeant Garcia fired four rounds from his firearm, one of which grazed Mitchell's right leg near the knee. This caused Mitchell to fall once he was inside of the business where officers took him into custody.

Mitchell was transported to UMC where he was treated for his injury. While at UMC Detectives Colon #7585 and Hodson #9034 interviewed Mitchell. Mitchell was read his rights per Miranda which he stated he understood and agreed to talk with detectives. Mitchell stated he confronted the officers with a bat due to the fact that they had guns. When detectives asked about the prior robberies, Mitchell stated he didn't remember going to any other businesses because he had been drinking liquor and smoking crack.

While still parked at Terrible Herbst, a search warrant was served on Mitchell's Honda. The Honda had no rear license plate but did have a front plate from California [REDACTED] as was described by Faasse under event 171209-1315 at the Speedee Mart. Located inside the vehicle was a red and yellow baseball cap like the one described by cashier Faasse and worn under event 171209-1315 at the Speedee Mart. There was also a black cloth shopping style bag similar to the one described by Faasse and also Hinojosa from event 171209-1427 at CVS Pharmacy.

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Attchment #14B

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

IDEVENT #: 7763112

Due to the above information Mitchell was placed under arrest for an attempt robbery under event 171209-1315 at the Speedee Mart where he did cause Faasse to be in fear of violence when he demanded money from the register.

Mitchell was also placed under arrest for an attempt robbery under event 171209-1427 at the CVS Pharmacy when he did cause Hinojosa to be in fear of violence when he demanded money from the register and then attempted to physically open the register when Hinojosa would not.

↓
Mitchell was also placed under arrest for Resisting a P/O with a Deadly Weapon under event 171209-1247 when he refused orders from officers to drop the bat.

Mitchell was also placed under arrest for malicious destruction of private property when he used the baseball bat to smash the front glass door of the Terrible Herbst.

Mitchell was booked in absentia at CCDC while he was being treated at UMC.

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Attachment # 14-C

On December 21, 2017, I reviewed the video surveillance video from December 8, and was not able to identify Mitchell from this video. The video was not of good quality and was at an angle of the front door that was washed out from the sun.

On December 21, 2017, I contacted Aoude and requested that she look at a photo line up. Aoude agreed and I met her at the CVS, 1408 W. Craig Rd, NLV, NV. I gave Aoude a NLVPD Witness Instructions for Photo Identification form and had her read it. She told me that she understood the instructions. I then showed her six individual photographs of individuals with similar facial characteristics with Mitchell as the 4th photograph. Aoude positively identified Mitchell as the suspect who committed the Robbery on December 8, 2017. I also showed a photograph of the green Honda Accord that LVMPD Sgt. McDonald provided me. Aoude told me that it looked like the Honda Mitchell was driving on December 12 after the Robbery.

- I then contacted CVS Supervisor Elsa Gloria and asked her if the surveillance cameras above the cash register are working and she told me that they do. Gloria and I reviewed these cameras from December 8, and were able to see a front view of Mitchell committing the Robbery. Gloria provided me a copy of this surveillance video which I later booked into evidence at the NLVPD along with the photo line up.
- On December 22, 2017, Mitchell was still in custody at the Clark County Detention Center. As a result of the positive identification of Mitchell by Aoude as well as the video surveillance of the Robbery I am charging Mitchell with Burglary and Robbery.
- On December 22, 2017, Mitchell was still in custody at the Clark County Detention Center. As a result of the positive identification of Mitchell by Aoude as well as the video surveillance of the Robbery I am charging Mitchell with Burglary and Robbery.

UNLAWFUL DISSEMINATION OF THIS
RESTRICTED INFORMATION IS PROHIBITED.
VIOLATION WILL SUBJECT THE OFFENDER
TO CRIMINAL AND CIVIL LIABILITY.

DEC 22 2017

RELEASE TO: DA'S OFFICE

DATE: _____
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
BY: 1589

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

RAJ
Declarant's Signature

PEEL SMIRGA 1689
Print Declarant's Name PS

Mitchell

2 feta

JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RICHARD LEE MITCHELL #7763112,

Defendant.

CASE NO: 17FN2665X

DEPT NO:

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of BURGLARY (Category B Felony - NRS 205.060 - NOC 50424) and ROBBERY (Category B Felony - NRS 200.380 - NOC 50137), in the manner following, to-wit: That the said Defendant, on or about the 8th day of December, 2017, at and within the County of Clark, State of Nevada,

COUNT 1 - BURGLARY

did willfully, unlawfully, and feloniously enter, with intent to commit a felony, to wit: robbery, that certain building occupied by CVS PHARMACY, located at 1408 West Craig Road, North Las Vegas, Clark County, Nevada.

COUNT 2 - ROBBERY

did willfully, unlawfully, and feloniously take personal property, to wit: U.S. Currency, from the person of MELANIE AOUBE, or in her presence, by means of force or violence, or fear of injury to, and without the consent and against the will of MELANIE AOUBE.

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

12/28/17 RAN NLV3 P/

9/10/18 offer from DA Fleck
in 17F21808X - 2 felonies
12/26/17

17FN2665X/lal
NLVPD EV# 1721388

(TK)

1/2/18 RAN NLV3 P/C pn-1/16/18

W:\2017\2017FN2665\17FN2665-COMP-001.DOCX

PH-04-2-18 @ 9am

Case Report Number:
LLV171209001315-001



Las Vegas Metropolitan Police
Department

Case Report

Administrative

Case Report Number	LLV171209001315-001	Verification Level	
Subject	Attempt Robbery WDW- Faasse	Precinct	NorthWest Area Command
Disposition	Active	Jurisdiction	Las Vegas, City of
Entered On	12/9/2017 10:39:06 AM	Grid	
Entered By	Marano, Michael C	Sector	X2
Reported On	12/9/2017	Map	
Reporting Officer	Marano, Michael C	Beat	
Reporting Agency	LVMPD - Las Vegas Metropolitan Police Department	Census/Geo Code	
		Call Source	911
		Related Cases	LLV171209001427, LLV171204000346, LLV170430000346
Report Type			
Assisted By			
Occurred On (Date and Time)	Saturday 12/9/2017 9:50:00 AM	Means	
Or Between (Date and Time)	Saturday 12/9/2017 9:52:00 AM	Other Means	
Location	[REDACTED]	Motives	
CSZ	LV, NV 89108	Other Motives	
Location Name	Speedee Mart	Vehicle Activity	suspect left in vehicle
		Direction Vehicle Traveling	Southeast
		Cross Street	Rainbow/Alexander
		Notified	

Verification

For Exceptional Clearances

Clearance Basis

Exceptional Clearance Date

Narrative

On 12/9/17 at approximately 0952 hours, I, Officer M. Marano P#14007, while operating as marked patrol unit 7X55TV, was assigned to a robbery attempt call at the Speedee Mart located at [REDACTED] LV, NV, 89108. Upon my arrival, I made contact with the store's clerk who was identified by her NVDL as Faasse, Donna DOB 2/23/62. Faasse stated while she was working at the register, an unknown black male adult subject walked into the store and approached her at the counter. She stated he presented a note to her that said something to the affect of put all of the money from the drawer into the bag. Faasse took the note from him and read it again. She asked him if this was a joke or not and if he was serious. She took the note a threw it on the floor and asked again if he was serious. He asked her "what if I had a gun." Faasse stated she threw the bag he presented her with on the floor as well. Faasse stated the male subject retrieved the note and bag from the floor and exited out the front door of the business. Faasse followed him and watched

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Attachment #17 A