IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN WILLIAMS, No. 83418

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.
_____/

Appeal from a Judgment of Conviction in Case Number CR20-0630B
The Second Judicial District Court of the State of Nevada
The Honorable Kathleen M. Drakulich, District Judge

APPELLANT'S OPENING BRIEF

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I. STATEMENT OF JURISDICTION

The district court filed a criminal judgment of conviction on July 26, 2021. 1JA 235-237 (Judgment of Conviction).[1] On August 23, 2021, Appellant, Ryan Williams (Mr. Williams), timely filed a notice of appeal from that judgment. 1JA 241-42 (Notice of Appeal).[2] This Court's jurisdiction rests on Rule 4(b) of the Nevada Rules of Appellate Procedure (NRAP) and NRS 177.015(3) (providing that a defendant may appeal from a final judgment in a criminal case).

II. ROUTING STATEMENT

This appeal may be presumptively assigned to the Court of Appeals. Although it involves jury-based convictions of two category B offenses, the principle issue addresses the sufficiency of the evidence. See NRAP 17(b)(2)(A),(B) (together generally exempting category B jury-based felony convictions from presumptive assignment to the Court

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[1] "JA" stands for the Joint Appendix. Pagination conforms to NRAP 30(c)(1). The number preceding "JA" represents the volume number.

[2] On September 21, 2021, the district court filed an amended judgment that corrected a clerical mistake regarding the aggregate sentence imposed in this case. 1JA 243-45 (*Amended* Judgment of Correction). See NRS 176.565 (defining "clerical mistake" and providing "[c]lerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.").

of Appeals, except where the appeal challenges "the sufficiency of the evidence"). The Supreme Court may also assign this appeal to the Court of Appeals under NRAP 17(b), which authorizes the Supreme Court to assign to the Court of Appeals any case filed in the Supreme Court, except those matters specifically assigned for disposition to the Supreme Court under NRAP 17(a).

III. STATEMENT OF THE LEGAL ISSUES PRESENTED

Whether the district court erred in admitting evidence of Mr. Williams' prior possession of a handgun that occurred at least two months prior to the offense date as it was not relevant and was unduly prejudicial.

Whether the evidence presented was sufficient to sustain Mr. Williams' convictions for either the robbery or burglary counts beyond a reasonable doubt.

Whether this Court should remand to the district court with instructions to correct two errors appearing in the written judgment of conviction if it does not otherwise reverse Mr. Williams' convictions.

IV. STATEMENT OF THE CASE

This is an appeal from a judgment of conviction. The State jointly charged Mr. Williams and Adrianna Marie Norman with robbery with the use of a deadly weapon, a violation of NRS 200.380, NRS 193.165, 195.020, a category B felony (Count I); attempted robbery with the use of a deadly weapon, a violation of NRS 193.330, being an attempt to

violate NRS 200.380, NRS 193.165 and NRS 195.020, a category B felony (Count II); burglary with possession of a firearm or deadly weapon, a violation of NRS 205.060(1), (2) and NRS 205.060(4), a category B felony Count III); and murder with the use of a deadly weapon, a violation of NRS 200.010, NRS 200.030, and NRS 195.020, a category A felony (Count IV). The State additionally charged Ryan Williams with causing the death of another by driving a vehicle while under the influence of methamphetamine, a violation of NRS 484C.110 and NRS 484C.430, a category B felony (Count V); eluding or flight from a police officer resulting in death, a violation of NRS 484B.550, a category B felony (Count VI); and reckless driving, a violation of NRS 484B.653(1)(a) and NRS 484B.653(9), a category B felony (Count VII). 1JA 1-11 (Information).

A jury found Mr. Williams guilty of Count I, robbery—but did not find that a deadly weapon had been used in the commission of the offense; not guilty of Count II, attempted robbery;[3] guilty of count III, burglary—finding that Mr. Williams "possess[ed] ... a firearm or deadly weapon ... during the commission of the crime or before leaving the

[3] The district court entered a judgment of acquittal as to Count II. 1JA 238-40.

structure");[4] and guilty of the traffic related offenses charged in Counts V, VI, and VII; namely, causing the death of another by driving a vehicle while under the influence of methamphetamine, eluding or flight from a police officer resulting in death, and reckless driving.[5] 1JA 229-234 (Verdicts); 10JA 2074-78 (Transcript of Proceedings: Trial—Day 14). The jury could not reach a verdict on Count IV, murder with the use of a deadly weapon. See 10JA 2064-70. The parties stipulated that the jury was deadlocked on Court IV. 10JA 2-70-71.

The district court imposed the following sentences:

- Count I—Robbery with the use of a deadly weapon: 60 to 180 months in the Nevada Department of Corrections (NDOC) with credit for 514 days in predisposition custody. The district court did not impose a weapon enhancement because the jury did not find that a weapon had been used in the commission of the offense;

- Count III—Burglary with possession of a firearm or deadly weapon: 60 to 180 months NDOC *concurrent* with Count I;

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[4] Ms. Norman was convicted only of the burglary count. See 10JA 2072 (Transcript of Proceedings: Trial—Day 14). She has appealed her conviction. Her appeal is docketed in this Court as docket number 83244.

[5] In her closing argument Mr. Williams' counsel conceded Mr. Williams' guilt on Counts V, VI, and VII. See 10JA at 1957-58, 1969.

- Count V—Causing the death of another while under the influence of methamphetamine: 48 to 180 months NDOC *consecutive* to Count III, and a fine of $2,000.00;

- Count VI—Eluding or flight from police officer resulting in death: 96 to 240 months NDOC *consecutive* to Count V; and

- Count VII—Reckless driving: The district court did not impose a sentence (but kept the conviction) finding instead that Count VII was a lesser included offense of Count VI—Eluding or flight from police officer resulting in death.

1JA 235-37 (Judgment of Conviction). The resulting aggregate sentence is 17 to 50 years NDOC. 1JA 244 (*Amended* Judgment of Conviction).

Mr. Williams appeals his convictions for robbery and burglary. 1JA 241-42 (Notice of Appeal).

V. STATEMENT OF THE FACTS

1. Pretrial

Prior to trial Mr. Williams filed a motion in limine regarding other act evidence in which he sought an order from the district court "requiring the State to seek a hearing outside the presence of the jury" if it intended to present other act evidence against Mr. Williams at trial. See 1JA 12-15 (Motion in Limine Re: Other Act Evidence). Although the

State opposed Mr. Williams' motion, 1JA 23-27 (Opposition to Defendant's Motion in Limine Re: Other Act Evidence), it did so *after* it had already filed such a request. See 1JA 16-22 (Request for Hearing Re: Admission of Oher Acts Evidence Regarding Defendant Williams' Prior Handgun Possession) (Request). The district court granted Mr. Williams' motion after he had submitted a reply. See 1JA 28-30 and 29 (Reply in Support of Motion in Limine Re: Other Act Evidence) (noting that his motion "did exactly what it is designed to do" in light of the State's filed Request) and 1JA 31-34 (Order Granting Motion in Limine Re: Other Act Evidence).

In its Request the State informed the district court of its intent to introduce evidence that "prior to seeing Williams at Bob and Lucy's on February 22, [Steven Sims] had met Williams on one occasion, about a month earlier." Ms. Norman "was also present, and they spent much of the day together with Williams." At one point, "while Sims was in a car with Williams, Williams removed a handgun from his person and placed it in Sims' view on the console." Sims "became aware that Williams was armed, and that Williams had the gun on his person throughout the day." 1JA 17-18. In the State's view this evidence was relevant for the

purpose of "explaining Williams' statement to Sims [at Bob & Lucy's] 'You know how I roll.'" The State argued that the statement was a "reference to Williams being armed, as the only occasion from which Sims could know how Williams 'rolled' was the one day they spent together" where Williams had a handgun. 1JA 18. Mr. Williams was not armed at Bob & Lucy's.

Mr. Williams opposed the State's request arguing that other act evidence is presumptively inadmissible and that there was no non-propensity purpose served by the admission of the State's evidence. Additionally, Mr. Williams argued that any probative value in this evidence was substantially outweighed by its prejudicial effect. Mr. Williams noted that the earlier meeting referred to had occurred two months prior to February 22, and there Mr. Williams did not "handle the gun in a menacing way or point[] it at Mr. Sims." 1JA 35-43, 37 (Opposition to State's Request for Hearing Re: Admission of Other Acts Evidence Regarding Defendant Williams' Prior Handgun Possession) (Opposition). Mr. Williams argued further that the evidence did not explain his statement "You know how I roll" because that statement did not reference a handgun and was not tied to the actual possession of a

handgun at Bob & Lucy's. *Id.* at 38-39. The ambiguity of the statement could refer to any other thing that Mr. Sims gathered about Mr. Williams after having spent a day with him and Ms. Norman.

At a pretrial hearing held on January 25, 2021, 1JA 44-142 (Transcript of Proceeding: Pretrial Motions), the State reiterated Mr. Sims' single day in the company of Ms. Norman and Mr. Williams and that Mr. Williams had placed a handgun where it could be seen. The State argued that Mr. Williams' statement at Bob & Lucy's, "Let's go, we are going for a ride. You know how I roll", constituted an implied threat *because* Sims could only reference the one occasion where he had spent time with Mr. Williams. *Id.* at 107-09. The State asserted that Mr. Sims' knowledge that Mr. Williams had been armed months ago was relevant "for the noncharacter purpose of explaining that statement issued by Mr. Williams to Mr. Sims[.]" *Id.* at 109.

Mr. Williams countered that the evidence was not relevant but assuming some "minimal relevance any probative value would be substantially outweighed by the danger of unfair prejudice." *Id.* at 113. First, Sims admitted that "he never saw Mr. Williams in possession of a handgun on February 22nd of 2020" and Mr. Williams never showed

him a firearm at Bob & Lucy's. *Id.* at 114, 114-17. Second, while Sims could testify that he felt afraid, that did not allow the State to use this other act evidence under the guise of giving context to a statement. *Id.* at 120. Counsel argued that during the day two months prior to the offense date Mr. Williams "never threatened Mr. Sims with a gun or use it in any menacing way." When Sims saw the gun he asked Mr. Williams questions about it—like "What kind was it?" "Could you get me one"" "Where did you get it?"—in a friendly conversational way. *Id.* at 120-21. Summing up counsel said,

> So what we have is a single prior day that Mr. Sims allegedly observed Mr. Williams in possession of a firearm two months prior to the offense date in this case. Mr. Sims never saw Mr. Williams in possession of a gun before or since that one day. And on that one day in December of 2019, Mr. Williams never threatened Mr. Sims with the gun and Mr. Sims can't even say where Mr. Williams kept the gun throughout the day or whether he took it into any establishments with him.

Id. at 121 (paragraph break omitted). Counsel argued that "testimony that Mr. Sims saw Mr. Williams in possession of a gun on one day two months prior to the events in this case is not legally relevant to robbery ... as far as either Mr. Sims' intent or Mr. Williams' intent." *Id.* at 121-

22. Counsel additionally expressed the concern that the evidence would portray Mr. Williams "as a violent individual." *Id.* at 123. Counsel requested that the district court issue an order precluding the State from introducing this evidence. *Id.* at 124.

Subsequently, in a written order the district court ruled that the State could present evidence of Mr. Williams' prior possession of a handgun. 1JA 143-53 (Order Granting the State's Motion Concerning the Admission of Defendant's Williams' Prior Handgun Possession) (Order).

2. Trial

At Bob & Lucy's

A.—David Cole

On February 22, 2020, David Cole was a tavern attendant at Bob & Lucy's located on Oddie Boulevard in Sparks. 4JA 596-97. According to Mr. Cole Steven Sims, who was staying at Mr. Cole's place at the time, arrived at Bob & Lucy's around 6:00 a.m. Mr. Sims was gambling at the penny slots when someone came in and sat next to him. Mr. Cole noticed that he was taking to a woman (later identified as Ms. Norman). 4JA 598, 620. Mr. Cole also noticed that there was only one vehicle—a

white pickup truck—in the parking lot. 4JA 599. Mr. Cole did not recognize Ms. Norman. 4JA 600. Mr. Cole delivered a soft drink to Mr. Sims and heard Ms. Norman yelling at him asking why he stole from her children. 4JA 60102, 649. She was speaking loud enough that she could be heard back in the bar area. 4JA 602. But Mr. Cole did not hear any threats or anything about a gun. 4JA 622. And, based on what he overheard he did not think he needed to call the police. 4JA 625, 626-27.

Mr. Cole also saw a couple of guys. He asked for identification from one guy. He did not have an ID and left the tavern. 4JA 602, 605, 627. That was Zane Kelly, who testified that he entered Bob & Lucy's three separate times; once to use the restroom and twice to see if his friend, Tanya, was inside. 8JA 1553-57, 1560, 1580. He testified that he did not know Steve Sims. 8JA 1557. It was when he went to get Ms. Norman so that they could leave, that Mr. Cole stopped him. 8JA 1558, 1561. Mr. Kelly thought Ms. Norman had gone into Bob & Lucy's to gamble. 8JA 1565.

After he stopped Mr. Kelly Mr. Cole let Mr. Williams into the tavern and watched him walk up to where Mr. Sims and Ms. Norman were talking. 4JA 606, 627, 650. He hadn't realized that Mr. Williams

and Ms. Norman were together until he saw them talking to Mr. Sims. 4JA 606-07. According to Mr. Cole, Mr. Williams was standing over Mr. Sims and leaning into him to talk and was getting a little loud. 4JA 607-08, 628. Shortly afterwards Mr. Sims came over to Mr. Cole and asked him to call 911. 4JA 608, 610. Mr. Sims told him there was a gun in the casino and that "they were going to kill him." So Mr. Cole called 911. 4JA 610, 632-33. Mr. Cole stayed in the bar area. At one point Ms. Norman, who was now standing by the doorway, 4JA 632-33, asked him or Mr. Sims "how long it was gonna be." Mr. Cole did not know what she was talking about but answered, "About 15 minutes." 4JA 612. Mr. Cole went back to his work. He recalled Mr. Sims leaving the tavern out a back door after the police had arrived. 4JA 614, 616. Ms. Norman, who had walked out into a breeze way, was locked out of the tavern. Mr. Cole did not let her back in. 4JA 617.

Mr. Cole had no personal knowledge of any guns in the casino; everything he said to the 911 operator was based on what Mr. Sims had said, including guns and threats. 4JA 635-36, 638-39, 655. There was nothing that he personally observed that made him think that he needed to call the police or make a report. 4JA 639.

B.—Steven Sims

Steven Sims testified that he arrived at Bob & Lucy's around 4:30 in the morning of February 22, 2020 to gamble. 4JA 750-51. He had used methamphetamine a couple of hours earlier and was feeling the effects of the drug. 5JA 830-31, 838. Mr. Sims testified that it may have had "something to do with how I reacted to things and how I perceived things." 5JA 831, 839.

Mr. Sims met Adrianna Norman in October of 2019 in Winnemucca and lived together in Winnemucca for a period of time at the end of 2019. 4JA 751-52. In mid-January 2020 Mr. Sims abruptly left without first telling Ms. Norman that he was leaving. 4JA 753, 761. Later he received text messages from her via Facebook Messenger accusing him of stealing her children's X-Box and tablet. 4JA 761-63, 766. Ms. Norman texted, "Just know your day is coming" and "It's almost your time." 4JA 767.[6]

Mr. Sims next saw Ms. Norman at Bob & Lucy's on February 22, 2020. 4JA 767. He saw her passing a coffee machine and coming

[6] The jury was instructed that "[t]hese text messages may not be considered against Mr. Williams." 4JA 764. Mr. Williams was not involved in the issue between Ms. Norman and Mr. Sims. 5JA 849.

towards him. 4JA 768. Mr. Sims was "shocked to see her." 4JA 770. Ms. Norman sat down next to him at the slot machine. Mr. Sims, who testified that he was doing most of the talking, told her that he would never "take from her children or her." 4JA 770; 5JA 788, 790. He also apologized for leaving without letting her know. 4JA 771; 5JA 788. As they continued to talk he noticed that she had a gun "under her arm in her jacket." 4JA 771, 772. Ms. Norman let him know that it was real. 5JA 782-83, 788. And Mr. Sims was fearful that she might shoot him. 5JA 783, 794.[7] After showing Mr. Sims the gun, Ms. Norman put it under her left armpit. 5JA 792. Shortly after that Mr. Cole delivered a soft drink to Mr. Sims. 5JA 793. Ms. Norman stood up and paced around the area where Mr. Sims is seated. 5JA 793, 796. Mr. Sims saw a man walk by and look toward Ms. Norman. This made Mr. Sims feel like Ms. Norman was not by herself. 5JA 797-98.

Then Mr. Williams was let into the tavern. 5JA 800. He approached Mr. Sims and Ms. Norman. Mr. Sims spoke first, saying, "Ryan, you know I wouldn't take from her children." 5JA 801. According

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[7] On cross-examination Mr. Sims clarified that he did not really think Ms. Norman was going to shoot him. But he thought it was a possibility. 5JA 866.

to Mr. Sims, after he made that statement Mr. Williams turned and said, "You know how I roll. Let's ride." 5JA 802. Mr. Williams reached over and cashed out Mr. Sims ticket from the slot machine and "nudg[ed] for me to like get up and go." 5JA 803, 804, 880 (noting that Mr. Williams hit a button on the machine to cash out[8]).[9] Mr. Sims did not want to leave with Mr. Williams and Ms. Norman. 5JA 807. To stall for time Mr. Sims suggested that he could get money from Mr. Cole out of the cash register. 5JA 808. "[I]n [his] head" he "had a plan to tell [Mr. Cole] to call the police." 5JA 808.[10]

Mr. Sims testified that he told Mr. Williams to "hold up" because he could "get some money from my roommate." 5JA 809. This was a

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[8] A cash-out voucher from Bob & Lucy's was later found under a floor mat in Mr. Williams' truck by a Washoe County Sheriff Office criminalist pursuant to a search authorized by a search warrant. 7JA 1217-19, 1221, 1247-48, 1272. Also found under the front driver's seat in the truck was Ms. Norman's Taurus 9 millimeter handgun. 7JA 1249, 1273, 1285. There were no items of property belonging to Steven Sims in the truck. 7JA 1280.

[9] Mr. Sims thought Mr. Williams might have a weapon although he never saw a weapon and Mr. Williams never said he had a weapon. 5JA 813-14, 825 ("I never saw Ryan with a gun or the third guy with a gun.").

[10] On cross-examination Mr. Sims testified that "nobody came in here to rob me. That was something I said to [Mr. Cole] to get some help to come here because he wasn't listening to anything I was saying, you know, prior. So I figured if I said they're trying to rob me he would grab the phone. Eventually he grabbed the phone." 5JA 873.

ruse and "they bought it." 5JA 810 Ms. Norman was interested and Mr. Williams "went out the door and kind of okayed me to go." 5JA 809, 918 (noting that Mr. Williams went outside).[11] Mr. Sims testified that he went into the back kitchen and asked Mr. Cole to put him in the freezer and tell Ms. Norman that he had run out of the tavern. 5JA 811. But Mr. Cole wasn't having it and so Mr. Sims told him he was being robbed, "which was not quite true." 5JA 811.[12] Mr. Cole said that he would call the police. 5JA 811. As he did so Mr. Sims falsely told Ms. Norman that Mr. Cole was calling his brother to bring some money. 5JA 811-12, 814-15, 913. Meanwhile Mr. Sims was "thinking of another plan." 5JA 816. He walked back into the kitchen and ran towards the back double doors and out into the back alley. 5JA 817. By then the police arriving but he wasn't aware that they were there when he ran out of the tavern. 5JA 818. Outside, he started running towards his

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[11] Mr. Sims testified that Ms. Norman "never asked [him] for money." He testified that "I offered her money." 5JA 823, 865 (noting that Ms. Norman did not ask or demand that Mr. Sims give her money for the Xbox or tablet), 906 (noting that Mr. Sims initiated any discussion about money).

[12] Mr. Sims added that he "just said it to get him to call the police." 5JA 812.

house. 5JA 818. He ran through a parking lot and ended up on Merchant street where police officers had gathered. 5JA 820.

The police chase and collision[13]

Patrick McNeely, a sergeant with the Sparks Police Department, received a call from dispatch stating that there were subjects inside of Bob & Lucy's with a gun and they were threatening each other. 3JA 409-12, 444. He drove to Bob & Lucy's and parked on a side street to coordinate with other responding officers a safe approach to the business. 3JA 412-13. As he got out of his vehicle to meet with other officers, he saw Mr. Sims running from the area of Bob & Lucy's. Sergeant McNeely drove his car to where he was and told him to stop. Mr. Sims appeared to be "frantic and out of breath and seemed scared." 3JA 414, 420. Sergeant McNeely determined him to be the victim of the call. 3JA 414. The other officers headed towards Bob & Lucy's as Sergeant McNeely spoke to Mr. Sims by himself. Mr. Sims pointed in the direction of Bob & Lucy's and said, something to effect of, "The people with the guns are over there." 3JA 415-16, 449 (noting that the

[13] Because Mr. Williams conceded his guilt on the three felony traffic counts, the facts of 8 minute car chase, 8JA 1510-11, constituting those offenses are only briefly recounted here.

suspect vehicle was still parked in front of Bob & Lucy's). He told Sergeant McNeely that he had been at a slot machine in Bob & Lucy's when a former roommate came in demanding money from him and she had a handgun. He claimed that his wallet had been taken. 3JA 420, 455, 465.[14] Sergeant McNeely heard over the radio that officers were in pursuit of a white pickup and he put out "over the air" that "the person is possibly armed." 3JA 421. The white pickup drove past Sergeant McNeely and Mr. Sims followed by police vehicles. 3JA 421. Sims said, "There they go." 3JA 432, 439 (or "that's them."); 5JA 821 (saying that they are armed in the truck).

Sergeant McNeely had Mr. Sims walk back to Bob & Lucy's. As they walked toward the business Mr. Sims pointed at Ms. Norman and said, "that's her, she had the gun." 3JA 432-33, 434, 482. Sergeant McNeely approached her and placed her in handcuffs. 3JA 433. Ms. Norman was arrested and ultimately transported to the Sparks Police Department. 3JA 438.

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[14] Mr. Sims testified that he knew at the time that he was not being "accurate" when he told the police "that they were trying to rob me." He "just stayed with that" story because he knew Mr. Cole had reported a robbery. 5JA 823. As for the wallet, Mr. Sims does not know what happened to his wallet. 5JA 833-34. At trial he testified that he "believe[d] it was not stolen by Mr. Williams." 5JA 839, 884-85.

Sparks Police Officer Peter Loeschner, who was in the briefing room at the Sparks Police Department when he received a service call regarding the incident at Bob & Lucy's, responded in his police vehicle, activating his emergency lights and siren, which failed before reaching the intersection of Rock and Oddie Boulevards. He saw a white pickup truck driving away from police officers who were in the parking lot so he immediately gave chase heading southbound on Rock Boulevard. 3JA 375-80. He called for assistance because his emergency lights and siren were down. 3JA 381. Officer Loeschner's involvement in the chase ended when he collided with another police vehicle. 3JA 383-84, 403. Other officers were in pursuit at high rates of speed over roadways throughout Sparks. See 4JA 666-83 (Officer Chambers); 5JA 929-43 and 6JA 989-1011 (Officer Guillen); 6JA 1031-41 (Officer Snow); 6JA 1062-68 (Officer Hodge); and 6JA 1090-1100 (Officer Canterbury).

Officer Nicholas Chambers was driving a police Chevy Tahoe. 4JA 667-68. During the pursuit he requested permission to execute a "pit maneuver," which was granted. 4JA 683-84. According to Officer Chambers, a pit maneuver is where a police vehicle is lined up behind the suspect vehicle and then turned into them, which causes the suspect

vehicle to spin 180 degrees, "which is supposed to stop the vehicle and proceed to safety." 4JA 684. The idea is that the 180 degree spinning will cause an engine to stall. 4JA 728. It was near Stanford and Victorian Avenue that Officer Chambers tried to execute the maneuver. He put the front end of his vehicle to the back rear passenger side of the white pickup truck and rammed it causing it to spin 180 degrees but the engine did not stall out. His own vehicle proceeded to crash head on into a fence. 4JA 685-86. The effect of the maneuver was to cause the white pickup, which had been heading westbound on Victorian Avenue, to now head in the opposite direction: eastbound on Victorian Avenue towards the I-80 offramp at McCarran. 4JA 730-31.

Officer Dan Snow got behind the pickup truck in his patrol vehicle and followed it up the westbound off-ramp. The pickup got onto the freeway and into oncoming traffic. He saw the truck crash into another vehicle. 6JA 1036-39. Officer Guillen watched Officer Snow follow the white pickup onto I-80 heading in the wrong direction. He also saw the white pickup strike a silver vehicle on the freeway. 5JA 1120-22. Officers Gillen and Snow attempted life saving measures on

the driver of the silver vehicle (a Jeep) but were unsuccessful. 6JA 973-74, 1045, 1049.[15]

Mr. Williams was transported in an ambulance to Renown Hospital. 6JA 1101-02, 1119. Officer Canterbury heard Mr. Williams admit to a medic that he had been the driver of the white pickup and that he had been fleeing the police. 6JA 1105. Additionally, Mr. Williams admitted to using methamphetamine. 6JA 1108, 1144-45. Officer Canterbury applied for a court order to take blood samples from Mr. Williams, which was granted. 6JA 1111. A phlebotomist took three timed samples. 7JA 1191-1200 (Matthew Gallagher). An examination of the samples by a criminalist with the Washoe County Sheriff's Office Forensic Science Division, Toxicology section, 7JA 1294-95, 1308-10, concluded with a finding of no presence of alcohol but a presence of methamphetamine. 7JA 1310-11, 1314. Specifically, the testing found "[m]ethamphetamine in the amount of 698 nanograms per milliliter of full blood, plus or minus 140 nanograms per milliliter." 7JA 1315.

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[15] The deceased driver was identified as Jacob Edwards. 7JA 1170-71. An autopsy of Mr. Jacobs resulted in the conclusion that his cause of death was blunt force injuries to his chest and abdomen and the manner of death was an accident; "the automobile collision directly injured that caused death, but was not intentional." 7JA 1339, 1347-48.

Mr. Williams was placed under arrest while at Renown. 8JA 1405.

VI. SUMMARY OF ARGUMENT

Prior bad act evidence is "volatile evidence" which may not be used to "prove the character of a person in order to show that the person acted in conformity therewith." It may, however, be admissible for other purposes identified in NRS 48.045(2), as well as for non-propensity purposes not listed in the statute. But the Nevada Supreme Court has cautioned that the use of uncharged bad act evidence to convict a defendant is heavily disfavored in our criminal justice system because bad acts are often irrelevant and prejudicial and force the accused to defend against vague and unsubstantiated charges. Thus, a presumption of inadmissibility attaches to *all* prior bad act evidence.

Here the district court ruled that Mr. Sims could testify at trial concerning Mr. Williams' prior possession of a handgun (even though Mr. Williams did not have a handgun at Bob & Lucy's). The district court accepted the State's argument that it provided context for a statement made by Mr. Williams at Bob & Lucy's and was not prejudicial because the prior possession was not tied to a criminal event

or act. This district court erred in its reasoning and conclusions. Mr. Williams should get a new trial on the robbery count where the prior gun possession if not before the jury.

It is axiomatic that the State must present sufficient evidence to address the elements of a criminal charge in order to sustain a criminal conviction beyond a reasonable doubt. Here the State failed to present sufficient evidence to establish a criminal specific intent on the part of Mr. Williams at the moment he entered Bob & Lucy's. Similarly, the State failed to establish the use of force or violence in taking property from the presence of Mr. Sims sufficient to sustain the robbery count.

Finally, if the Court disagrees and finds that the evidence sufficient to sustained Mr. Williams' convictions for burglary and robbery, it must nonetheless remand with instructions to the district court to correct two inaccuracies contained in the amended judgment of conviction. First, the judgment of conviction should be corrected to reflect Mr. Williams' conviction of the crime of robbery only. The weapon enhancement language and the references to NRS 193.165 contained in the amended judgment should be removed in a corrected judgment of conviction. Second, because the district court found Court

VII to be a lesser included offense of Count VI, the conviction on Count VII should not have been included even as an unsentenced conviction in the amended judgment.

VII. ARGUMENT

The district court erred in admitting evidence of Mr. Williams' prior possession of a handgun that occurred at least two months prior to the offense date as it was not relevant but was unduly prejudicial.

Standard of Review

This Court reviews a district court's decision to admit or exclude evidence for an abuse of discretion, *Mclellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008), including prior bad act evidence, *Newman v. State*, 129 Nev. 222, 230, 298 P.3d 1171, 1178 (2013), and will reverse where the district court's decision is manifestly wrong. *Holmes v. State*, 129 Nev. 567, 571, 306 P.3d 415, 418 (2013).

Discussion

Prior bad act evidence is "volatile evidence." *Tavares v. State*, 117 Nev. 725, 731, 30 P.3d 1128, 1132 (2001). NRS 48.045(2) prohibits the use of evidence of "other crimes, wrongs or acts ... to prove the character of a person in order to show that the person acted in conformity therewith." Such evidence may be admissible for other

purposes identified in the statute, as well as for nonpropensity purposes not listed in the statute, *Bigpond v. State*, 128 Nev. 108, 116, 270 P.3d 1244, 1245 (2012). But as the Nevada Supreme Court noted in *Newman v. State*, 129 Nev. at 230, 298 P.3d at 1178, "while evidence of other crimes, wrongs or acts may be admitted ... for a relevant nonpropensity purpose, [t]he use of uncharged bad act evidence to convict a defendant [remains] heavily disfavored in our criminal justice system because bad acts are often irrelevant and prejudicial and force the accused to defend against vague and unsubstantiated charges. Thus, [a] presumption of inadmissibility attaches to *all* prior bad act evidence." (citations omitted, alterations and ellipsis in the original, italics added); see also *Bigpond v. State*, 128 Nev. at 117, 270 P.3d at 1249 (same).

The "principal concern with admitting such evidence is that the jury will be unduly influenced by the evidence, and thus convict the accused because the jury believes the accused is a bad person." *Walker v. State*, 116 Nev. 442, 445, 997 P.2d 803, 806 (2000); *Braunstein v. State*, 118 Nev. 68, 73, 40 P.3d 413, 417 (2002) (same); *Berner v. State*, 104 Nev. 695, 696-97, 765 P.2d 1144, 1145-46 (1988) (same); and *Michelson v. United States*, 225 U.S. 469, 476 (1948) (noting that such

evidence "is said to weigh too much with the jury and to over persuade them as to prejudice one with a bad record and deny him a fair opportunity to defend against a particular charge").

To overcome the presumption of inadmissibility and "to ensure that this type of evidence is not misused," the prosecutor must establish that: "(1) the prior bad act is relevant to the crime charged and for a purpose other than proving the defendant's propensity, (2) the act is proven by clear and convincing evidence, and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice." *Bigpond v. State*, 128 Nev. at 116-17, 270 P.3d at 1250 (emphasis added) (modifying the first prong of the test announced in *Tinch v. State*, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064 (1997)). "[I]n evaluating the relevance of prior bad acts to the crime charged, [this Court has] consistently noted that events remote in time from the charged incident have less relevance in proving later intent." *Walker v. State*, 116 Nev. at 447, 997 P.2d at 807. And "in evaluating whether the probative value of the evidence is substantially outweighed by the danger of prejudice, we reiterate that evidence of prior bad acts may unduly influence the jury and result in a conviction based on the

accused's propensity to commit a crime rather than on the State's ability to prove all the elements of the crime." *Id.* at 447, 997 P.2d at 807.

Here the district court ruled that Sims' testimony concerning Mr. Williams' prior possession of a handgun was admissible in the State's case-in-chief. The district court reasoned that the evidence was relevant to "the 'by means of force or violence or fear of injury, immediate or future' element of Robbery ... because it provides context to Mr. Williams' statement, 'You know how I roll.'" The district court stated that it was "persuaded that the statement referred to Williams' prior handgun possession based on the fact that Mr. Williams and Mr. Sims only met on one prior occasion; therefore, the *inference* of relevance is stronger than if Mr. Williams and Mr. Sims had a multitude of varying interactions." 1JA 149 (Order).

The district court also concluded that the probative value of this evidence substantially outweighed the danger of unfair prejudice. *Id.* at 150. Here the district court essentially said that although "Mr. Williams' prior handgun possession is prejudicial, [as] it could be considered for the improper inference that he is violent, or that he

always carries a gun on his person," it accepted the State's gloss that because "Mr. Williams' prior handgun possession is not tied to a criminal event or act; [and] instead, Mr. Sims testimony only reveals Mr. Williams carried a gun on his person on one prior occasion," there was no danger of unfair prejudice. *Id.* at 151.

In short, the district court found the prior handgun evidence admissible against Mr. Williams at trial because (1) this onetime event provided some context for Mr. Williams' later statement ("You know how I roll"), but (2) was not harmful because it was not tied to a criminal event or act. Respectfully, the district court's reasoning is precisely backwards. Generally, any *inference* is infinitely stronger when it is based on "a multitude of varying interactions" rather than on one episodic interaction. Basing an inference on an interaction that occurred on one day artificially inflates any one event from which an inference may be drawn. Remarkably, the State elided that concern by convincing the district court that no prejudice could possibly lie where the gun possession was "not tied to a criminal event or act." Even more remarkable is that the district court agreed. When the district court

adopted the State's argument regarding this "volatile evidence," it clearly mistook a wolf for a lamb.

This evidence was offered to show Mr. Williams' propensity to have a gun. There was nothing in the statement "You know how I roll" that needed context or an explanation. The statement could stand alone. The use of the prior handgun evidence, however, to convict Mr. Williams was "prejudicial or irrelevant" and forced him to defend himself against vague facts not charged. This evidence likely "unduly influence[d] the jury, ... result[ing] in a conviction ... because the jury believe[d] [Mr. Williams] is a bad person." *Berner v. State*, 104 Nev. at 696-97, 765 P.2d at 1145-46.[16] *Berner* makes clear that "[t]he use of specific conduct to show a propensity to commit the crime charged is clearly prohibited by Nevada law[] and is commonly regarded as sufficient grounds for reversal." *Id.* at 697, 765 P.2d at 1146. This Court should reverse and remand for a new trial on the robbery count with instructions to the district court to preclude admission of the prior handgun evidence.[17]

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[16] Notably, Ms. Norman was not convicted of robbery. See 10JA 2071 (reading verdict).

[17] The prior handgun evidence was presented to the jury during Mr.

The evidence presented was insufficient to sustain Mr. Williams' convictions for either robbery or burglary beyond a reasonable doubt.

Standard of Review

In reviewing a challenge to the sufficiency of the evidence presented at trial, a court's focus is on "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational [juror] could have found the essential elements of the crime beyond a reasonable doubt." *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (italics in original, alteration added). A conviction that fails that test violates due process. *Mikes v. Borg*, 947 F.2d 353, 356 (9th Cir. 1991).

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Sims' testimony. See 4JA 754-59. The district court gave a limiting instruction after the introduction of the evidence regarding its use and directing the jury to apply the evidence only against Mr. Williams and not Ms. Norman. 4JA 759-60 and 764-65. The prosecutor later asked Mr. Sims whether "that prior experience [was] the basis for you believing that he was armed with a black gun that morning at Bob & Lucy's?" Mr. Sims answered, "Yes, it was." 5JA 827-28. But that question was unnecessary since his belief was not at issue. And, it turns out, he was wrong in that belief so the evidence, though irrelevant, accomplished its goal of establishing that Mr. Williams was a bad person. Thus, even though the limiting instruction was read again, 5JA 827-28, that instruction merely highlighted this volatile evidence. See *Cf. Mclellan v. State*, 124 Nev. at 270, 182 P.3d at 111 (recognizing that in some instances a limiting instruction might actually "aggravate the prejudicial effect of prior bad acts.").

Discussion

"The Due Process Clause of the United States Constitution protects an accused against conviction except on proof beyond a reasonable doubt of *every fact* necessary to constitute the crime with which he is charged." *Origel-Candido v. State*, 114 Nev. 378, 382, 956 P.2d 1378, 1380 (1998) (citing *Carl v. State*, 100 Nev. 164, 165, 678 P.2d 669, 669 (1984) (italics in the original)); *Watson v. State*, 110 Nev. 43, 45, 867 P.2d 400, 402 (1994) ("It is axiomatic that the state must prove every element of a charged offense beyond a reasonable doubt.") (citing *Slobodian v. State*, 107 Nev. 145, 147-48, 808 P.2d 2, 3-4 (1991). This Court "cannot sustain a conviction where the record is wholly devoid of evidence of an element of a crime." *Batin* v. State, 118 Nev. 61, 64-65, 38 P.3d 880, 883 (2002) (footnotes omitted). Instead, this Court must "give concrete substance to the presumption of innocence, to ensure against unjust convictions, and to reduce the risk of factual error in a criminal proceeding." *Id.* at 65, 38 P.3d at 883 (internal quotations and footnotes omitted).

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Burglary

NRS 205.060(1), which was in effect prior to July 1, 2020, provides in relevant part that "a person who ... enters any ... shop ... with the intent to commit grand or petit larceny, assault or battery on any person or any felony ... is guilty of burglary." Count III of the information alleged that Mr. Williams entered Bob & Lucy's "with the intent then and there to commit robbery, larceny, assault, battery, kidnapping, and/or felony coercion therein[.]" 1JA 4 (Information). Generally, the "offense of burglary is complete when the house or other building is entered with the specific intent designated in the statute." *Carr v. Sheriff*, 95 Nev. 688, 689-90, 601 P.2d 422, 423 (1979). However, "[a] criminal intent formulated after a lawful entry will not satisfy the statute." *State v. Adams*, 94 Nev. 503, 505, 581 P.2d 868, 869 (1978). Additionally, to the extent that the State seeks to impose vicarious liability on an accused through an allegation of conspiracy or of aiding and abetting (which the State did here), the State must prove that the accused possessed at the time of entry the necessary specific intent when the underlying primary offense requires such intent. *Compare Sharma v. State*, 118 Nev. 648, 655, 56 P.3d 868, 872 (2002) (holding

that "in order for a person to be held accountable for a specific intent crime of another under an aiding or abetting theory of principal liability, the aider or abettor must have knowingly aided the other person with the intent that the other person commit the charged crime") *with Bolden v. State*, 121 Nev. 908, 923, 124 P.3d 191, 201 (2005) ("[t]o hold a defendant criminal liable for a specific intent crime, Nevada requires proof that *he possessed the state of mind required by the statutory definition of the crime*") (italics added); and see *Mitchell v. State*, 122 Nev. 1269, 1277, 149 P.3d 33, 38 (2006) (concluding that Mitchell could not be convicted of attempted murder (a specific intent crime) "as an aider or abettor unless he, not just Smith, had the specific intent that Keel be killed.").

Here the facts established that Mr. Williams, Zane Kelly, and Adrianna Norman separately entered Bob & Lucy's. Mr. Kelly had entered to see if a friend of his was there and to use the restroom. Then Ms. Norman entered and she walked over to where Mr. Sims was gambling on a penny slot machine (albeit armed). Mr. Williams (unarmed) entered last and walked over to where Ms. Norman and Mr. Sims were. Whatever Ms. Norman's intent was when she entered Bob &

Lucy's, based on the text messages she had sent to Mr. Sims via Facebook (which the court ruled could not be used against Mr. Williams), the evidence did not establish any nefarious intent on Mr. Williams part as he entered Bob & Lucy's. Indeed, after entering he approached Ms. Norman and Mr. Sims and either fist-bumped or shook Mr. Sims' hand. Only once inside did he push a button to cash out Mr. Sims slot machine play so that Mr. Sims could leave with them.[18] Stated differently, there was insufficient evidence presented to prove beyond a reasonable doubt that at the time Mr. Williams entered Bob & Lucy's he had the specific intent to "commit robbery, larceny, assault, battery, kidnapping, and/or felony coercion therein" as alleged by the State.[19] The evidence established that it was a coincidence that Mr.

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[18] Later in a jail phone call Mr. Williams is heard saying that Ms. Norman wanted some money from Mr. Sims and his role was to get Mr. Sims to come outside. 8JA 1409-10, 1490-91. It appears that his "role" was established after entry and, in any event, he left Bob & Lucy's while Ms. Norman and Mr. Sims discussed money.

[19] In the next section we argue that the State failed to prove robbery. If this Court disagrees it must still agree that the general intent to commit robbery was formed *after* Mr. Williams had entered Bob & Lucy's. The State's various liability theories do not save the conviction. See *Cf.*, *Garcia v. State*, 121 Nev. 327, 343, 113 P. 836, 846 (2005), holding modified on other grounds by *Mendoza v. State*, 122 Nev. 267, 130 P.3d 176 (2006) ("[T]o prove conspiracy to commit robbery, the State must show that [the defendant] and another agreed

Sims was at Bob & Lucy's when Mr. Williams arrived so that Mr. Kelly could attempt to locate a friend.

Because the State did not establish any specific intent on the part of Mr. Williams, the Court should reverse his conviction on Count III.

Robbery

Robbery is "the unlawful taking of personal property from the person of another, or in the person's presence, against his or her will, by means of force or violence or fear of injury, immediate or future, to his or her person, or the person of a member of his or her family, or of anyone in his or her company at the time of the robbery. A taking is by means of force or fear if force or fear is used to: (a) Obtain or retain possession of the property; (b) Prevent or overcome resistance to the taking; or (c) Facilitate escape." NRS 200.380(1). "When force is used to accomplish the taking, the crime is clearly robbery. However, where force is used only to facilitate escape, the use of force must be subsequent to a taking by force or fear[] or used to compel acquiescence to the escaping with the property in order to constitute the crime of

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to take ... property by force, fear, or threat."). As noted in footnotes 4 and 16 of this brief, Ms. Norman (the alleged co-conspirator) was not convicted of robbery.

robbery." *Martinez v. State*, 114 Nev. 746, 748, 961 P.2d 752, 754 (1998) (italics and footnote omitted).

As relevant count I of the information alleged that Mr. Williams "did willfully and unlawfully take personal property, to wit: a gaming cash-out voucher and/or a wallet, from the person and/or in the presence of Steven Sims at Bob & Lucy's ... against his will, by means of force or violence or fear of immediate or future injury to his person." 1JA 1-2 (Information). The evidence however established that Mr. Williams did not take Mr. Sims' wallet. See footnote 14, *infra* (explaining that Sims assumed that his wallet had been taken).

As for the gaming cash-out voucher, there was no evidence that Mr. Williams used force to retrieve the voucher from the machine or to retain possession of it. Instead Mr. Williams pushed a button, got the voucher, and then walked to the front of Bob & Lucy's and eventually out of Bob & Lucy's while Ms. Norman and Mr. Sims stayed inside. And we know now, that contrary to his representations to Mr. Cole and later to Sergeant McNeely, neither Ms. Norman nor Mr. Williams was trying to rob him and neither had demanded any money from him. Those assertions were not "quite true." 5JA 811, 823, and 873. Instead, Mr.

Sims used a self-generated ruse to stall for time so that he could run out of the backdoor to Bob & Lucy's. In sum, while Mr. Williams had the gaming cash-out voucher in his truck, he did not *take* it from Mr. Sims by means of force or fear or take it in the presence of Mr. Sims by means of force or fear. This Court should reverse Mr. Williams' conviction on Count I.

This Court must remand to the district court with instructions to correct two errors appearing in the written judgment of conviction.

Standard of Review

Questions of law are reviewed *de novo*. *Bailey v. State*, 120 Nev. 406, 407, 91 P.3d 596, 597 (2004).

Discussion

In *Ledbetter v. State*, 122 Nev. 257, 265, 129 P.3d 671, 680 (2006) (footnotes omitted), this Court observed that the "written judgment of conviction is an essential document in a criminal proceeding because it memorializes a defendant's conviction, his crime, and the terms of his sentence." Additionally, the written judgment's "required contents are set forth by statute and are relied upon by other courts long after the proceedings before the district court have passed." Therefore, it is "critical that the written judgment contain accurate information."

There are two inaccuracies contained in the amended judgment of conviction. First, the amended judgment states that "Ryan Williams is guilty of the crime of Robbery With the Use of a Deadly Weapon, a violation of NRS 200.380, NRS 193.165 and NRS 195.020, a category B felony, as charged in Count I of the Information." 1JA 243 (*Amended* Judgment of Conviction).[20] This is inaccurate because the jury did not find the weapon enhancement. See 1JA 229 (Verdict) (answering "No" to the question: "Was a deadly weapon used in the commission of the offense?"). Accordingly, the judgment of conviction should be corrected to reflect Mr. Williams' conviction of the crime of robbery only. The weapon enhancement language and the references to NRS 193.165 contained in the amended judgment should be removed in a corrected judgment of conviction. *Cf.* NRS 176.565 (defining "clerical mistake" and providing: "[c]lerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.").

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[20] The same language is present in the original judgment of conviction. See 1JA 235 (Judgment of Conviction).

The second inaccuracy appears on page 2 of the *Amended* Judgment of Conviction. There, the judgment provides:

> That Ryan Williams is guilty of the crime of Reckless Driving, a violation of NRS 484B.653(1)(a) and NRS 484B.653(9), a category B felony as charged in Count VII of the Information. This Court does not impose sentence for this crime as Reckless Driving is a lesser included offense of Eluding or Flight from a Police Officer Resulting in Death. *Kelley v. State*, 132 Nev. 348, 350 (2016).

1JA 244.[21]

Because the district court found Court VII to be a lesser included offense of Count VI, the conviction on Count VII should not have been included even as an unsentenced conviction in the amended judgment. See *Byars v. State*, 130 Nev. 848, 860, 336 P.3d 939, 947-48 (2014) (agreeing with the State that the district court "should not have found Byars guilty of being an unlawful user in possession of a firearm after merging the count with the conviction for felon in possession of a firearm" and reversing that "portion of the judgment of conviction adjudicating Byars guilty of being an unlawful user or addict in possession of a firearm and remand[ing] for the district court to correct

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[21] The same language is present in the original judgment of conviction. See 1JA 236 (Judgment of Conviction).

the judgment of conviction") (citing *Hewitt v. State*, 113 Nev. 387, 391 & n.4, 936 P.2d 330, 333 & n.4 (1997) ("reversing a conviction for a lesser-included offense where the district court did not merge the lesser offense with the greater offense but did not sentence the defendant for the lesser-included offense, and noting that because the defendant was not sentenced for the lesser-included offense, the effect of the reversal of the conviction should be to correct the judgment of conviction"), overruled on other grounds by *Martinez v. State,* 115 Nev. 9, 12 n.4, 974 P.2d 133, 135 n.4 (1999)). Necessarily then, only the surviving counts and sentences should be set out in the amended judgment of conviction and Count VII should be removed from the corrected judgment.

VI. CONCLUSION

The district court erred in admitting prior gun possession evidence against Mr. Williams. Notwithstanding the purpose offered by the State for this evidence or its non-criminal event or act characterization, the effect of prior gun possession evidence established a propensity on Mr. Williams' part to carry a gun. (In fact, at the time of the instant offense Mr. Williams did not have a gun.) This evidence was not relevant, was highly prejudicial and was not proper character

evidence. This Court should reverse Mr. Williams' conviction for robbery.

Additionally, the evidence presented at trial was insufficient to prove essential elements of the offenses of burglary and robbery. For these reasons the Court should reverse Mr. Williams' convictions for burglary and robbery. If the Court disagrees, it must still remand to the district court with instructions to correct two inaccuracies contained in the written judgment of conviction.

DATED this 11th day of January 2022.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this petition complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because: This brief has been prepared in a proportionally spaced typeface using Century in 14-point font.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, even including the parts of the brief though exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points and contains a total of 8,397 words. NRAP 32(a)(7)(A)(i), (ii).

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied upon is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 11th day of January 2022.

/s/ John Reese Petty
JOHN REESE PETTY
Chief Deputy, Nevada State Bar No.10

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 11th day of January 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble, Chief Appellate Deputy,
Washoe County District Attorney

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Ryan Williams (#96845)
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

John Reese Petty
Washoe County Public Defender's Office