

IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \*

TROY WHITE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

S.C. CASE NO. 82798

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APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS  
CORPUS (POST CONVICTION)  
EIGHTH JUDICIAL DISTRICT COURT  
THE HONORABLE JUDGE RONALD J. ISRAEL, PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME X  
~~~~~

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IN THE SUPREME COURT OF NEVADA

TROY WHITE,

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OPENING BRIEF APPENDIX

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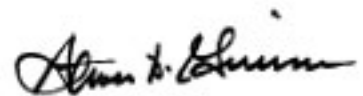
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Nevada Attorney General

DISTRICT ATTORNEY'S OFFICE

CHRISTOPHER R. ORAM, ESQ.

BY:

/s/ Nancy Medina  
An Employee of Christopher R. Oram, Esq.



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA

Plaintiff

vs.

TROY RICHARD WHITE

Defendant  
\* \* \* \* \*

CASE NO. C-286357

DEPT. NO. XI

**Transcript of  
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 8**

FRIDAY, APRIL 17, 2015

APPEARANCES:

FOR THE STATE:

ELIZABETH MERCER  
JEFFREY S. ROGAN  
Deputy District Attorneys

FOR THE DEFENDANTS:

SCOTT L. COFFEE  
DAVID LOPEZ-NEGRETTE  
Deputy Public Defenders

COURT RECORDER:

DEBRA WINN  
District Court

TRANSCRIPTION BY:

FLORENCE HOYT  
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

1 LAS VEGAS, NEVADA, FRIDAY, APRIL 17, 2015, 11:05 A.M.  
2 (Court was called to order)  
3 (Jury is present)  
4 THE COURT: Good morning, ladies and gentlemen.  
5 Counsel, you can be seated.  
6 Ms. Clerk, if you could please take roll of the  
7 jurors and the alternate jurors.  
8 THE CLERK: Yes, Your Honor.  
9 (Jury roll called)  
10 THE COURT: We received your note. We have found  
11 the portion of the testimony that you wanted replayed, and  
12 we're going to now hope when we hit "play" that everything  
13 works.  
14 (Playback of testimony of Michael Montalto)  
15 THE COURT: Ladies and gentlemen, does that complete  
16 the portion of the testimony of Mr. Montalto that you wished  
17 us to play?  
18 JURORS: Yes.  
19 THE COURT: All right. Hold on a second.  
20 Counsel, can you approach, please.  
21 (Bench conference)  
22 THE COURT: One of the jurors has asked for Mr.  
23 Averman's testimony to be played. Because it's rather long,  
24 I'm going to send them to lunch before we do that, and then  
25 I'm going to -- there's also a question from Ricky Gulati that

1 we're going to address now.

2 (End of bench conference)

3 THE COURT: Mr. Gulati, you had a question. You're  
4 writing it down. Sweet.

5 JUROR NUMBER 6: Yes.

6 THE COURT: Counsel, come back.

7 (Bench conference)

8 THE COURT: You know that my practice is to mark as  
9 Court's exhibits the questions we get and then separately mark  
10 their answers -- if you want to look at them, they're there --  
11 as well as all the jury questions that have been submitted  
12 during the course of the trial.

13 "Can you take it back to 4:18 and play it over  
14 again."

15 (End of bench conference)

16 THE COURT: So we're going to replay the portion  
17 that's about 4:18 to about 4:21.

18 (Portion of Michael Montalto's testimony replayed)

19 THE COURT: Ladies and gentlemen, does that complete  
20 the portions of the testimony of Mr. Montalto that you wanted  
21 to see?

22 JURORS: Yes.

23 THE COURT: We've also received a request to see Mr.  
24 Averman's testimony. Because that testimony is rather long,  
25 I'm going to have you go to lunch, and then when you come back



1 if you can give me any more definition as to the portion of  
2 Mr. Averman's testimony you would like to see, then I can try  
3 and narrow it down. Otherwise, we can play the whole thing  
4 for you.

5 All right. So at this time I'm going to let --  
6 Dan, wasn't your table downstairs ready?

7 MR. KUTINAC: Yes, Your Honor.

8 THE COURT: Okay. So if all of you, including the  
9 alternates, would go with the marshal, who will escort you to  
10 lunch. And then we'll see you after lunch.

11 (Jurors recessed at 11:30 a.m.)

12 THE COURT: So we'll wait and see. They're going  
13 downstairs to lunch. So maybe if we could meet back here at  
14 1:30.

15 MR. COFFEE: Done deal.

16 MR. ROGAN: Your Honor, which juror number was it  
17 that requested that? Was that Number 6 again?

18 THE COURT: No. That was Number 13, Ms. Avitia.

19 MR. COFFEE: Oh. That's Averman?

20 THE COURT: No -- yes, the Averman one.

21 The foreman submitted the request on Mr. Montalto.  
22 Number 6 is Ricky Gulati wanted that portion played  
23 again.

24 Okay. So we'll see you guys later. I'm going to do  
25 my conference call now. See you at 1:30. I'm hoping they

1 will narrow it when they come back from lunch.

2 (Court recessed 11:32 a.m., until 1:28 p.m.)

3 (Jury is present)

4 THE COURT: Good afternoon, ladies and gentlemen.

5 Counsel stipulate the presence of the jury?

6 MS. MERCER: Yes, Your Honor.

7 MR. COFFEE: Yes, Your Honor.

8 THE COURT: Ladies and gentlemen, has the jury  
9 reached a verdict?

10 JUROR NUMBER 11: Yes.

11 THE COURT: Has the jury selected a foreman?

12 JUROR NUMBER 11: Yes.

13 THE COURT: Sir, you have the verdict forms?

14 JUROR NUMBER 11: Yes, I do.

15 THE COURT: Could you hand them to the marshal,  
16 please. Thank you, Mr. Schulman.

17 The clerk will now read the verdict of the jury out  
18 loud.

19 THE CLERK: Yes, Your Honor.

20 "District Court, Clark County, Nevada. The State of  
21 Nevada, plaintiff, versus Troy White, defendant. Case Number  
22 C-286357, Department Number 11. Verdict.

23 "We, the jury in the above-entitled case, find the  
24 defendant Troy White as follows.

25 "Count 1, murder with use of a deadly weapon.

1 Guilty of second degree murder with use of a deadly weapon.  
2 "Count 2, attempt murder with use of a deadly  
3 weapon. Guilty of attempt murder with use of a deadly weapon.  
4 "Count 3, carrying a concealed firearm or other  
5 deadly weapon. Guilty of carrying a concealed firearm.  
6 "Count 4, child abuse, neglect, or endangerment as  
7 to Jodey White. Guilty of child abuse, neglect, or  
8 endangerment.  
9 "Count 5, child abuse, neglect, or endangerment as  
10 to Jesse White. Guilty of child abuse, neglect, or  
11 endangerment.  
12 "Count 6, child abuse, neglect, or endangerment as  
13 to Jayce White. Guilty of child abuse, neglect, or  
14 endangerment.  
15 "Count 7, child abuse, neglect, or endangerment as  
16 to Jazzy White. Guilty of child abuse, neglect, or  
17 endangerment.  
18 "Count 8, child abuse, neglect, or endangerment as  
19 to Jett White. Guilty of child abuse, neglect, or  
20 endangerment.  
21 "Dated this 17th day of April 2015 by Mr. Jeffrey  
22 Schulman, Foreperson."  
23 Ladies and gentlemen of the jury, is this your  
24 verdict as read, so say you one, so say you all?  
25 JURORS: It is.

1           THE COURT: Do either of the parties wish to have  
2 the jury polled?

3           MR. ROGAN: Not the State, Your Honor.

4           MR. COFFEE: No, Judge.

5           THE COURT: Thank you.

6           The clerk will now record the verdict in the minutes  
7 of the court.

8           Ladies and gentlemen, you are now completed with  
9 your jury service, and you are going to be discharged as  
10 jurors. I want to thank you both for the time and attention  
11 that you paid during this case, which was long and required a  
12 lot of thought on yourselves, and also the dedication that you  
13 showed in being here with us every day. So the service that  
14 you've provided is what makes our system work. We truly  
15 appreciate it. Thank you so much.

16           At this time you can talk to anybody you want to  
17 about the case. Sometimes for some of the lawyers it's  
18 helpful to find out things they did that you thought were  
19 effective and things they did that weren't effective. It's  
20 part of the learning process for lawyers just like it is for  
21 everybody else as they go through their profession. So if you  
22 want to talk to them, you are free to. There's a spot down on  
23 the third floor while you're getting your vouchers and  
24 processing out where they'll be able to talk to you if you  
25 want to. However, if somebody should persist in wanting to

1 talk to you after you've told them you don't want to talk to  
2 them, let the marshal know, and he'll help get you to your  
3 car.

4           So thank you very much. And for those alternates  
5 who didn't get to participate in the deliberations, thank you.  
6 Because you were here just for the same amount of time as the  
7 other jurors, and we truly appreciate you. Without having you  
8 here it wouldn't work.

9           So thank you. And due to you our system works. I'm  
10 going to come around and shake your hands, and then we'll let  
11 you go down to the third floor and process out.

12                           (Jurors discharged)

13           MR. COFFEE: ...on the first degree count, according  
14 to Mr. Lopez-Negrete.

15           THE COURT: Well, we're going to look real quick.  
16 Dulce, if you'd look.

17           Okay. So he's going to be -- remain incarcerated  
18 pending his sentencing on no bail.

19           Sir, part of the process, since it's a second  
20 degree, is we have to have a presentence investigation report  
21 prepared. They tell us they do that on a 50-day time frame  
22 currently. So we're going to set your sentencing in 50 days.  
23 If counsel either side would like to provide a sentencing  
24 memorandum in conjunction with the sentencing, I would be  
25 happy to read it prior to sentencing.

1           So we're going to give you a sentencing date now.  
2 Your file will be referred to P&P for a PSI.

3           THE CLERK: It'll be June 1 at 9:00 a.m.

4           THE COURT: Okay. And, counsel, I want to  
5 compliment all of you on the good job you did. Everybody was  
6 well prepared, the exhibits were very well organized, and the  
7 trial flowed very well. So thank you very much for your  
8 attention, your professionalism, and the hard work you put in.  
9 Thank you.

10           MS. MERCER: Thank you, Your Honor.

11           MR. ROGAN: Thank you. Thanks to the Court's staff,  
12 as well.

13           THE PROCEEDINGS CONCLUDED AT 1:35 P.M.

14                           \* \* \* \* \*

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**CERTIFICATION**

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT  
Las Vegas, Nevada 89146**

  
\_\_\_\_\_  
FLORENCE M. HOYT, TRANSCRIBER

10/15/15

\_\_\_\_\_  
DATE

APR 17 2015 1:33 PM

BY   
DULCE MARIE ROMEA, DEPUTY

1 INST

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

9 -VS- )

10 TROY WHITE, )

11 Defendant. )  
12

CASE NO: C-12-286357-1

DEPT NO: XI

13 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

14 MEMBERS OF THE JURY:

15 It is now my duty as judge to instruct you in the law that applies to this case. It is  
16 your duty as jurors to follow these instructions and to apply the rules of law to the facts as  
17 you find them from the evidence.

18 You must not be concerned with the wisdom of any rule of law stated in these  
19 instructions. Regardless of any opinion you may have as to what the law ought to be, it  
20 would be a violation of your oath to base a verdict upon any other view of the law than that  
21 given in the instructions of the Court.  
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If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Amended Information that on or about the 27th day of July, 2012, the Defendant committed the offenses of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1)) in the following manner, to-wit: That the Defendant, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did then and there willfully, feloniously, without authority of law, and with malice aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing having been willful, premeditated and deliberate.

COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

COUNT 3 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

did then and there, willfully, intentionally, unlawfully and feloniously carry concealed upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm semi-automatic handgun bearing Serial No. TOA33791.

///

///

1 COUNT 4 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

2 did willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-  
3 wit: JODEY WHITE, being approximately nine (9) years of age, to suffer unjustifiable  
4 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment  
5 or maltreatment, and/or cause the said JODEY WHITE to be placed in a situation where he  
6 might have suffered unjustifiable physical pain or mental suffering as a result of abuse or  
7 neglect, to wit: negligent treatment or maltreatment, by discharging a firearm inside the  
8 child's home within close proximity to the child and/or shooting the child's mother, Echo  
9 White, failing to seek assistance for Echo White, and allowing her to die while the said  
10 JODEY WHITE was coming in and out of the room and/or was in the near vicinity.

11 COUNT 5 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

12 did willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-  
13 wit: JESSE WHITE, being approximately five (5) years of age, to suffer unjustifiable  
14 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment  
15 or maltreatment, and/or cause the said JESSE WHITE to be placed in a situation where he  
16 might have suffered unjustifiable physical pain or mental suffering as a result of abuse or  
17 neglect, to wit: negligent treatment or maltreatment, by discharging a firearm inside the  
18 child's home within close proximity to the child and/or shooting the child's mother, Echo  
19 White, failing to seek assistance for Echo White, and allowing her to die while the said  
20 JESSE WHITE was coming in and out of the room and/or was in the near vicinity.

21 COUNT 6 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

22 did willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-  
23 wit: JAYCE WHITE, being approximately eight (8) years of age, to suffer unjustifiable  
24 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment  
25 or maltreatment, and/or cause the said JAYCE WHITE to be placed in a situation where he  
26 might have suffered unjustifiable physical pain or mental suffering as a result of abuse or  
27 neglect, to wit: negligent treatment or maltreatment, by discharging a firearm inside the  
28 child's home within close proximity to the child and/or shooting the child's mother, Echo

1 White, failing to seek assistance for Echo White, and allowing her to die while the said  
2 JAYCE WHITE was coming in and out of the room and/or was in the near vicinity.

3 COUNT 7 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

4 did willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-  
5 wit: JAZZY WHITE, being approximately six (6) months of age, to suffer unjustifiable  
6 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment  
7 or maltreatment, and/or cause the said JAZZY WHITE to be placed in a situation where he  
8 might have suffered unjustifiable physical pain or mental suffering as a result of abuse or  
9 neglect, to wit: negligent treatment or maltreatment, by discharging a firearm inside the  
10 child's home within close proximity to the child and/or shooting the child's mother, Echo  
11 White, failing to seek assistance for Echo White, and allowing her to die while the said  
12 JAZZY WHITE was coming in and out of the room and/or was in the near vicinity.

13 COUNT 8 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

14 did willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-  
15 wit: JETT WHITE, being approximately two (2) years of age, to suffer unjustifiable  
16 physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment  
17 or maltreatment, and/or cause the said JETT WHITE to be placed in a situation where he  
18 might have suffered unjustifiable physical pain or mental suffering as a result of abuse or  
19 neglect, to wit: negligent treatment or treatment, by discharging a firearm inside the child's  
20 home within close proximity to the child and/or shooting the child's mother, Echo White,  
21 failing to seek assistance for Echo White, and allowing her to die while the said JETT  
22 WHITE was coming in and out of the room and/or was in the near vicinity.

23 It is the duty of the jury to apply the rules of law contained in these instructions to the  
24 facts of the case and determine whether or not the Defendant is guilty one or more of the  
25 offenses charged.

26 Each charge and the evidence pertaining to it should be considered separately. The  
27 fact that you may find the defendant guilty or not guilty as to one of the offenses charged  
28 should not control your verdict as to any other offense charged.

1  
2 In this case the defendant is accused in an Information alleging an open charge of  
3 murder. This charge may include First Degree Murder and Second Degree Murder.

4 The jury must decide if the defendant is guilty of any offense and, if so, of which  
5 offense.  
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Murder is the unlawful killing of a human being with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise from anger, hatred, revenge, or from particular ill will, spite or grudge toward the person killed. It may also arise from any unjustifiable or unlawful motive or purpose to injure another, proceeding from a heart fatally bent on mischief or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes an unlawful purpose and design as opposed to accident and mischance.

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There are two types of malice; they are:

1. Express malice: Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.
2. Implied malice: Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.



First Degree Murder is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements -- willfulness, deliberation, and premeditation -- must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder.

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the actions.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

Murder of the second degree is all other kinds of murder.

The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as First Degree Murder.

The intention to kill may be ascertained or deduced from the facts and circumstances of the killing, such as the use of a weapon calculated to produce death, the manner of its use, and the attendant circumstances characterizing the act.

INSTRUCTION NO. 11

A defendant's state of mind does not require the presentation of direct evidence as it existed during the commission of a crime. The jury may infer the existence of a particular state of mind of a party from the circumstances disclosed by the evidence.

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2 All Murder which is not First Degree Murder is Second Degree Murder. Second  
3 Degree Murder is Murder with malice aforethought, but without the added mixture of  
4 premeditation and deliberation.  
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2       Manslaughter is the unlawful killing of a human being, without malice express or  
3 implied, and without any mixture of deliberation. Manslaughter must be voluntary, upon a  
4 sudden heat of passion, caused by a provocation apparently sufficient to make the passion  
5 irresistible.

6       In cases of voluntary manslaughter, there must be a serious and highly provoking  
7 injury inflicted upon the person killing, sufficient to excite an irresistible passion in a  
8 reasonable person, or an attempt by the person killed to commit a serious personal injury on  
9 the person killing.

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2 A killing committed in the heat of passion, caused by a provocation sufficient to make  
3 the passion irresistible, is Voluntary Manslaughter even if there is an intent to kill, so long as  
4 the circumstances in which the killer was placed and the facts that confronted him were such  
5 as also would have aroused the irresistible passion of the ordinarily reasonable man if  
6 likewise situated.  
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2 The heat of passion which will reduce a Murder to Voluntary Manslaughter must be  
3 such a passion as naturally would be aroused in the mind of an ordinarily reasonable person  
4 in the same circumstances. A defendant is not permitted to set up his own standard of  
5 conduct and to justify or excuse himself because his passions were aroused unless the  
6 circumstances in which he was placed and the facts that confronted him were such as also  
7 would have aroused the irresistible passion of the ordinarily reasonable man, if likewise  
8 situated. The basic inquiry is whether or not, at the time of the killing, the reason of the  
9 accused was obscured or disturbed by passion to such an extent as would cause the  
10 ordinarily reasonable person of average disposition to act rashly and without deliberation and  
11 reflection and from such passion rather than from judgment.  
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If there is some evidence of heat of passion caused by legally adequate provocation, the State has the burden of proving beyond a reasonable doubt that either:

1. The defendant was not acting in the heat of passion when he killed; or
2. That the passion was not caused by legally adequate provocation.

If they have failed to meet this burden, but you find that the State has proven an unlawful killing then you must return a verdict of Voluntary Manslaughter.

The serious and highly provoking injury which causes the sudden heat of passion can occur without direct physical contact and need not be the result of a physical assault on the defendant.

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2 You are instructed that if you find that the State has established that the defendant has  
3 committed First Degree Murder, you shall select First Degree Murder as your verdict.

4 The crime of First Degree Murder includes the crime of Second Degree Murder. You  
5 may find the defendant guilty of Second Degree Murder if:

6 1. You have not found, beyond a reasonable doubt, that the defendant is guilty of First  
7 Degree Murder, and

8 2. All twelve of you are convinced beyond a reasonable doubt that the defendant is  
9 guilty of the crime of Second Degree Murder.

10 If you are convinced beyond a reasonable doubt that the crime of Murder has been  
11 committed by the defendant, but you have a reasonable doubt whether such Murder was of  
12 the First or of the Second Degree, you must give the defendant the benefit of that doubt and  
13 return a verdict of Second Degree Murder.

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2 You are instructed that if you find the State has established that the defendant has  
3 committed Second Degree Murder, you shall select Second Degree Murder as your verdict.

4 The crime of Second Degree Murder may include the crime of Voluntary  
5 Manslaughter. You may find the defendant guilty of Voluntary Manslaughter if:

6 1. You have not found, beyond a reasonable doubt, that the defendant is guilty of  
7 Murder of either the First or Second Degree, and

8 2. All twelve of you are convinced beyond a reasonable doubt that the defendant is  
9 guilty of the crime of Voluntary Manslaughter.

10 If you are satisfied beyond a reasonable doubt that the killing was unlawful, but you  
11 have a reasonable doubt whether the crime is Second Degree Murder or Voluntary  
12 Manslaughter, you must give the defendant the benefit of that doubt and return a verdict  
13 Voluntary Manslaughter.  
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2 Attempt Murder is the performance of an act or acts which tend, but fail, to kill a  
3 human being, when such an act or acts are done with express malice, namely, with the  
4 deliberate intention unlawfully to kill. Implied malice is not an element of attempt murder  
5 and is not to be considered by you in regards to this charge.

6 Attempt murder does not require premeditation and deliberation.  
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2       Once a defendant forms the deliberate intention to kill and performs an act or acts  
3 which tend, but fail, to kill, he is guilty of attempt murder, regardless of whether he  
4 abandoned that attempt because of the approach of other persons, because of a change in his  
5 intentions due to a stricken conscience, or for any other reason.  
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2 If you are satisfied beyond a reasonable doubt that there was an unlawful attempt to  
3 kill but you have a reasonable doubt whether the crime of Attempt Murder was done in the  
4 sudden heat of passion, caused by a provocation apparently sufficient to make the  
5 provocation irresistible, you must give the defendant the benefit of that doubt and return a  
6 verdict of not guilty of Attempt Murder.

7 For you to find the defendant acted in the heat of passion there must be a serious and  
8 highly provoking injury inflicted upon the defendant sufficient to excite an irresistible  
9 passion in a reasonable person. Heat of passion and lawful provocation may be considered  
10 in determining whether state has proven deliberate intent in regards to the charge of Attempt  
11 Murder.

You are instructed that if you find the defendant guilty of First Degree Murder, Second Degree Murder, Voluntary Manslaughter or Attempted Murder, you must also determine whether or not a deadly weapon was used in the commission of this crime.

If you find beyond a reasonable doubt that a deadly weapon was used in the commission of such an offense, then you shall return the appropriate guilty verdict reflecting "With Use of a Deadly Weapon".

If, however, you find that a deadly weapon was not used in the commission of such an offense, but you find that it was committed, then you shall return the appropriate guilty verdict reflecting that a deadly weapon was not used.



Any person who carries a firearm concealed upon his person is guilty of Carrying a Concealed Weapon. "Concealed weapon" means a weapon that is carried upon a person in such a manner as not to be discernable by ordinary observation.

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2 A "deadly weapon" is any instrument which, if used in the ordinary manner  
3 contemplated by its design and construction, will or is likely to cause substantial bodily harm  
4 or death; or any weapon, device, instrument, material or substance which, under the  
5 circumstances in which it is used, attempted to be used or threatened to be used, is readily  
6 capable of causing substantial bodily harm or death.

7 You are instructed that a firearm is a deadly weapon.  
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The defendant is guilty of the offense of Child Abuse if the person willfully causes a child who is less than 18 years of age:

(a) to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, or,

(b) to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect.

As used in these instructions:

"Abuse or neglect" means negligent treatment or maltreatment of a child under the age of 18 years, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

"Negligent treatment" or "maltreatment of a child" occurs if a child has been abandoned, is without proper care, control and supervision or lacks subsistence, education, shelter, medical care or other care necessary for the well-being of the child because of the faults or habits of the person responsible for the welfare of the child or the neglect or refusal of the person to provide them when able to do so.

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every material element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

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2 The evidence which you are to consider in this case consists of the testimony of the  
3 witnesses, the exhibits, and any facts admitted or agreed to by counsel.

4 There are two types of evidence; direct and circumstantial. Direct evidence is the  
5 testimony of a person who claims to have personal knowledge of the commission of the  
6 crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof  
7 of a chain of facts and circumstances which tend to show whether the Defendant is guilty or  
8 not guilty. The law makes no distinction between the weight to be given either direct or  
9 circumstantial evidence. Therefore, all of the evidence in the case, including the  
10 circumstantial evidence, should be considered by you in arriving at your verdict.

11 Statements, arguments and opinions of counsel are not evidence in the case.  
12 However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation  
13 as evidence and regard that fact as proved.

14 You must not speculate to be true any insinuations suggested by a question asked a  
15 witness. A question is not evidence and may be considered only as it supplies meaning to  
16 the answer.

17 You must disregard any evidence to which an objection was sustained by the court  
18 and any evidence ordered stricken by the court.

19 Anything you may have seen or heard outside the courtroom is not evidence and must  
20 also be disregarded.

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The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.



INSTRUCTION NO. 30

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

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2 A witness who has special knowledge, skill, experience, training or education in a  
3 particular science, profession or occupation is an expert witness. An expert witness may  
4 give his opinion as to any matter in which he is skilled.

5 You should consider such expert opinion and weigh the reasons, if any, given for it.  
6 You are not bound, however, by such an opinion. Give it the weight to which you deem it  
7 entitled, whether that be great or slight, and you may reject it, if, in your judgment, the  
8 reasons given for it are unsound.

INSTRUCTION NO. 32

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

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2       The flight of a person immediately after the commission of a crime, or after he is  
3 accused of a crime, is not sufficient in itself to establish his guilt, but is a fact which, if  
4 proved, may be considered by you in light of all other proved facts in deciding the question  
5 of his guilt. Whether or not evidence of flight shows a consciousness of guilt and the  
6 significance to be attached to such a circumstance are matters for your deliberation  
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2 In your deliberation as to whether or not the defendant is guilty or not guilty, you may  
3 not discuss or consider the subject of punishment. Only if your verdict is First Degree  
4 Murder, will you, at a later hearing, decide the issue of penalty or punishment in relation to  
5 that charge.  
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2 When you retire to consider your verdict, you must select one of your number to act  
3 as foreperson who will preside over your deliberation and will be your spokesperson here in  
4 court.

5 During your deliberation, you will have all the exhibits which were admitted into  
6 evidence, these written instructions and forms of verdict which have been prepared for your  
7 convenience.

8 Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it  
9 signed and dated by your foreperson and then return with it to this room.

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2 If, during your deliberation, you should desire to be further informed on any point of  
3 law or hear again portions of the testimony, you must reduce your request to writing signed  
4 by the foreperson. The officer will then return you to court where the information sought  
5 will be given you in the presence of, and after notice to, the district attorney and the  
6 defendant and his counsel.

7 Playbacks of testimony are time-consuming and are not encouraged unless you deem  
8 it a necessity. Should you require a playback, you must carefully describe the testimony to  
9 be played back so that the court recorder can arrange her notes. Remember, the court is not  
10 at liberty to supplement the evidence.  
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2 If it becomes necessary during your deliberations to communicate with me, you may  
3 send a note through the marshal, signed by the foreperson you have selected or by one or  
4 more members of the jury. No member of the jury should ever attempt to communicate with  
5 me except by a signed writing, and I will communicate with any member of the jury on  
6 anything concerning the case only in writing, or here in open court.

7 If you send out a question, I will consult with the parties before answering, which  
8 may take some time. You may continue your deliberation while waiting for the answer to  
9 my question. Remember that you are not to tell anyone, including me, how the jury stands,  
10 numerically or otherwise, until after you have reached a verdict or have been discharged. Do  
11 not disclose any vote count in any note to the Court.  
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Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: 

DISTRICT JUDGE

APR 17 2015 1:33 PM

VER

BY   
DULCE MARIE ROMEA, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
-VS-  
TROY WHITE,  
Defendant.

CASE NO: C-12-286357-1  
DEPT NO: XI

VERDICT

We, the jury in the above entitled case, find the Defendant TROY WHITE, as follows:

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

*(please check the appropriate box, select only one)*

- ☐ Guilty of First Degree Murder with Use of a Deadly Weapon  
☐ Guilty of First Degree Murder  
☒ Guilty of Second Degree Murder with Use of a Deadly Weapon  
☐ Guilty of Second Degree Murder  
☐ Guilty of Voluntary Manslaughter of a Deadly Weapon  
☐ Guilty of Voluntary Manslaughter  
☐ Not Guilty

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**COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON**

*(please check the appropriate box, select only one)*

- ☒ Guilty of Attempt Murder with Use of a Deadly Weapon  
☐ Guilty of Attempt Murder  
☐ Not Guilty

**COUNT 3 - CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON**

*(please check the appropriate box, select only one)*

- ☒ Guilty of Carrying a Concealed Firearm  
☐ Not Guilty

**COUNT 4 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT  
(JODEY WHITE)**

*(please check the appropriate box, select only one)*

- ☒ Guilty of Child Abuse, Neglect, or Endangerment  
☐ Not Guilty

**COUNT 5 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT  
(JESSE WHITE)**

- ☒ Guilty of Child Abuse, Neglect, or Endangerment  
☐ Not Guilty

**COUNT 6 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT  
(JAYCE WHITE)**

- ☒ Guilty of Child Abuse, Neglect, or Endangerment  
☐ Not Guilty

**COUNT 7 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT  
(JAZZY WHITE)**

- ☒ Guilty of Child Abuse, Neglect, or Endangerment  
☐ Not Guilty

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**COUNT 8 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT**  
(JETT WHITE)

☒ Guilty of Child Abuse, Neglect, or Endangerment

☐ Not Guilty

DATED this 17 day of April, 2015

  
FOREPERSON

  
CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 TROY RICHARD WHITE,

12 Defendant.

CASE#: C286357-1

DEPT. XI

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15 BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

16 WEDNESDAY, JUNE 23, 2015

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
**TELEPHONIC CONFERENCE**

18 APPEARANCES:

19 For the State:

ELIZABETH A. MERCER, ESQ.  
Deputy District Attorney

20 For the Defendant:

21 SCOTT L. COFFEE, ESQ.  
Deputy Public Defender

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25 RECORDED BY: JILL HAWKINS, COURT RECORDER

1 WEDNESDAY, JUNE 23, 2015 AT 11:38 A.M.

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3 [All counsel appearing telephonically]

4 THE COURT: All right. Two things. Is that Mr. Coffee and Ms. Mercer on the  
5 phone? Dulce wants to know.

6 MS. MERCER: It is.

7 MR. COFFEE: It is.

8 THE COURT: Good. I'm so glad I was able to guess correctly.

9 So, two things. Ms. Mercer called and asked if we were going to do  
10 Troy White at a different time or trail it to the end of the calendar. Is it okay with you,  
11 Mr. Coffee, if we trail it towards the end of the calendar?

12 MR. COFFEE: Oh, sure, no problem at all.

13 THE COURT: So, let's plan for 9:45. But I'm going to leave it on the calendar  
14 where it is so the jail brings him because otherwise they try and bring him separate  
15 and then I got to wait for him to get back.

16 MS. MERCER: Okay.

17 MR. COFFEE: No problem.

18 THE COURT: Okay. Second issue. I understand from my law clerk that Ms.  
19 Mercer has submitted some documents for in camera examination.

20 MR. COFFEE: Right.

21 MS. MERCER: Correct.

22 THE COURT: I do not review documents in camera unless I've issued an  
23 order for me to do that for a specific purpose. So, why'd you send me documents?

24 MS. MERCER: Well because I believed that they were relevant to the  
25 charges pertaining to the children. They're the CPS records.

1 THE COURT: I already got a conviction. So, if we you want me to review  
2 those documents, we need to make arrangements for Mr. Coffee to have an  
3 opportunity to review them too because I won't review them unless he gets a chance  
4 to review them.

5 MS. MERCER: He's already received the complete packet of the CPS  
6 records prior to trial.

7 THE COURT: Is that true, Mr. Coffee?

8 MR. COFFEE: Your Honor, without seeing what you were given I've got no  
9 idea. I had no idea they were being reviewed by the Court.

10 THE COURT: I haven't reviewed them. I haven't even opened the envelope.

11 MR. COFFEE: What do we got specifically, Liz?

12 MS. MERCER: It's --

13 MR. COFFEE: I don't doubt that I've got them. I'm just --

14 MS. MERCER: It's the PDF file of CPS records that we provided to you  
15 previously.

16 MR. COFFEE: How long is it?

17 MS. MERCER: I think it's like 300 something pages. I only provided her the  
18 documents pertaining to the children in the case though.

19 MR. COFFEE: Okay. How much --

20 MS. MERCER: Which was probably, I would guess, 250 pages.

21 THE COURT: Laura is holding in front of me. It's about three inches thick.

22 MR. COFFEE: Oh, my goodness.

23 THE COURT: And usually what I do when I review CPS records is I make a  
24 determination -- are they redacted or unredacted, Ms. Mercer?

25 MS. MERCER: They're unredacted.

1 THE COURT: I make a determination as to whether given the current  
2 presentation they need to be produced to the other side. I then usually issue a  
3 limiting order on how they can be used based on the confidential nature of those  
4 records, and in a case like this where I have a sentencing and I've already had  
5 issues, I would of course make sure that everybody has a chance to review  
6 whatever it is I look at so if a record needs to be made about the records, that we  
7 have the ability to do so. So, I wasn't sure we'd done any of that which is why we're  
8 having this discussion.

9 MR. COFFEE: And I'm, to be honest, I'm not going to say I'm at an impasse  
10 but I'm in a little bit of an impasse without having seen the records. Now I will also  
11 say in terms of timing though I know the State had provided a sentencing memo and  
12 we were supposed to have a danger psych or a risk to re-offend psych, but I just got  
13 back today. The jail had been on lockdown all last week. We called and yelled at  
14 the doctor and got him in on Monday. It was faxed this morning to me. But those  
15 items were coming the Court's way also. But just way of -- so you know that they're  
16 coming.

17 THE COURT: All right. So, you're sending over some more stuff before the  
18 sentencing.

19 MR. COFFEE: I'm sending over some more stuff before the sentencing and  
20 I'm hoping to have it done here very shortly.

21 THE COURT: But the issue I'm having, and I'm happy to do whatever you  
22 guys think is appropriate, but I am uncomfortable reviewing documents that are in a  
23 sealed condition in camera without a good record about what I'm reviewing and the  
24 fact that defense counsel hasn't had an opportunity to challenge or not challenge the  
25 review.



1 MS. MERCER: Well, I mean, I haven't done anything to alter the records. I  
2 just took out the records -- the records that you have are the records that pertain to  
3 the five children alleged in the child abuse counts in this case. So, Mr. Coffee  
4 should be able to discern pretty quickly which records I'm referring to.

5 THE COURT: Are they Bates numbered, Ms. Mercer?

6 MS. MERCER: I'm sorry?

7 THE COURT: Are they Bates numbered?

8 MS. MERCER: No, they're not.

9 THE COURT: I'm not looking at them then.

10 Here's the issue. I will not be able to make a record of what it is that  
11 I've looked at. If you gave them to me in a Bates number fashion from the original  
12 set and I was able to adequately discern which records they were, it might be a  
13 different situation. But I'm not going to go and look at what you have as a selection  
14 of records without a better record being made.

15 MS. MERCER: Okay. Well then --

16 THE COURT: Not that you can't argue about them and what they contain  
17 because if they were in fact disclosed to Mr. Coffee as part of the discovery that's  
18 not an issue for me. My concern is that I don't know where these records came  
19 from. They don't appear from what I've heard so far to be something I previously  
20 reviewed and entered an order on, and whenever I do that, the documents are  
21 Bates numbered by me when I do the review if the parties haven't previously Bates  
22 numbered. So, I am constantly hand writing numbers on the bottom of DCFS  
23 records when I review them.

24 MR. COFFEE: The only other concern that I've got, Liz, off the top of my  
25 head and it's no such much -- I don't doubt that you gave us this stuff, not a question

1 about that. But I'd hate for this -- I don't know if the CPS records should necessarily  
2 end up in common circulation, if that makes sense.

3 MS. MERCER: They don't -- I provided them in the envelope that said that  
4 they were not to be filed with Court; that we were just going to ask that they be  
5 made according to this.

6 MR. COFFEE: Okay. Because that was the only other concern is who knows  
7 who is going to be digging around in this thing at some point. And for a variety of  
8 privacy reasons from your prospective, I would think they may not want to be out  
9 there.

10 THE COURT: Well they can't be released unless I issue an order and I  
11 haven't issued an order, at least I can't see that I've issued an order. I just looked  
12 through all of my hearings and I always do a minute order when I do an in camera  
13 view. And so I don't see that I've issued the order in this case. So, I don't know.  
14 Do you know anything, Ms. Mercer, about an order from the Court, the District Court  
15 on those?

16 MS. MERCER: I don't believe we -- I don't believe there was an order.  
17 Another deputy in our office was able to get them from our juvenile division.

18 THE COURT: Okay. Well I have a process that I use with DCFS records and  
19 it's always the same process. I issue an order saying that they should be produced  
20 and I'm going to do an in camera review. I then do an in camera review. I make a  
21 determination as to whether they should be produced or not. And then I have a  
22 limiting order that I use that nobody else uses about the restriction on the use of the  
23 documents given their confidential nature. I haven't done any of that in this case.

24 MS. MERCER: Okay.

25 THE COURT: So, I'm not saying you can't argue what's in those records. I'll

1 let you do whatever you want, but I'm not going to look at a sealed envelope of  
2 DCFS records when I haven't followed my normal procedure for how I handle what  
3 are very confidential records that require a Court order for them to be used for  
4 another purpose.

5 MR. COFFEE: And we can probably work through this. It might be best if I  
6 could talk with Ms. Mercer for a few minutes just concerning a possible way to work  
7 through it because I think everybody wants to go forward if we can.

8 THE COURT: Okay. I'm not saying we can't go forward. I'm just not going to  
9 look at them unless I have a higher level of comfort.

10 MR. COFFEE: No, I know. But if Ms. Mercer and I are allowed to talk for a  
11 minute we can probably get on the same page so we don't have to delay stuff.

12 THE COURT: Then how about I go on hold and you guys talk to each other  
13 and then I picked up in about five minutes.

14 MR. COFFEE: That would be perfect.

15 THE COURT: Okay. Lara, push hold.

16 [Pause in proceedings at 11:46 a.m.]

17 [Proceedings resumed at 11:57 a.m.]

18 THE COURT: Did you guys come up with anything?

19 MS. MERCER: We did. I apologize, Your Honor, for not knowing your  
20 practice and procedures when it came to the DCFS records. But I think that the  
21 parties are in agreement if the Court is willing to, we would like to continue the  
22 matter for a month so that I can get a Bate stamp copy to you and to Mr. Coffee and  
23 then we can make a record about what's contained in them.

24 THE COURT: Sure. How about we do this. Mr. Coffee, are you agreeable to  
25 that?

1 MR. COFFEE: Yeah, that's fine. I've actually got -- something came up in the  
2 sentencing memo that I probably need to investigate anyway. It will give me the  
3 opportunity to that so --

4 THE COURT: All right. So, we'll go ahead and we'll continue the sentencing  
5 which is scheduled for tomorrow until -- how do you guys feel about July 22<sup>nd</sup>?

6 MS. MERCER: That would be perfect, Your Honor.

7 THE COURT: Does that work, Mr. Coffee?

8 MR. COFFEE: That's perfect. I do have a prelim scheduled that day.

9 THE COURT: Would you rather go the Monday of that week, July 20<sup>th</sup>?

10 MR. COFFEE: That would be better for me. Would that work for you, Liz?

11 MS. MERCER: I'm just double checking my calendar real quick; yes, that's  
12 good for me.

13 THE COURT: Okay.

14 MR. COFFEE: Yeah. July 20<sup>th</sup> let's plan for. Do we need to have a status  
15 check on these records and things beforehand?

16 THE COURT: No. Here's what's going to happen.

17 MR. COFFEE: Okay.

18 THE COURT: So, we're continuing the sentencing to July 20<sup>th</sup>. I'm setting a  
19 status check on the records for -- how long you need, Ms. Mercer?

20 MS. MERCER: I can probably have that to you by Monday at the latest.

21 THE COURT: Okay. So, I will set a status check on July 3<sup>rd</sup>, which is a  
22 holiday on my chambers calendar.

23 MS. MERCER: Okay.

24 THE COURT: So, Dulce is going to pretend it's on July 2<sup>nd</sup> even though it's  
25 not a Friday. So, what it will say is my chambers calendar I'll say that something

1 happened. Please don't come. Mr. Sweetin came the other day for a chambers  
2 calendar and didn't want to leave. So, I'm going to review them in camera and I'm  
3 going to issue a minute. I may get to them faster. It depends when Ms. Mercer gets  
4 here.

5 MR. COFFEE: Okay.

6 THE COURT: And then my practice is my minute order will notify you to  
7 come pick up your Bates numbered copy --

8 MR. COFFEE: Okay.

9 THE COURT: -- that has been ordered to be released. Sometimes I don't  
10 release them all, Mr. Coffee.

11 MR. COFFEE: Okay.

12 THE COURT: And there will be a receipt that you have to sign that limits the  
13 use of those records unless you get an additional order.

14 MR. COFFEE: Okay.

15 THE COURT: I don't think you need an additional order in this case since  
16 you're only going to use them for argument at sentencing. But if you are going to  
17 give them to an expert or something, I typically require an ex parte motion to release  
18 them to the expert.

19 MR. COFFEE: Okay. No problem. As close as I got to an expert on this is  
20 my dad.

21 THE COURT: Okay. Anything else?

22 MS. MERCER: No, I think that's it. Sorry about that, Your Honor.

23 THE COURT: It's all right. It's just I got a process I got to go through and  
24 because of the nature of those records and I need to make sure I follow it.

25 MS. MERCER: Okay.

1 THE COURT: All righty.

2 MR. COFFEE: Thank you, guys. I'll call you back in a minute, Liz.

3 THE COURT: Bye.

4 MS. MERCER: Thank.

5 MR. COFFEE: Goodbye.

6 MS. MERCER: Goodbye.

7  
8 [Proceedings concluded at 12:00 a.m.]  
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio/video proceedings in the above-entitled case to the best of my ability.

23   
24 PATRICIA SLATTERY  
25 Court Transcriber

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 30, 2015**

C-12-286357-1

State of Nevada

vs

Troy White

**June 30, 2015****1:30 PM****Minute Order: In Camera Review****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**PARTIES** None. Minute order only - no hearing held.**PRESENT:**

**JOURNAL ENTRIES**

- Court MARKED unredacted unnumbered documents subject to prior conference call as Court's Exhibit 1 and SEALED it. (See worksheet.) Court reviewed in camera unredacted 0001-0329 (MARKED as Court's Exhibit 2 and SEALED). These records are to be released to the District Attorney and Mr. Coffee contingent upon both maintaining the confidentiality of these records and execution of the Court's receipt. If any additional disclosure of the records is to be made, counsel may seek an additional order of the Court.

CLERK'S NOTE: A copy of the above minute order was distributed to Deputy District Attorneys Liz Mercer and Jeffrey Rogan, and Deputy Public Defenders Scott Coffee and David Lopez-Negrete. / dr

  
CLERK OF THE COURT

1 RTRAN

2  
3  
4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 TROY RICHARD WHITE,

12 Defendant.

CASE#: C286357-1

DEPT. XI

13  
14  
15 BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

16 MONDAY, JULY 20, 2015

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
**SENTENCING**

18 APPEARANCES:

19 For the State:

ELIZABETH A. MERCER, ESQ.

JEFFREY S. ROGAN, ESQ.

Deputy District Attorneys

20  
21 For the Defendant:

SCOTT L. COFFEE, ESQ.

DAVID LOPEZ-NEGRETTE, ESQ.

Deputy Public Defenders

22  
23  
24  
25 RECORDED BY: JILL HAWKINS, COURT RECORDER



1 MONDAY, JULY 20, 2015 AT 9:37 A.M.

2  
3 THE COURT: Now can we go to Troy White. Good morning, Mr. White, how  
4 are you today?

5 THE DEFENDANT: I'm fine.

6 MS. MERCER: And, Your Honor, may the parties approach quickly?

7 THE COURT: Sure.

8 [Bench conference -- not transcribed]

9 MS. MERCER: She's indicating that she'd give consent, Your Honor.

10 THE COURT: Okay. Ms. Gaines, I understand that you are giving consent  
11 for any video to include Jayce's face today.

12 SPEAKER AMBER GAINES: Absolutely.

13 THE COURT: All right. I just wanted to ask because I don't know if you  
14 remember, during the trial I ordered that the faces be blurred because the adoption  
15 hadn't occurred yet.

16 SPEAKER AMBER GAINES: I appreciate that. Thank you so much.

17 THE COURT: All right. Anything else, counsel?

18 MS. MERCER: No, Your Honor.

19 THE COURT: This is the time set for entry of judgment imposition of  
20 sentence. Is there any legal cause or reason why judgment should not be  
21 pronounced against you at this time?

22 MR. COFFEE: Judge, the only legal cause or reason is the typographical  
23 errors that we mentioned at the bench in the Pre-Sentence Investigation Report.  
24 Parole and Probation has been contacted. They're in the process of doing a  
25 supplemental PSI. I don't see anything that's going to affect the sentencing

1 decision, but we'd ask that the Court accept the supplemental PSI before a JOC is  
2 signed. The parties are in agreement as to what the mistakes in the current PSI are.  
3 They have to do -- they're on page four -- and it has to do with number four, carrying  
4 a concealed weapon that says second offense. Actually there is no prior conviction  
5 for that.

6           The second mistake in the PSI has to do with number five, and that has  
7 to do with -- it says with criminal gang and there's no criminal gang alleged or no  
8 criminal gang involvement in Mr. White's past. I think the Court was aware of that  
9 and the context of the document makes it pretty clear. I don't think tht it was going  
10 to affect the Court's decision this morning, but we do expect that it could affect  
11 housing situations at the prison and we wanted to make sure it was on the record  
12 that we've asked to have that corrected and contacted the appropriate party.

13           THE COURT: There's no objection from the State to those corrections.

14           MS. MERCER: No, Your Honor.

15           THE COURT: So, based upon the representations and the lack of objection,  
16 the PSI is ordered to be amended to modify the offenses shown on page four to  
17 correctly reflect the charges and on page five to modify the mention of the gang  
18 issue. Anything else?

19           MR. COFFEE: No, Judge.

20           MS. MERCER: No, Your Honor.

21           THE COURT: Mr. Coffee, please prepare an order and send it over so P and  
22 P will be directed prior to my rendition of sentence to modify the PSI. Anything else,  
23 any other legal reason?

24           MR. COFFEE: No, Judge.

25           MS. MERCER: No, Your Honor.

1 THE COURT: Sir, by virtue of the jury's verdict, I adjudge you guilty of count  
2 one, guilty of second degree murder with use of a deadly weapon; count two, guilty  
3 of attempt murder with use of a deadly weapon; count three, guilty of carrying a  
4 concealed firearm; count four, guilty of child abuse, neglect or endangerment related  
5 to Jodey White; count five, guilty of child abuse, neglect or endangerment related to  
6 Jesse White; count six, guilty of child abuse, neglect or endangerment related to  
7 Jayce White; count seven, guilty of child abuse, neglect or endangerment related to  
8 Jazzy White, and count eight, child abuse, neglect or endangerment as to Jett  
9 White.

10 Sir, have you had an opportunity to review the Pre-Sentence  
11 Investigation Report and discuss it with your counsel dated May 26<sup>th</sup>?

12 THE DEFENDANT: Yes, I have.

13 THE COURT: And do you understand that this morning I've ordered that  
14 certain modifications being made to that document. Are there any other errors that  
15 you noted in reviewing that document with your counsel?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Okay. Is there anything you'd like to tell me before I hear from  
18 the attorneys?

19 THE DEFENDANT: Yes, Your Honor. I'd like to say that I'm sorry for my  
20 actions on July 27, 2012 for shooting my wife. I think about her every day and miss  
21 her every day; for shooting Joseph Averman. I'm sorry also for the emotional and  
22 mental problems I have caused my children because of my actions. I'm sorry that I  
23 even took a gun there that day. I know that I feel -- I know that sorry is not enough.  
24 I'm sorry for my wife's family and her friends and the grief that I've caused them and  
25 the heartache that I've caused them. I wish there was something I could do or say

1 to take it away and change everything that I've done. That's all I'd like to say. Thank  
2 you.

3 THE COURT: Thank you, sir. In addition, sir, your counsel and the State had  
4 both provided sentencing memorandums as well as some letters in support and a  
5 statement from at least one of the victims. Did you get a chance to review those as  
6 well?

7 THE DEFENDANT: No; but we've talked over them.

8 THE COURT: Okay. So, you've reviewed the contents with your counsel?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: All right. Thank you. State's position.

11 MS. MERCER: Thank you, Your Honor. And, Your Honor, I know that the  
12 Court has reviewed the sentencing memorandum which we filed back in June. So,  
13 I'll keep my arguments brief.

14 The State in its sentencing memorandum took the position that the  
15 recommendation of the Department of Probation and Parole should be followed by  
16 the Court, and the State still stands by that position. The Department of Probation  
17 and Parole recommended a total of 39 years to life when you added it all up. Based  
18 upon the facts of this case as well as the Defendant's prior history of violence, that  
19 sentencing is reasonable.

20 This was not the Defendant's first time acting violently towards a  
21 significant other. During the course of the State's preparation for this trial, we spoke  
22 to a number of witnesses that were noticed by the defense, colleagues of the  
23 Defendant. One of those people who attended church with him advised us that she  
24 heard testimony from him about how he was previously violent with another ex-wife  
25 and in fact held a knife to her at some point.

1 In addition, we learned that he was violent with Echo Lucas White at  
2 least three times prior to taking a firearm with him on a bus, riding a bus for an hour  
3 and a half, and then murdering her in front of her five children. The most recent of  
4 those events occurred a month prior and when the Defendant acted violently toward  
5 her, he also told her I'm going to kill you. And then a month and three days later  
6 she's murdered in front of her five children. He then left those five children to watch  
7 their mother dying, initially refused to call for help and any effort whatsoever to save  
8 her life. He also shot and wounded Joseph Averman two times and didn't seek for  
9 him until Jodey escaped from the house and he knew that the police were going to  
10 be coming.

11 When he shot and killed Echo Lucas White, he took from those who  
12 loved her a mother, a daughter, a sister, an only daughter at that, and a friend to  
13 many. In speaking to those her loved her you can tell that she was a bright light in  
14 their world and that their worlds were very dimmed -- I'm sorry, Your Honor. Mr.  
15 Rogan is going to step in.

16 THE COURT: Okay.

17 MR. ROGAN: Your Honor, as Ms. Mercer was saying, their whole family has  
18 been affected by this crime, and you can see them all here today, tears in their eyes  
19 crying over what this man has done. And although he has apologized today, an  
20 apology is meaningless to them because they don't have their daughter and their  
21 sister and their mother any longer. And, in fact, of her children only three are here  
22 today because the other two are so distraught over what this man did that they could  
23 not even come to Court and face him and speak to this Court about how his actions  
24 affected them and their lives.

25 One of these children is, in fact, in such emotional distraught -- has

1 experienced such emotional distress that he has had difficulty at home and is now in  
2 a group home through the Department of Family Services because and solely  
3 because of the actions of this man. It is going to take years of therapy for him to  
4 recover. That is the one child that was there that day and saw his father murder his  
5 mother.

6 Your Honor, this is the second time this year that I have had to be in a  
7 sentencing where a father has killed a mother, a father has killed his wife. It's too  
8 many. This community has experienced this too many times and we need to send  
9 that message to this community that these actions of people like the Defendant are  
10 not going to be forgotten and that they're going to be treated appropriately by  
11 prosecutors, by the police, and by the Courts.

12 It's not often that we see a recommendation like we see in the PSI here  
13 today essentially asking for the maximum possible punishment under the counts that  
14 the Defendant was convicted. We think that it's appropriate given the number of  
15 victims to this crime that each of these cases be run consecutive, each of these  
16 counts be run consecutively as we've indicated in our sentencing memorandum for  
17 a total of 39 years to life in prison. There nothing in the law that prohibits this  
18 although the sentencing memorandum of the defense seems to suggest otherwise.  
19 NRS 200.508 does not prohibit consecutive sentences if it's in fact authorized by  
20 law. And we think that that is an appropriate punishment for the victims who are  
21 here today and for the community at large that this man serve that significant period  
22 of incarceration. Thank you.

23 THE COURT: Thank you, Mr. Rogan. Mr. Coffee.

24 MR. COFFEE: The State says we think the PSI is reasonable. I don't know  
25 how reason plays in a case like that.

1           This is an anomaly for what, from what I've been able to tell, was a  
2 decent man most of his life who acted with the worst judgment possible in the most  
3 violent way possible and took the life of his wife. If there were a way to bring her  
4 back, if throwing a rope over something in this courthouse and videotaping would  
5 resurrect her somehow, I couldn't argue against it, but it won't. And while Mr. Rogan  
6 would like to send a message to the community, and I understand that, the problem  
7 is in these emotional situations there's a limited amount of control that sending a  
8 message is going to have. The Court's just not going to be able to give a harsh  
9 sentence to Mr. White and stop these sorts of crimes. Whatever the Court decides  
10 today is going to be a harsh sentence. There's no question about that; whatever the  
11 Court imposes.

12           The Pre-Sentence Investigation Report and the jury, despite the notes  
13 and the emails and the texts, saw fit to convict Mr. White of second degree murder  
14 as opposed to first. It is always troubled me, and we include it in the sentencing  
15 memorandum, that there is a certain dependence on the manner in which the State  
16 charges that defines where they're at with sentencing. The child abuse and neglect  
17 in this particular case is exactly on point.

18           There's a recent case named *Johnson* in the Nevada Supreme Court  
19 that talks about legislative intent with concurrent and consecutive time. And if you  
20 look at 200.508 it talks about the act or omission that results in the abuse and  
21 neglect, and here the act or omission from beginning of trial from prelim all the way  
22 through has been the killing of Echo White. And I think the devastation that was  
23 caused may certainly call for something towards the long end of the sentence on the  
24 second degree murder. We don't take issue with that. We'd ask the Court to follow  
25 the recommendation of parole and probation as to that count. And I believe the

1 recommendation is around 16 years, give or take.

2           The act of shooting Joseph Averman is an independent action we'd ask  
3 the Court to give consecutive time if the Court thinks that is appropriate as to Mr.  
4 Averman. It may well be given the facts of the case. Given the fact that Mr. White  
5 turned himself in, that he's got no record, the other things that weighed in his favor, I  
6 would ask the Court to consider perhaps four to ten and a consecutive four to ten for  
7 Mr. Averman, understanding that it would run consecutive to the underlying  
8 sentence for Ms. White. But those are the two primary people that were hurt.

9           Now I understand that the family was devastated. Please do not take  
10 this as me saying there aren't mothers and children who were affected by this. All  
11 the family members they absolutely loved Echo. She was vivacious. I don't think  
12 anybody loved Echo -- and that's the dilemma of this case -- I don't think anybody  
13 loved her more than Mr. White at least at some point. And I don't know what went  
14 on his head to go there with a gun that night. Mr. White has been repentant since I  
15 have represented him. It's been three years, four years at this point. He regularly  
16 breaks down if I show him pictures. I don't think he's acting in apologizing for the  
17 Court.

18           You've got a evaluation from Greg Porter, Dr. Greg Porter, concerning  
19 whether or not he's a future threat for child abuse and neglect. Given the facts of  
20 this case, I think it's pretty obvious that that was going to come back as a low risk,  
21 but the law requires that we do that and it did it. It did come back as a low risk.

22           I think the spirit of 200.508 is for concurrent time for the child abuse  
23 counts and I think it can be taken into consideration with the verdict that the jury  
24 returned with the second degree murder and with the attempt murder of Joseph  
25 Averman. We laid out law from a number of other states. Nevada doesn't have



1 some strict guidelines concerning concurrent time. Of the other states that have  
2 looked at it when they're talking about concurrent time, have all come to the  
3 conclusion that a lot of it depends on if it's part and parcel with the underlying  
4 offense, and here it certainly is. The fact that the children were home makes it  
5 worse. I don't deny that. But I think that, again, it calls for a longer sentence on the  
6 second degree murder with perhaps a consecutive sentence for Mr. Averman.  
7 There's nothing I can do or say that will change anything that Mr. White did that day  
8 and nothing he can do. But I think the recommendation of parole and probation at  
9 39 years with consecutive time for everything essentially gives him a life without  
10 parole at his age. How old are you right now, Troy?

11 THE DEFENDANT: Forty-seven.

12 MR. COFFEE: Forty-seven. Maybe with health care maybe it's not life  
13 without but it's pretty close. He's going to have a life tail I expect regardless of what  
14 the Court does. If the Court sentenced him someplace in the 20 to 25 year range  
15 he's going to be 70 before he's even eligible for parole. I think that's appropriate. I  
16 think the Court could do that taking into consideration everything that's been done  
17 and that's what we're going to ask the Court to do.

18 THE COURT: Okay. Thank you.

19 MS. MERCER: And, Your Honor, there are --

20 THE COURT: Hold on a second. Mr. White, is there anything else you'd like  
21 to say before I hear from the victim speakers?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Thank you. All right.

24 MS. MERCER: There are four witnesses, Your Honor, four people who would  
25 like to give a victim impact statement, and the first one is Amber Gaines.

1 THE COURT: Okay. Ms. Gaines, if you would come to the podium, please.  
2 We have to swear you in.

3 **AMBER GAINES**

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

5 THE VICTIM IMPACT SPEAKER: State your name, spelling your first and  
6 last for the record.

7 THE VICTIM IMPACT SPEAKER: Amber Gaines, A-M-B-E-R GA-I-N-E-S.

8 THE COURT: Ma'am, first I'd like to tell you that I am as well sorry for your  
9 loss.

10 THE VICTIM IMPACT SPEAKER: I know. Thank you.

11 THE COURT: If you would tell me how this incident has affected you and  
12 your family.

13 THE VICTIM IMPACT SPEAKER: I'm going to try to do this without crying;  
14 okay. My name is Amber Gaines. My daughter was Echo. Words cannot express  
15 the pain and anguish our family has endured. His decision to take my daughter's life  
16 with no regard is unimaginable. The loss is Echo is beyond words. No more  
17 birthdays, no more family gatherings or laughter; the hugs and opportunity to say I  
18 love you are forever gone. I'm sorry.

19 THE COURT: It's okay, ma'am.

20 THE VICTIM IMPACT SPEAKER: Our family is forever broken, of course.  
21 On July 27<sup>th</sup> of 2012 my beautiful child was shot to death. I'm trying to share the  
22 word how Echo's murder has impacted my grandchildren and myself and my family.  
23 He took my rest and he took my peace. I have lost faith and trust in people. I have  
24 trouble finding joy in the simple pleasures of being happy. Life was so much fun  
25 when she was in it. It doesn't seem right anymore and nothing seems right. The

1 despair is so overwhelming that it takes my breath away at times. Echo was loving,  
2 fun, kind, and her heart as big the world. Her murderer, Troy, took a daughter, a  
3 best friend, a mother. I watch her children struggle on a daily basis since the loss of  
4 their mommy. Their world has been shattered like no other. We are now painfully  
5 aware that there are such horrible violence and evil men in this world.

6           As I read this it still seems so unbelievable that some monster would  
7 take my child of God away from us all. Echo was my only child. She was my gift.  
8 He took her away. He played God. The children will always carry despair of murder  
9 with them. The man they once called dad is now the very scary guy in the closet.  
10 We miss Echo so terribly bad. It's a feeling that cannot even be described. I was  
11 so -- I wish so badly I could have taken that bullet for her so she could be with her  
12 beautiful children and watch them grow. She had a thirst for life, a contagious  
13 personality, and everyone who came in contact with Echo became a friend.

14           She was the most precious gift in my life. I miss her smile, her silly  
15 ways. I miss how she was always say to me, cheer up, Charlie, when I was feeling  
16 down. We shared the same heartbeat for nine months but really for 29 years. She  
17 was life, my angel, my best friend, my Echo, my daughter; the love she had for me,  
18 her children, her friends, how strong she was.

19           I just want to everyone to know what a wonderful person Echo was.  
20 The emotional and physical damage this has caused our family is nothing less than  
21 nightmare. My beautiful child is gone by his --- of him. Her five children, Jodey,  
22 Jayce, Jesse, Jett, and Jazzy have lost their reasons of being.

23           She wanted so badly to become a grandmother one day. We used to  
24 tease one another about what a cool granny she would be. Echo will never get to  
25 be that grandmother nor will she ever get to see her babies grow into adults. Echo

1 is a name we use in our home on a daily basis and always will keep her memory  
2 alive. As for now, we have just memories and hopes of seeing her again in God's  
3 time. Thank you.

4 THE COURT: Thank you. Ms. Mercer, any questions for Ms. Gaines?

5 MS. MERCER: No, Your Honor.

6 THE COURT: Ms. Gaines, wait a minute. Mr. Coffee, any questions for Ms.  
7 Gaines?

8 MR. COFFEE: No; thank you, Ms. Gaines.

9 THE COURT: Your next speaker.

10 MS. MERCER: It's Michael Gaines, Your Honor. And for the record, he's  
11 Amber's -- I mean -- Echo's step-father.

12 MS. MERCER: And, Your Honor, Ms. Gaines has just indicated that he's also  
13 going to read Jesse's statement to the Court, if that's okay.

14 THE COURT: Mr. Gaines, if you'd come forward to the podium and be  
15 Sworn, please

16 **MICHAEL GAINES**

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

18 THE COURT CLERK: Please state your full name, spell your first and last.

19 THE VICTIM IMPACT SPEAKER: Michael Gaines. I'm the father now of  
20 Jayce and Jesse and the grandfather of the other children.

21 THE COURT: And, sir, again, sorry for your loss. If you could tell us how this  
22 has impacted -- I understand you're going to read Jesse's statement as well.

23 THE VICTIM IMPACT SPEAKER: I will. I have Jesse's here.

24 My mommy was great mom. She did everything for me. She was  
25 teaching me to tie my shoes. She would just -- she was just with me and my brother

1 all day. I still have nightmares of the day he shot her. She tried to talk but all I  
2 heard was gurgling and the sound of air coming from the bullet hole in her. I wish  
3 Troy would have died and my mommy was still alive. Every day I think about her  
4 short life. Life has been full of doubt. When I think of her I can't think of anything  
5 wrong with her. I miss her more than anything even now. I hope to see her again  
6 one day. My love for her is a bond that can never be broken. I love her to the moon  
7 and back and she could always say that to me too. I miss all the games we played  
8 and the Rock Band. We had the whole set. What happened that day I will never  
9 forget and I will never call him dad again forever ruining my life. I will always be  
10 haunted by what he did that day. I love you, Mommy, to the moon and back. Love,  
11 Jesse.

12 THE COURT: Thank you, sir. Sir, is there anything else you'd like to tell us  
13 or how this impacted you and the family?

14 THE VICTIM IMPACT SPEAKER: This impacted everybody in the family, I  
15 mean, tremendously. The oldest, Jodey, witnessed the shooting. He's the one that  
16 ran out the house and called for the police. When I was doing my impact statement,  
17 he ended up going to Monte Vista Mental for anger problems, and he's been  
18 through five foster homes. But me and him talked one day and he was telling me  
19 what had happened, and he was crying, and he swore that he could have stopped  
20 him. He said I could have done something. He said I could have got a knife, I could  
21 have stopped him. And he was crying. And I took him by the shoulders and looked  
22 him right in the eye and I said, look, there was another man in the house that was  
23 shot too, and I said you were nine years old, there's nothing you could do. He still  
24 thinks that he could have done something to save his mom, and to me, that was one  
25 of the hardest things. That's something that's never going to leave him.

The other kids are affected bad too, but he is going to have a problem the rest of his life. I mean, we really tried to get him on the right track and try to put some light into his life, but it's just dark and he can't seem to snap out of what happened that day.

THE COURT: Thank you, sir.

THE VICTIM IMPACT SPEAKER: I mean, you see how it's affected my wife. She'll never be the same person she was when I married her 20 years ago. The boys, just it's a horrible thing, and we're all doing our best just to make sure the boys can have a good life.

THE COURT: Thank you, sir.

THE VICTIM IMPACT SPEAKER: I know there's no bringing her back. What he did was one of the most horrible acts, and it didn't just affect these five kids but there's two more kids back there for their mother too, and they have to live with that as well. There's other grandparents. There's so many people that it's messed their lives up bad. That's all I have to say.

THE COURT: Ms. Mercer. Any questions for Mr. Gaines?

MS. MERCER: No, Your Honor.

THE COURT: Mr. Coffee?

MR. COFFEE: No; thank you, sir.

THE COURT: Your next speaker.

MS. MERCER: Your Honor, the next speaker is Trish Lucas and she was Echo's step-mother.

TRISH LUCAS

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

THE COURT CLERK: Please state your full name, spelling first and last.

1 THE VICTIM IMPACT SPEAKER: Trish Lucas, T-R-I-S-H L-U-C-A-S.

2 THE COURT: And ma'am, again, I'm sorry for your loss. If you could tell us  
3 how this has affected you and your family.

4 THE VICTIM IMPACT SPEAKER: I met Echo in 1998 and a couple of years  
5 after that, I married her dad and became her bonus momma she called me. In our  
6 family, there's no steps and there's no exes. Words cannot express the pain that  
7 Don and I have felt since July 27<sup>th</sup> when Echo was taken from us.

8 We adopted Echo's two oldest children she had at a very, very young  
9 age. Echo struggled with that for a while and eventually was grateful that she was  
10 able to keep a relationship with Sidney and Caleb and that they were still in the  
11 family. When Echo was killed, we watched both our children struggle with emotions  
12 no child should ever have to struggle with. We've had a lot of therapy and my son  
13 starting acting out in school and at home. My daughter has had to go to therapy  
14 trying to stay strong for her daddy because he's never been the same since losing  
15 Echo.

16 Echo was his heart; he's broken now. He's not the same. That day  
17 when he lost Echo he lost a part of himself, my kids lost a part of their father, the  
18 babies lost a part of their grandfather. That day that he lost her we took home all  
19 five kids with no clothes, no diapers, no shoes, just whatever they had on that day  
20 when Jodey ran out of the house to call the police to try to save his mom's life. It  
21 was the worst day of my life.

22 Since then Don has adopted the two babies and we're just trying to  
23 have them strive and live a happy life and remind them who their mommy is every  
24 single day. Jazzy was only six months old when her mommy was taken from her. It  
25 breaks my heart because we're sitting at the dinner table and she's talking to her

1 cousin and she says I don't have a mommy. And we reminded her who mommy is;  
2 her mommy is in heaven, her mommy is here with us, but she'll never -- her mommy  
3 will never be able to see her get married, pick out a wedding dress.

4 My kids were just getting to know Echo because she was staying with  
5 her dad on the weekends. She was going through a divorce and she's staying with  
6 her dad on the weekends and we were just getting a very good relationship with her  
7 and were just taken from her -- she was taken from them again just like when they  
8 were little, and it's not fair. Echo once told me that she would have a million children  
9 if she could because that's what she knew she was good at, being a mom. Troy  
10 took her from all the children, mine included. I just ask that you give him the  
11 maximum sentence for all of the charges that he's convicted of.

12 THE COURT: Thank you, ma'am. Ms. Mercer, any questions?

13 MS. MERCER: No, Your Honor.

14 MR. COFFEE: No, Judge.

15 THE COURT: Thank you, ma'am. Next speaker.

16 MS. MERCER: Your Honor, the next speaker is Jayce Gaines. I'm not sure if  
17 he can reach the microphone.

18 THE COURT: I'm going to have him stand on the side. Jayce, if you could  
19 come up here. Kevin, pull out the flap and put the microphone there, please.

20 MS. MERCER: Your Honor, is it okay if Ms. Gaines stands next to him?

21 THE COURT: It is.

22 THE VICTIM IMPACT SPEAKER: When my mommy died --

23 THE COURT: Hold on, Jayce, we're going to swear you in. Remember when  
24 you sat in the witness stand and we swore you in.

25 **JAYCE GAINES**



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

2 THE VICTIM IMPACT SPEAKER: When my mommy died, the world turned  
3 up. There were no more days of fun. I cannot see the world without her and my  
4 family was helping me cope with her death, but I still don't have my mommy. I  
5 remember times when we would finger paint and go the park and play hide and  
6 seek. I remember her bake us biscuits with warm peanut butter at 2 a.m. in the  
7 morning because she loved us. I miss all that so much. The death of my mom has  
8 totaled my life that I could never be fixed -- that I thought could never be fixed. As  
9 time goes on my Gigi and Pappa we talk about my mommy and all the fun times we  
10 had. I miss you, Mommy. Love, Jayce. And I hope you can hear me.

11 THE COURT: Thank you, sir, and I'm sorry for your loss. Any questions for  
12 Jayce, Mr. Coffee?

13 MR. COFFEE: No, thank you.

14 THE COURT: Thank you, sir. Any additional speakers?

15 Mr. White, in accordance with the laws of the state of Nevada, I now  
16 sentence you on count one to a term of life with possibility of parole after ten years,  
17 plus an enhancement for use of a deadly weapon of 76 to 192 months.

18 On count two, I sentence you to a period of 76 to 192 months plus an  
19 enhancement of 76 to 192 months for use of a deadly weapon; that count to run  
20 consecutive to count one.

21 On count three, I sentence you to a period of 19 to 48 months; that count to  
22 run concurrent to counts one and two.

23 On count four, I sentence you to a period of 24 to 60 months; that count to run  
24 consecutive to counts one and two.

25 On count five, I sentence you to a period of 24 to 60 months; that count to run

1 concurrent to all other counts.

2 On count six, I sentence you to a period of 24 to 60 months; that count to run  
3 concurrent to all other counts.

4 On count seven, I sentence you to a period of 24 to 60 months; that count to  
5 run concurrent to all other counts.

6 On count eight, I sentence you to 24 to 60 months; that count to run  
7 concurrent to all other counts.

8 By my calculation, the aggregate sentence is a 31 to life; does anyone  
9 disagree with that math?

10 MS. MERCER: No, Your Honor.

11 MR. COFFEE: Court's indulgence.

12 THE COURT: While Mr. Coffee's doing that math, sir, in addition you have to  
13 pay an administrative assessment of \$25, a \$3.00 DNA administrative assessment,  
14 extradition costs of \$335.50, DNA testing costs of \$150 and submit yourself to DNA  
15 testing, a \$250 defense assessment. Credit for time served should be about 1,050  
16 days according to my calculation.

17 MS. MERCER: Court's indulgence.

18 MR. COFFEE: Judge, I --

19 MS. MERCER: I think it's a little bit more than that.

20 MR. COFFEE: I think it's actually a little bit --

21 MR. NEGRETE: We calculated 1,088 from the date of the offense which is  
22 July 27<sup>th</sup> until today.

23 MR. COFFEE: Enhancement for the deadly weapon was 76 also.

24 THE COURT: Seventy-six and 192 on both one and two.

25 MR. COFFEE: Okay. I should be quicker at math. I apologize, Judge.

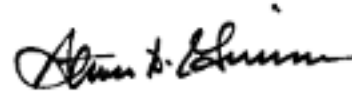
1 THE COURT: I did it ahead of time which is what I'm asking you to confirm.  
2 MR. COFFEE: Okay.  
3 THE COURT: So, you're asking for credit for the time he was in the Arizona  
4 custody as well?  
5 UNKNOWN SPEAKER: Correct.  
6 THE COURT: All right.  
7 MS. MERCER: Your Honor, I calculated it at 1,075 but I'll submit it to the  
8 Court.  
9 THE COURT: 1,088 days credit.  
10 Mr. Coffee, have we done the math yet?  
11 MR. COFFEE: I am almost there. I'm going to assume that the Court is  
12 correct now that we've -- Court's indulgence. It's easier to correct it now.  
13 THE COURT: It's okay. Math is important and it's not something most  
14 lawyers are good at. Take your time.  
15 MR. COFFEE: We believe it's 34 to life, Judge.  
16 THE COURT: Thirty-four. Okay. The aggregate sentence, sir, is 34 to life.  
17 Counsel may have made a mistake but that's our best estimate of doing the math.  
18 It would be included specifically in your Judgment of Conviction as well.  
19 MR. COFFEE: And if the math is wrong I'll talk with Mr. Rogan and I'll get a  
20 calculator that's smarter than me and we'll correct it with the Judgment of  
21 Conviction.  
22 MS. MERCER: Thank you, Your Honor.  
23 THE COURT: Anything else?  
24 MR. COFFEE: No.  
25 MS. MERCER: No.

1 THE COURT: All right. Have a nice day.

2  
3 [Proceedings concluded at 10:17 a.m.]  
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio/video proceedings in the above-entitled case to the best of my ability.

23   
24 PATRICIA SLATTERY  
25 Court Transcriber



CLERK OF THE COURT

JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TROY RICHARD WHITE  
#1383512

Defendant.

CASE NO. C286357-1

DEPT. NO. XI

JUDGMENT OF CONVICTION  
(JURY TRIAL)


The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 3 – CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony) in violation of NRS 202.350(1)(d)(3); and COUNTS 4, 5, 6, 7 and 8 – CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); and the matter having been tried

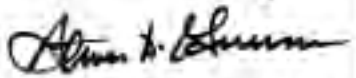
1 before a jury and the Defendant having been found guilty of the crimes of COUNT 1 –  
2 SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A  
3 Felony) in violation of NRS 200.010, 200.030, 193.165; COUNT 2 – ATTEMPT  
4 MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of  
5 NRS 200.010, 200.030, 193.330, 193.165; COUNT 3 – CARRYING A CONCEALED  
6 FIREARM OR OTHER DEADLY WEAPON (Category C Felony) in violation of NRS  
7 202.350(1)(d)(3); and COUNTS 4, 5, 6, 7 and 8 – CHILD ABUSE, NEGLECT OR  
8 ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); thereafter, on  
9 the 20<sup>th</sup> day of July, 2015, the Defendant was present in court for sentencing with  
10 counsel SCOTT COFFEE, Deputy Public Defender, and good cause appearing,  
11

12 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in  
13 addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil  
14 Assessment Fee, \$335.50 Extradition Costs and \$150.00 DNA Analysis Fee including  
15 testing to determine genetic markers plus \$3.00 DNA Collection Fee, the Defendant is  
16 SENTENCED to the Nevada Department of Corrections (NDC) as follows: **COUNT 1 –**  
17 **LIFE** with the eligibility for parole after serving a **MINIMUM** of **TEN (10) YEARS**, plus a  
18 **CONSECUTIVE** term of **ONE HUNDRED NINETY-TWO (192) MONTHS** with a  
19 **MINIMUM** parole eligibility of **SEVENTY-SIX (76) MONTHS** for the Use of a Deadly  
20 **Weapon**; **COUNT 2 - a MAXIMUM** of **ONE HUNDRED NINETY-TWO (192) MONTHS**  
21 **with a MINIMUM** parole eligibility of **SEVENTY-SIX (76) MONTHS**, plus a  
22 **CONSECUTIVE** term of **ONE HUNDRED NINETY-TWO (192) MONTHS** with a  
23 **MINIMUM** parole eligibility of **SEVENTY-SIX (76) MONTHS** for the Use of a Deadly  
24 **Weapon**; **CONSECUTIVE** to COUNT 1; **COUNT 3 – a MAXIMUM** of **FORTY-EIGHT**  
25  
26  
27  
28

1 (48) MONTHS with a MINIMUM Parole Eligibility of NINETEEN (19) MONTHS,  
2 CONCURRENT WITH COUNTS 1 & 2; **COUNT 4** – a MAXIMUM of SIXTY (60)  
3 MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS,  
4 CONSECUTIVE TO COUNTS 1 & 2; **COUNT 5** – a MAXIMUM of SIXTY (60) MONTHS  
5 with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT  
6 with ALL OTHER COUNTS; **COUNT 6** – a MAXIMUM of SIXTY (60) MONTHS with a  
7 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
8 ALL OTHER COUNTS; **COUNT 7** – a MAXIMUM of SIXTY (60) MONTHS with a  
9 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
10 ALL OTHER COUNTS; **COUNT 8** – a MAXIMUM of SIXTY (60) MONTHS with a  
11 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
12 ALL OTHER COUNTS; with ONE THOUSAND EIGHTY-EIGHT DAYS (1,088) DAYS  
13 credit for time served. The AGGREGATE TOTAL sentence is LIFE with a MINIMUM  
14 OF THIRTY-FOUR (34) YEARS.  
15  
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17

18 DATED this 23<sup>rd</sup> day of July, 2015  
19  
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21  
22   
23 ELIZABETH GONZALEZ  
24 DISTRICT COURT JUDGE  
25  
26  
27  
28

  
CLERK OF THE COURT

1 NOAS  
2 PHILIP J. KOHN, PUBLIC DEFENDER  
3 NEVADA BAR No. 0556  
4 309 South Third Street, Suite 226  
5 Las Vegas, Nevada 89155  
6 (702) 455-4685  
7 Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,  
8  
9 Plaintiff,  
10  
11 v.  
12 TROY RICHARD WHITE,  
13 Defendant.

CASE NO. C-12-286357-1  
DEPT. NO. XI

NOTICE OF APPEAL

13 TO: THE STATE OF NEVADA

14 STEVEN B. WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY,  
15 NEVADA and DEPARTMENT NO. XI OF THE EIGHTH JUDICIAL  
16 DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE  
17 COUNTY OF CLARK.

18 NOTICE is hereby given that Defendant, Troy Richard  
19 White, presently incarcerated in the Nevada State Prison, appeals  
20 to the Supreme Court of the State of Nevada from the judgment  
21 entered against said Defendant on the 24<sup>th</sup> day of July, 2015,  
22 whereby he was convicted of Ct. 1 - Second Degree Murder With Use  
23 of a Deadly Weapon; Ct. 2 - Attempt Murder With Use of a Deadly  
24 Weapon; Ct. 3 - Carrying a Concealed Firearm or Other Deadly  
25 Weapon; Cts. 4, 5, 6, 7 and 8 - Child Abuse, Neglect or  
26 Endangerment and sentenced to \$25 Admin. fee; \$250 Indigent  
27 Defense Civil Assessment Fee; \$338.50 Extradition Costs; \$150 DNA  
28 analysis fee; genetic testing; \$3 DNA Collection Fee; Ct. 1 - 10  
years to Life in prison plus a consecutive term of 76-192 months  
in prison; Ct. 2 - 76-192 months in prison plus a consecutive term



1 of 76-192 months for the Use of a Deadly Weapon consecutive to Ct.  
2 1; Ct. 3 - 19-48 months in prison; concurrent with Cts. 1 & 2; Ct.  
3 4 - 24-60 months in prison consecutive to Cts. 1 & 2; Ct. 5 - 24-  
4 60 months in prison, concurrent with all other counts; Ct. 6 - 24-  
5 60 months concurrent with all other counts; Ct. 7 - 24-60 months  
6 concurrent with all other counts; Ct. 8 - 24-60 months in prison  
7 concurrent with all other counts; 1,088 days CTS. The aggregate  
8 total sentence is Life with a minimum of thirty-four (34) years.

9 DATED this 12<sup>th</sup> day of August, 2015.

10 PHILIP J. KOHN  
11 CLARK COUNTY PUBLIC DEFENDER

12  
13 By: /s/ Scott L. Coffee  
14 SCOTT L. COFFEE, #5607  
15 Deputy Public Defender  
16 309 S. Third Street, Ste. 226  
17 Las Vegas, Nevada 89155  
18 (702) 455-4685  
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## DECLARATION OF MAILING

Carrie Connolly, an employee with the Clark County Public Defender's Office, hereby declares that she is, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that on the 12<sup>th</sup> day of August, 2015, declarant deposited in the United States mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the case of the State of Nevada v. Troy Richard White, Case No. C-12-286357-1, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to Troy Richard White, NDOC No. #1143868 High Desert State Prison, P.O. Box 650, Indian Springs, NV 89018. That there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 12<sup>th</sup> day of August, 2015.

/s/ Carrie M. Connolly  
An employee of the Clark County  
Public Defender's Office

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that service of the above and foregoing  
was made this 12<sup>th</sup> day of August, 2015, by Electronic Filing to:

District Attorneys Office

E-Mail Address:

PDMotions@clarkcountynvda.com

Jennifer.Garcia@clarkcountynvda.com

Eileen.Davis@clarkcountydade.com

/s/ Carrie M. Connolly  
Secretary for the  
Public Defender's Office

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 07, 2016**

---

C-12-286357-1      State of Nevada  
vs  
Troy White

---

**January 07, 2016      9:00 AM      Minute Order Setting Status Check****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**PARTIES**      None. Minute order only - no hearing held.  
**PRESENT:****JOURNAL ENTRIES**

- The Court ORDERS this matter SET for status check to address the letter from the Nevada Department of Corrections seeking clarification regarding Deft's sentence. Deft to be transported. State to PREPARE the transport order.

NDC

1-27-16      9:00 AM  
DEFT'S SENTENCE

STATUS CHECK: LETTER FROM NDOC REGARDING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 27, 2016**

C-12-286357-1      State of Nevada      vs      Troy White

**January 27, 2016      9:00 AM      Status Check: Letter from NDOC regarding Deft's Sentence**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**PARTIES**

<b>PRESENT:</b>	Dickerson, Michael	Deputy District Attorney
	Lopez-Negrete, David E.	Deputy Public Defender
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Mr. Lopez-Negrete advised Deputy D.A. Liz Mercer indicated she would be present today; with regards to the issue about the aggregation language, Ms. Mercer indicated she would agree to strike it. Court noted the Presiding Judge of the Criminal Division has directed sentences be aggregated; this Court does not know the basis that the Nevada Department of Corrections is arguing about aggregation; the Court understands the statutory basis, but not the impact of what the Prison is saying. Mr. Lopez-Negrete advised that from his math it should be 31 years to life. COURT ORDERED, matter trailed for Ms. Mercer.

Matter RECALLED. Counsel advised the State has no objection to striking the aggregation pronouncement in the Judgment of Conviction. COURT ORDERED, while it disagrees with the Nevada Department of Corrections' legal analysis, given the stipulation of the parties the aggregation language on Page 2, lines 16 and 17 on the Judgment of Conviction will be STRICKEN. Upon Court's inquiry, Deft stated this is okay.

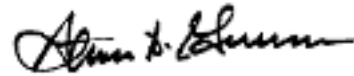
Clerk's Office to prepare an Amended Judgment of Conviction.

NDC

PRINT DATE: 01/28/2016

Page 1 of 1

Minutes Date: January 27, 2016



CLERK OF THE COURT

AJOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C286357-1

-vs-

TROY RICHARD WHITE  
#1383512

DEPT. NO. XI

Defendant.

AMENDED JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 3 – CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony) in violation of NRS 202.350(1)(d)(3); and COUNTS 4, 5, 6, 7 and 8 – CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); and the matter having been tried

1 before a jury and the Defendant having been found guilty of the crimes of COUNT 1 –  
2 SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A  
3 Felony) in violation of NRS 200.010, 200.030, 193.165; COUNT 2 – ATTEMPT  
4 MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of  
5 NRS 200.010, 200.030, 193.330, 193.165; COUNT 3 – CARRYING A CONCEALED  
6 FIREARM OR OTHER DEADLY WEAPON (Category C Felony) in violation of NRS  
7 202.350(1)(d)(3); and COUNTS 4, 5, 6, 7 and 8 – CHILD ABUSE, NEGLECT OR  
8 ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); thereafter, on  
9 the 20<sup>th</sup> day of July, 2015, the Defendant was present in court for sentencing with  
10 counsel SCOTT COFFEE, Deputy Public Defender, and good cause appearing,  
11

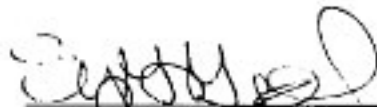
12  
13 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offenses and, in  
14 addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil  
15 Assessment Fee, \$335.50 Extradition Costs and \$150.00 DNA Analysis Fee including  
16 testing to determine genetic markers plus \$3.00 DNA Collection Fee, the Defendant is  
17 SENTENCED to the Nevada Department of Corrections (NDC) as follows: **COUNT 1 –**  
18 **LIFE** with the eligibility for parole after serving a **MINIMUM** of **TEN (10) YEARS**, plus a  
19 **CONSECUTIVE** term of **ONE HUNDRED NINETY-TWO (192) MONTHS** with a  
20 **MINIMUM** parole eligibility of **SEVENTY-SIX (76) MONTHS** for the Use of a Deadly  
21 **Weapon**; **COUNT 2 - a MAXIMUM** of **ONE HUNDRED NINETY-TWO (192) MONTHS**  
22 **with a MINIMUM** parole eligibility of **SEVENTY-SIX (76) MONTHS**, plus a  
23 **CONSECUTIVE** term of **ONE HUNDRED NINETY-TWO (192) MONTHS** with a  
24 **MINIMUM** parole eligibility of **SEVENTY-SIX (76) MONTHS** for the Use of a Deadly  
25 **Weapon**; **CONSECUTIVE** to **COUNT 1**; **COUNT 3 – a MAXIMUM** of **FORTY-EIGHT**  
26  
27  
28

1 (48) MONTHS with a MINIMUM Parole Eligibility of NINETEEN (19) MONTHS,  
2 CONCURRENT WITH COUNTS 1 & 2; **COUNT 4** – a MAXIMUM of SIXTY (60)  
3 MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS,  
4 CONSECUTIVE TO COUNTS 1 & 2; **COUNT 5** – a MAXIMUM of SIXTY (60) MONTHS  
5 with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT  
6 with ALL OTHER COUNTS; **COUNT 6** – a MAXIMUM of SIXTY (60) MONTHS with a  
7 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
8 ALL OTHER COUNTS; **COUNT 7** – a MAXIMUM of SIXTY (60) MONTHS with a  
9 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
10 ALL OTHER COUNTS; **COUNT 8** – a MAXIMUM of SIXTY (60) MONTHS with a  
11 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
12 ALL OTHER COUNTS; with ONE THOUSAND EIGHTY-EIGHT DAYS (1,088) DAYS  
13 credit for time served.  
14

15  
16  
17 THEREAFTER, on the 27<sup>th</sup> day of January, 2016, the Defendant was present in  
18 court with counsel DAVID LOPEZ-NEGRETE, Deputy Public Defender, pursuant to  
19 Status Check – Letter from NDOC Regarding Defendant's Sentence, and good cause  
20 appearing,  
21

22 IT IS HEREBY ORDERED that the Aggregation Language on Page 2, Lines 16-  
23 17 on the Judgment of Conviction filed 07/24/15 is **STRICKEN**.

24 DATED this 5<sup>th</sup> day of February, 2016  
25

26  
27  
28  
  
ELIZABETH GONZALEZ  
DISTRICT COURT JUDGE  
