

IN THE SUPREME COURT OF THE STATE OF NEVADA

CASIMIRO VENEGAS,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Supreme Court No. 83964

Electronically Filed
May 02 2022 11:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX

JOSEPH Z. GERSTEN, ESQ
The Gersten Law Firm PLLC
Nevada Bar No. 13876
9680 W Tropicana Avenue # 146
Las Vegas, NV 89147
702-857-8777

Counsel for Appellant

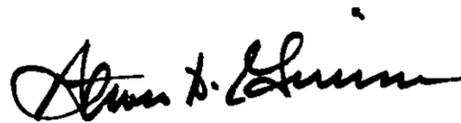
STEVEN B. WOLFSON, ESQ.
District Attorney Clark County
200 Lewis Street, 3rd Floor
Las Vegas, NV 89101

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Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701
775-684-1265

Counsel for Appellee

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CLERK OF THE COURT

1 **INFM**
2 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
3 MARY KAY HOLTHUS
Chief Deputy District Attorney
4 Nevada Bar #3814
200 Lewis Avenue
5 Las Vegas, Nevada 89155-2212
(702) 671-2500
6 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

7 I.A. 3/7/16
10:00 AM
8 GILL, ESQ.

9 THE STATE OF NEVADA,
10
Plaintiff,
11 -vs-
12 CASIMIRO VENEGAS, #2666143
13 Defendant.
14

CASE NO: C-16-313118-1

DEPT NO: VI

INFORMATION

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

17 STEVEN B. WOLFSON, Clark County District Attorney within and for the County of
18 Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the
19 Court:

20 That CASIMIRO VENEGAS, the Defendant(s) above named, having committed the
21 crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380,
22 199.480 - NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category
23 B Felony - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON
24 (Category B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A
25 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
26 Felony - NRS 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY
27 WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031);
28 COERCION WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190,

1 193.165 - NOC 53160); BATTERY WITH INTENT TO COMMIT A CRIME (Category B
2 Felony - NRS 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING
3 (Gross Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016,
4 within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes
5 in such cases made and provided, and against the peace and dignity of the State of Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

7 did willfully, unlawfully, and feloniously conspire with JOSE FERNANDO MONAY-
8 PINA, aka, Jose Fernando Monaypina and each other to commit a robbery, by the defendants
9 committing the acts as set forth in Count 2 through 7, said acts being incorporated by this
10 reference as though fully set forth herein.

11 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

12 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
13 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston
14 Boulevard, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain
15 possession of a firearm during the commission of the crime and/or before leaving the structure.

16 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

17 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money
18 of the United States, from the person of RICHARD DECAMP, or in his presence, by means
19 of force or violence, or fear of injury to, and without the consent and against the will of
20 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

21 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

22 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
23 robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las
24 Vegas, Clark County, Nevada, said Defendant did possess and/or gain possession of a firearm
25 during the commission of the crime and/or before leaving the structure.

26 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

27 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and
28 contents, knives, from the person of JAVIER COLEN, or in his presence, by means of force

1 or violence, or fear of injury to, and without the consent and against the will of JAVIER
2 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

3 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an
7 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,
8 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally
9 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly
10 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
11 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
12 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
13 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
14 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
15 of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando
16 Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting as
17 lookout and confederate throughout.

18 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
20 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the
21 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being
22 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
27 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering
28 into a course of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose

1 Fernando Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting
2 as lookout and confederate throughout.

3 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
7 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
8 harm to JAVIER COLEN.

9 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
10 SUBSTANTIAL BODILY HARM

11 did willfully, unlawfully, and feloniously use force or violence upon the person of
12 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
13 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
14 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
15 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
16 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
17 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
18 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
19 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
20 conspiring in the following manner, to wit: by entering into a course of conduct whereby
21 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina directly
22 committed the crime, Defendant CASIMIRO VENEGAS acting as lookout and confederate
23 throughout.

24 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
25 SUBSTANTIAL BODILY HARM

26 did willfully, unlawfully, and feloniously use force or violence upon the person of
27 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
28 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily

1 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
2 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
3 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
4 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
5 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
6 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
7 conspiring in the following manner, to wit: by entering into a course of conduct whereby
8 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina directly
9 committed the crime, Defendant CASIMIRO VENEGAS acting as lookout and confederate
10 throughout.

11 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

12 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other
13 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA COLON
14 and/or LIZBETH COLON and/or SAMANTHA ABANA and/or CAESAR ABANA.

15 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

16 did then and there willfully, unlawfully, and feloniously use physical force, or the
17 immediate threat of such force, against ADRIANA COLON and/or LIZBETH COLON and/or
18 SAMANTHA ABANA and/or CAESAR ABANA and/or JAVIER COLEN, with intent to
19 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from
20 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving
21 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable
22 under one or more of the following principles of criminal liability, to-wit: (1) by directly
23 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
24 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
25 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
26 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
27 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
28 of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando

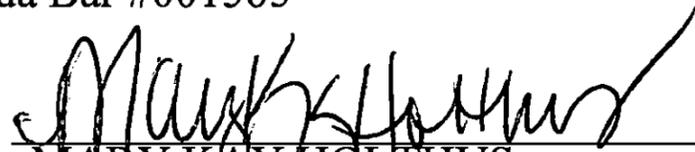
1 Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting as
2 lookout and confederate throughout.

3 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

4 did then and there willfully, unlawfully, and feloniously use force or violence upon the
5 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial
6 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm
7 and/or axe; the Defendant(s) being criminally liable under one or more of the following
8 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
9 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
10 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the
11 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the
12 intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the
13 following manner, to wit: by entering into a course of conduct whereby Defendant JOSE
14 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina directly committed the crime,
15 Defendant CASIMIRO VENEGAS acting as lookout and confederate throughout.

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

19 BY


20 MARY KAY HOLTHUS
21 Chief Deputy District Attorney
22 Nevada Bar #3814

23 Names of witnesses known to the District Attorney's Office at the time of filing this
24 information are as follows:

25 NAME

ADDRESS

26 CUSTODIAN OF RECORDS
OR DESIGNEE

Clark County Detention Center,
330 S. Casino Center Blvd., LVNV

27 CUSTODIAN OF RECORDS
OR DESIGNEE

LVMPD Dispatch,
400 E. Stewart, Las Vegas, NV

1	CUSTODIAN OF RECORDS OR DESIGNEE	LVMPD Communications, 400 E. Stewart, Las Vegas, NV
2		
3	CUSTODIAN OF RECORDS OR DESIGNEE	LVMPD Records, 400 E. Stewart, Las Vegas, NV
4		
5	AGUIRRE, A.	LVMPD #9645
6	COLON, Javier	C/O District Attorney's Office
7	DECAMP, Richard	C/O District Attorney's Office
8	DURON, I.	LVMPD #14809
9	LEHMANN, S.	LVMPD #13885
10	MONAY-PINA, Jose Fernando	908 N. Jones Blvd., Las Vegas, NV
11	SIMMONS, J.	LVMPD #15067
12	SIMMS, J.	LVMPD #15111
13	SMITH, T.	LVMPD #5267
14	SPURLING, J.	LVMPD #13647
15	TOMS, E.	LVMPD #5793
16	WATTS, Joseph	DA Investigator and/or Designee
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1 **DO NOT READ TO THE JURY**

2 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
3 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
4 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

5 **NOTICE OF PRIOR BURGLARY AND/OR HOME INVASION CONVICTIONS**

6 The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice that
7 in the event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion
8 conviction pursuant to NRS 205.067 in the above-entitled action, he will not be eligible for
9 probation as Defendant CASIMIRO VENEGAS has already suffered ONE (1) prior Burglary
10 and/or Home Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment
11 as a Habitual Criminal," said notice being incorporated by this reference as though fully set
12 forth herein.

13 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
14 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
15 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

16 **NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL**
17 **CRIMINAL**

18 The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice of the
19 State's intent to seek punishment of Defendant CASIMIRO VENEGAS pursuant to the
20 provisions of NRS 207.010 as a habitual criminal in the event of a felony conviction in the
21 above-entitled action.

22 The State will seek punishment as a habitual criminal based upon the following felony
23 convictions, to wit:

24 1. That in 2008, the Defendant was convicted in the Eighth Judicial District
25 Court, County of Clark, State of Nevada, for the crime of COUNT 1 - CONSPIRACY TO
26 COMMIT ROBBERY (Category B Felony) and COUNT 2 - ROBBERY WITH USE OF A
27 DEADLY WEAPON (Category B Felony), in Case No. C244224.

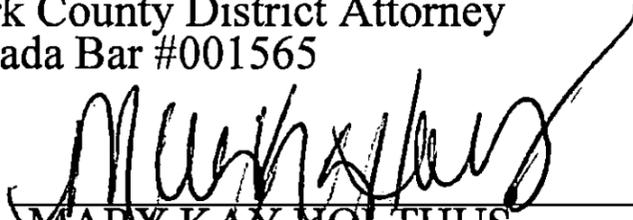
28 2. That in 2008, the Defendant was convicted in the Eighth Judicial District
Court, County of Clark, State of Nevada, for the crime of COUNT 1 - ROBBERY WITH USE

1 OF A DEADLY WEAPON (Category B Felony) and COUNT 2 - BURGLARY WHILE IN
2 POSSESSION OF A FIREARM (Category B Felony), in Case No. C246550.

3 3. That in 2013, the Defendant was convicted in the Eighth Judicial District
4 Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in
5 Case No. C284885-1.

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

9 BY


10 MARY KAY HOLTHUS
11 Chief Deputy District Attorney
12 Nevada Bar #3814

13 **DO NOT READ TO THE JURY**

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27 DA#16F00568A/cmj/L3
28 LVMPD EV#1601120450; 1601120494
(TK14)

1
2 **JUSTICE COURT, LAS VEGAS TOWNSHIP**

3 CLARK COUNTY, NEVADA

4 STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 Casimiro Venegas

8 Defendant

District Court Case No.:

Justice Court Case No.: 16F00568A

9
10 **BINDOVER and ORDER TO APPEAR**

11 An Order having been made this day by me that **Casimiro Venegas** be held to answer before the Eighth Judicial
12 District Court, upon the charge(s) of **Consp robbery [50147]; Burglary while poss of gun/DW [50426]; Robbery,**
13 **e/dw [50138]; Burglary while poss of gun/DW [50426]; Robbery, e/dw [50138]; Battery w/use of DW, r/SBH**
14 **[50226]; Att murder, e/dw [50031]; Battery w/use of DW, r/SBH [50226]; Battery w/DW [50223]; Battery w/DW**
15 **[50223]; Aim gun at pers [51447]; COERCION WITH A DEADLY WEAPON; BATTERY WITH INTENT TO**
16 **COMMIT A CRIME W/SBH** committed in said Township and County, on January 12, 2016 .

17 **IT IS FURTHER ORDERED** that said defendant is commanded to appear in the Eighth Judicial District
18 Court, Regional Justice Center, Lower Level Arraignment Courtroom "A", Las Vegas, Nevada on March 07, 2016 at
19 10:00 AM for arraignment and further proceedings on the within charge(s).

20 **IT IS FURTHER ORDERED** that the Sheriff of the County of Clark is hereby commanded to receive the
21 above named defendant(s) into custody, and detain said defendant(s) until he/she can be legally discharged, and be
22 committed to the custody of the Sheriff of said County, until bail is given in the sum of NO BAIL.

23 Dated this 3rd day of March, 2016

24 

25 Justice of the Peace, Las Vegas Township

26
27
28 **AA0011**

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED

JAN 13 12 08 PM '16

1 THE STATE OF NEVADA,

2
3 Plaintiff,

4 -vs-

5 CASIMIRO VENEGAS #2666143,
6 JOSE FERNANDO MONAY-PINA, aka,
7 Jose Fernando Monaypina #7028317,

8 Defendants.

JUSTICE COURT
LAS VEGAS NEVADA SG

CASE NO: 16F00568A-B

DEPUTY

DEPT NO: 14

CRIMINAL COMPLAINT

9
10 The Defendants above named having committed the crimes of CONSPIRACY TO
11 COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147);
12 BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS
13 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category B
14 Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY
15 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS
16 200.481 - NOC 50226) and ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
17 (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031), in the manner
18 following, to-wit: That the said Defendants, on or about the 12th day of January, 2016, at and
19 within the County of Clark, State of Nevada,

20 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

21 did willfully, unlawfully, and feloniously conspire with each other to commit a
22 robbery, by the defendants committing the acts as set forth in Count 2 through 7, said acts
23 being incorporated by this reference as though fully set forth herein.

24 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

25 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
26 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston
27 Boulevard, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain
28 possession of a firearm during the commission of the crime and/or before leaving the structure.

16F00568A
CRM
Criminal Complaint
6010720



1 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

2 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money
3 of the United States, from the person of RICHARD DECAMP, or in his presence, by means
4 of force or violence, or fear of injury to, and without the consent and against the will of
5 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

6 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

7 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
8 robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las
9 Vegas, Clark County, Nevada, said Defendant did possess and/or gain possession of a firearm
10 during the commission of the crime and/or before leaving the structure.

11 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

12 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and
13 contents, knives, from the person of JAVIER COLEN, or in his presence, by means of force
14 or violence, or fear of injury to, and without the consent and against the will of JAVIER
15 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

16 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
17 SUBSTANTIAL BODILY HARM

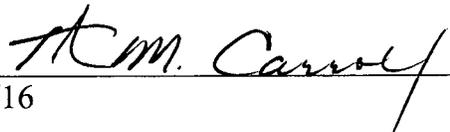
18 did willfully, unlawfully, and feloniously use force or violence upon the person of
19 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an
20 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm and/or
21 axe, resulting in substantial bodily harm to JAVIER COLEN.

22 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

23 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
24 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking
25 the said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being
26 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)
27 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
28 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,

1 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
2 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
3 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering
4 into a course of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose
5 Fernando Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting
6 as lookout and confederate throughout.

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

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12 _____
13 01/13/16
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27 16F00568A-B/rmj
28 LVMPD EV# 1601120450; 1601120494
(TK14)

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



L006004859

16F00568A State of Nevada vs. Venegas, Casimiro

**1/13/2016 7:20:00 AM 48 Hour Probable Cause
Review**

Result: Signing Completed

**PARTIES
PRESENT:**

Judge: Hafen, Conrad

PROCEEDINGS

Hearings: 1/14/2016 7:30:00 AM: Initial Appearance

Added

Events: **Probable Cause Found**

Bail Reset - Cash or Surety

Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

Probable Cause Arrest Documents

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



L006011315

16F00568A State of Nevada vs. Venegas, Casimiro

Lead Atty: Adam L Gill

1/14/2016 7:30:00 AM Initial Appearance (in custody)

Result: Matter Heard

PARTIES PRESENT: Defendant Venegas, Casimiro

Judge: Hafen, Conrad
Prosecutor: Craggs, Genevieve
Court Reporter: Fluker, Kris
Court Clerk: Fisher, Shauna

PROCEEDINGS

Attorneys: Gill, Adam L Venegas, Casimiro Added

Hearings: 2/1/2016 9:00:00 AM: Preliminary Hearing Added

Events: **Bail Stands - Cash or Surety**

Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Initial Appearance Completed

Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint

Notify

A. Gill, Esq. via email/SF

Review Date: 1/15/2016

Counsel Appointed

A. Gill, Esq.

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



L006082458

16F00568A State of Nevada vs. Venegas, Casimiro

Lead Atty: Adam L Gill

2/1/2016 9:00:00 AM Preliminary Hearing (In
Custody)

Result: Matter Heard

PARTIES PRESENT: Attorney Gill, Adam L
Defendant Venegas, Casimiro
Judge: Hafen, Conrad
Prosecutor: Villani, Jake
Court Reporter: Fluker, Kris
Court Clerk: Monterroso, Judie

PROCEEDINGS

Hearings: 2/17/2016 7:30:00 AM: Negotiations Added

Events: **Motion to Continue - Defense**

motion granted

Continued For Negotiations

Bail Stands - Cash or Surety

Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



L006150659

16F00568A State of Nevada vs. Venegas, Casimiro

Lead Atty: Adam L Gill

2/17/2016 9:00:00 AM Preliminary Hearing (in custody)

Result: Matter Heard

PARTIES PRESENT: Attorney Gill, Adam L
Defendant Venegas, Casimiro

Judge: Hafen, Conrad

Prosecutor: Holthus, Mary

Court Reporter: Fluker, Kris

Court Clerk: Monterroso, Judie

PROCEEDINGS

Hearings: 3/3/2016 9:00:00 AM: Preliminary Hearing Added

Events: **Motion to Continue - Defense**

motion granted

Preliminary Hearing Date Reset

Bail Stands - Cash or Surety

Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



L006219784

16F00568A State of Nevada vs. Venegas, Casimiro

Lead Atty: Adam L Gill

3/3/2016 9:00:00 AM Preliminary Hearing (in custody)

Result: Bound Over

PARTIES PRESENT: Attorney Aisen, Michael
Defendant Venegas, Casimiro

Judge: Hafen, Conrad

Prosecutor: Holthus, Mary

Court Reporter: Fluker, Kris

Court Clerk: Clayton, Renita

PROCEEDINGS

Attorneys:	Aisen, Michael	Venegas, Casimiro	Added
Exhibits:	Document, Photograph, Etc. (ID: 001)	DVD	Admitted Offered
	Document, Photograph, Etc. (ID: 002-014)	photos	Admitted Objection (#2 photo by defense) Offered

**Justice Court, Las Vegas Township
Clark County, Nevada**

Events: Preliminary Hearing Held

Motion to Exclude Witnesses by Defense - Motion Granted States Witnesses:

#1 - Richard DeCamp

#2 - Javier Colon - Witness identified Defendant

#3 - Officer Justin Spurling - Witness identified Defendant

Oral motion by State to amend Criminal Complaint by interlineation to add Count 8 - Battery with use of a deadly weapon, resulting in substantial bodily harm, Counts 9 and 10 - Battery with use of a deadly weapon, Count 11 - Assault with a deadly weapon, Count 12 - Aiming a firearm at a human being, Count 13 - Coercion with use of a deadly weapon and Count 14 - Battery with intent to commit a crime resulting in substantial bodily harm - Objection by Defense Motion denied as to count 11 only - all other charges are added

State Rests.

Defendant Advised of His Statutory Right to Make a Statement Defendant Waives the Right to a Sworn or Unsworn Statement

Defense Rests

Closing argument by State

Motion to dismiss by dismiss

Argument Against Said Motion by State

Motion denied

Remand - Cash or Surety

Counts: 008; 009; 010; 011; 012; 013 - \$0.00/\$0.00 Total Bail

Bail Stands - Cash or Surety

Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Bound Over to District Court as Charged

Review Date: 3/4/2016

District Court Appearance Date Set

Mar 7 2016 10:00AM: In custody

Case Closed - Bound Over

Charges: 008: Battery with use of deadly weapon, resulting in substantial bodily harm

009: Battery with use of deadly weapon

010: Battery with use of deadly weapon

011: Aim firearm at person

012: COERCION WITH A DEADLY WEAPON

013: BATTERY WITH INTENT TO COMMIT A CRIME W/SBH

Plea/Disp: 001: Consp robbery [50147]

Disposition: Bound Over to District Court as Charged (PC Found)

002: Burglary while poss of gun/DW [50426]

Disposition: Bound Over to District Court as Charged (PC Found)

003: Robbery, e/dw [50138]

Disposition: Bound Over to District Court as Charged (PC Found)

004: Burglary while poss of gun/DW [50426]

Disposition: Bound Over to District Court as Charged (PC Found)

005: Robbery, e/dw [50138]

Disposition: Bound Over to District Court as Charged (PC Found)

Justice Court, Las Vegas Township Clark County, Nevada

006: Battery w/use of DW, r/SBH [50226]

Disposition: Bound Over to District Court as Charged (PC Found)

007: Att murder, e/dw [50031]

Disposition: Bound Over to District Court as Charged (PC Found)

008: Battery w/use of DW, r/SBH [50226]

Disposition: Bound Over to District Court as Charged (PC Found)

009: Battery w/DW [50223]

Disposition: Bound Over to District Court as Charged (PC Found)

010: Battery w/DW [50223]

Disposition: Bound Over to District Court as Charged (PC Found)

011: Aim gun at pers [51447]

Disposition: Bound Over to District Court as Charged (PC Found)

012: COERCION WITH A DEADLY WEAPON

Disposition: Bound Over to District Court as Charged (PC Found)

013: BATTERY WITH INTENT TO COMMIT A CRIME W/SBH

Disposition: Bound Over to District Court as Charged (PC Found)

**Justice Court, Las Vegas Township
Clark County, Nevada**

Custody Status Slip



L006003337

Housed At: CB-Z18

Clerk: aoh

Date: 1/13/2016: 48 Hour Probable Cause Review

Department: 14

Judge: Hafen, Conrad

Name: Venegas, Casimiro

Case: PC16F00568A

Defendant ID: 2666143

001: Att murder, e/dw [50031] (F) (0025601938-001)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

002: Robbery, e/dw [50138] (F) (0025601938-002)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

003: Burglary while poss of gun/DW [50426] (F) (0025601938-003)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

004: Battery w/use of DW, r/SBH [50226] (F) (0025601938-004)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

005: Robbery, e/dw [50138] (F) (0025601938-005)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

006: Burglary while poss of gun/DW [50426] (F) (0025601938-006)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

007: Consp robbery [50147] (F) (0025601938-007)

Bail Reset - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail Set in Court

Future Justice Court Hearings

1/14/2016 7:30:00 AM: 72 Hour Hearing (JC Department 14)

Added

IN TAKE NAME (AKA, ALIAS, ETC.) Last **Venegas, Cesar** Middle **ROBERT** First **SHILO**
 TRUE NAME **VENEGAS** Last **VENEGAS** First **CASIMIRO** Middle
 ADDRESS NUMBER & STREET **Retused** BLDG./APT. #
 CITY **LAS VEGAS** STATE **NV** ZIP
 SOCIAL SECURITY # **606-80-7343** Speak English? Yes No
 PLACE OF BIRTH **San Diego, CA**

DATE OF BIRTH **11-2-89** RAGE **H** SEX **M** HEIGHT **600** WEIGHT **210** HAIR **BLD** EYES **BRN**
 LOCATION OF CRIME (# - Street, City - State - Zip) **504 Brush St / 5900 W Charleston 89108** Citizen Arrest Yes No
 LOCATION OF ARREST **510 Brush St. LV 89108** Sector/Beat **W1** PCN #

BKG. CODE	CHARGE	ORD / NRS #	M	GM	F	ARR TYPE	EVENT NUMBER	WARR / NCIC NUMBER	COURT
50001	ATT. MURDER w/ DWJ	51C				PC	160112-0494	16F00548A	<input checked="" type="checkbox"/> LV <input type="checkbox"/> JC <input type="checkbox"/> DC <input type="checkbox"/> OTHER
50158	Robbery w/ DWJ	40000				PC	160112-0494		<input checked="" type="checkbox"/> LV <input type="checkbox"/> JC <input type="checkbox"/> DC <input type="checkbox"/> OTHER
50120	Burglary w/ DWJ	\$20,000				PC	160112-0494	JCY	<input checked="" type="checkbox"/> LV <input type="checkbox"/> JC <input type="checkbox"/> DC <input type="checkbox"/> OTHER
50220	BUDW w/ SBH	\$20,000				PC	160112-0494		<input checked="" type="checkbox"/> LV <input type="checkbox"/> JC <input type="checkbox"/> DC <input type="checkbox"/> OTHER
50134	Robbery w/ DWJ	\$10,000				PC	160112-0450		<input checked="" type="checkbox"/> LV <input type="checkbox"/> JC <input type="checkbox"/> DC <input type="checkbox"/> OTHER
50120	Burglary w/ DWJ	\$30,000				PC	160112-0450		<input checked="" type="checkbox"/> LV <input type="checkbox"/> JC <input type="checkbox"/> DC <input type="checkbox"/> OTHER

ARREST TYPE: PC - PROBABLE CAUSE BS - BONDSMAN SURRENDER BW - BENCH WARRANT WA - WARRANT RM - REMAND GIJ - GRAND JURY IND.
 APPROVAL CONTROL # FOR ADDITIONAL CHARGES:
 Arresting Officer's Signature: *[Signature]* P # **5267** Agency **TMTH LVMPD**
 Transporting Officer's Signature: *[Signature]* P # **1511** Agency **LVMPD**

Time Stamp at BOOKING: 01-12-16 11:51 DSD RECORD
 FOR PROBABLE CAUSE/NCIC HIT ARREST SEE PAGE TWO FOR DETAILS.
 TYPE OF I.D. FOR VERIFICATION: BENCH V. PCAP Probable Cause Arrest Documents WARRANT 6003263 GRAND JI
 COURT: JUSTICE MUNICIPAL JUVENILE STANDARD BAIL O.R. RELEASE PROBABLE CAUSE
 FIRST APPEARANCE DATE: 1-13-16 TIME: 7:30
 JUDGE: *[Signature]* CONRAD HAFEN

CONFIDENTIAL
 P #:
 LVMPD 22 (REV. 3-05) (2) COURT - ORIGINAL

PID 11
 0023
 11

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST

I.D. #: 2666143

True Name: Venegas, CASIMIRO Date of Arrest: 1-12-16 Time of Arrest: 0427

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with LVMPD (Department), Clark County, Nevada, being so employed for a period of 19 1/2 years (months). That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of ATT Murder widw, Robbery widw, BNDW w/ SBH at the location of 504 Brush St / 5700 W. Charleston (ADDRESS / CITY / STATE / ZIP) LV NV 89108 and that the offense occurred at approximately 0400 hours on the 12th day of JANUARY, 2016, in the county of Clark or City of Las Vegas, NV.

DETAILS FOR PROBABLE CAUSE:

- SEE ARREST REPORT -

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

Declarant must sign second page with original signature.

[Signature]
Declarant's Signature
T SMITH
Print Declarant's Name
AA0025 5267 P#

ARREST REPORT

"PRINT"

116F00568/A JCH

City

County

Adult

Juvenile

Sector/Beat U1

"Click to Enter/Change Event or ID Number"

ID/EVENT# 160112-0494	ARRESTEE'S NAME (Last) VENEGAS	(First) CASIMIRO	(Middle)	S.S.# 606-30-7343
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) UNK				
CHARGES ATTEMP MURDER, ROBBERY W/DW, BURGLARY W/DW, BATTERY W/DW W/SUBSTANTIAL BODILY HARM, CONSPIRACY TO COMMIT ROBBERY, ROBBERY W/DEADLY WEAPON, BURGLARY W/DEADLY WEAPON				
OCCURRED	DATE 1-12-16	DAY OF WEEK TUES	TIME 0420	LOCATION OF ARREST (Number, Street, City, State, Zip Code) 510 BRUSH ST, LV NV 89108
RACE H	SEX M	D.O.B. 11-2-89	HT. 600	WT. 210
			HAIR BLD	EYES BRO
PLACE OF BIRTH SAN DIEGO, CA				

ARRESTING OFFICER #1: J. SPURLING	P#: 13647	ARRESTING OFFICER #2: T. SMITH	P#: 5267
CONNECTING REPORTS (Type or Event Number) ICR/TCR/DOAVOL/ REQ PROS/WIT LIST/MAJOR INCIDENT LOG/ALSO EVENT #160112-0450 407 TO 7-11/			

APPROVED BY (PRINTED NAME): _____

CONFIDENTIAL

CIRCUMSTANCES OF ARREST:

SUSPECT 1: **VENEGAS, CASIMIRO** DOB: 11-2-89, SSAN: 606-30-7343 ID# 2666143

SUSPECT 2: **MONAY-PINA, JOSE FERNANDO** DOB: 12-16-92 SSAN: 630-45-6236 ID#

VICTIM 1: **EVENT # 160112-0450**
407 W/DEADLY WEAPONS
7-11 (BUSINESS) 5700 W.CHARLESTON, LV NV 89108 (U1)

VICTIM 2: 7-11 EMPLOYEE: **DECAMP, RICHARD**, DOB: 5-5-53
5700 W. Charleston, LV NV 89108

VICTIM 1: **EVENT #160112-0494**
COLON, JAVIER DOB: 4-21-75
504 BRUSH ST, LV NV 89108
CELL: 702-635-1077

OFFICER 1: J. SPURLING P#13647
OFFICER 2: I. SIMMONS P#15067
OFFICER 3: M. CARTER P#14048

On 1-12-16, at approximately 0350 hours, Under LVMPD Event **160112-0450**, the 7-11 Business located at 5700 W. Charleston, LV NV 89108 was the victim of a ROBBERY WITH DEADLY WEAPON and BURGLARY WITH DEADLY WEAPON. The employee working the front counter, later identified as: DECAMP, RICHARD observed 2 males enter the 7-11 wearing dark masks and dark clothing. Both men had hand guns in their

AA0026

CONTINUATION REPORT

ID/EVENT #: 160112-0494

hands and upon entering the store, both racked their handguns and yelled at DECAMP and said "Give me all the money in both registers". DECAMP opened the registers and SUSPECT 1-later identified as: VEGEGAS, CASIMIRO, DOB: 11-2-89 and SUSPECT 2-later identified as: MONAY-PINA, JOSE, DOB: 12-16-92 grabbed the money out of the registers. SUSPECT 1: VEGEGAS then told DECAMP to lie down on the floor so he didn't see them leave. DECAMP laid down on the floor and both subjects left the store in an unknown direction of travel in an unknown way. DECAMP then called the police to report the robbery. DECAMP described the suspects to the 911 operator as: SUSPECT 1: 6 foot Hispanic Male, wearing a dark mask, puffy dark jacket, red gloves and blue jeans. SUSPECT 2: was 5'8 Hispanic Male, wearing a black puffy jacket, dark pants and a dark mask. Both were armed with handguns and both racked a round in the chamber upon entering the store. DECAMP described that the taller Hispanic male did most of the talking and ordering and was the one who said to "give me all the money in both registers". The money that was taken from the registers was approximately \$139.00 in numerous denominations. LVMPD Officer Simmons P#15067 was the first responding officer to the robbery at the 7-11.

At approximately 0422 hours, under LVMPD Event #160112-0494, COLEN, JAVIER, DOB: 4-21-75 became the VICTIM of ATTEMPT MURDER WITH DEADLY WEAPON, BURGLARY W/DEADLY WEAPON, BATTERY WITH DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM AND ROBBERY WITH DEADLY WEAPON at his residence located at: 504 Brush St, LV NV 89108. The details of the initial 911 call were that Victim: COLEN was beat up by two Hispanic males that pushed open his bedroom door and pistol whipped him, then one of them attacked him with an ax. LVMPD Patrol Officer J. Spurling P#13647 was first to arrive at 504 Brush Street where he came into contact with COLEN who was bleeding on his hand and entire face. Officer Spurling observed a low concrete wall just adjacent to COLEN's room and he jumped the wall to see if the suspects were in the adjacent backyard. Officer Spurling then looked over another wall, in the backyard located at 510 Brush Street, LV NV and located two subjects in the backyard. The first subject had on a puffy brown jacket and dark pants and was hiding under a storage shed that sits approximately 2-3 feet off the ground. The second subject was wearing all black with a black ski mask on. As soon as suspect #2 saw Officer Spurling, he hid behind a small tree/bush. Officer Spurling, Sgt. Aguire and Officer M. Carter took both suspects into custody in the backyard of 510 Brush Street, LV NV 89108. Both suspects were also wearing dark "puffy" style jackets. Also located in the backyard and in view of both suspects were three (3) BB guns, two sets of gloves, one pair being an orange/red color and a black set of gloves. Officer Spurling also located two large 12-15 inch knives/sheath's in holsters, victim COLON's wallet and \$138.00 in US Currency, which was the amount taken from the 7-11 Robbery w/Deadly weapon under LVMPD Event #160112-0450. While Officer Spurling was taking Suspect #2- MONAY-PINA into custody, he spontaneously stated "You don't understand, "we reported as victims that our tires were slashed and you guys didn't do anything, we were retaliating because he slashed our tires". (referring to COLEN slashing their tires) VICTIM COLEN was transported to UMC Trauma by AMR. Officer J. Spurling also observed a bloody ax just inside the carport to COLEN's residence.

Officer I. Simmons P#15067 under LVMPD Event #160112-0450, conducted a "show up" with the clerk of 7-11, DECAMP, RICHARD from LVMPD Event #160112-0450. DECAMP positively identified the clothing that both subjects were wearing and stated "the clothing matches suspects, but he could not identify their face, because they both were wearing black masks". LVMPD Officer Simmons P#15067 observed the video surveillance inside the 7-11 and he also confirmed 100% that both suspects in custody in the back yard of 510 Brush Street were the same suspects that committed the Robbery with Deadly Weapon at the 7-11. Both suspects were arrested for Robbery with Deadly Weapon.

CONTINUATION REPORT

ID/EVENT #: 160112-0494

Detective E. Toms P#5793 responded to UMC Trauma to get a statement from VICTIM-COLEN. COLEN was not able to give an official statement at the time because he was being treated by Medical Staff. COLEN stated that both CASIMIRO and MONAY-PINA entered his room and began pistol whipping him numerous times about his head and body. (Battery w/SBH W/Deadly Weapon) CASIMIRO then began to hit COLEN with an ax as MONAY-PINA was still hitting him with his pistol. COLEN put up his right hand to protect his face and was struck with the ax causing a large laceration/cut to his right hand. (Attempt Murder with Deadly Weapon) COLEN also had a large laceration to the top right side of his head and behind his right ear. COLEN then stated that the suspects took his wallet and several of his large knives in holsters and fled. (Robbery with Deadly Weapon) COLEN told Detective E. Toms P#5793 that he thinks that suspects did this to him because suspects think he had something to do with his sisters (NFI) tires being flattened.

LVMPD CSI B. Vaandering P#13575 and A. Felabom P#8427 took photos of the items recovered in the backyard of 510 Brush Street. Just inside the bush area, where SUSPECT MONAY-PINA was taken into custody was a round stack of cash and VICTIM-COLEN'S wallet. The exact amount of cash was \$138.00, which was the approximate amount taken in the 7-11 Robbery. Also in the backyard was the 3 large knives taken from COLEN's bedroom. 2 black ski masks were also photographed and recovered as well as 3 black in color firearms, which were pellet guns. 2 pair of gloves were also recovered, one of which was an orange/red in color pair of gloves, which was described by the 7-11 employee VICTIM-DECAMP.

With the above information, VENEGAS, CASIMIRO was arrested for ROBBERY WITH DEADLY WEAPON, BURGLARY WITH DEADLY WEAPON, ATTEMPT MURDER WITH DEADLY WEAPON, BATTERY WITH DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM, ROBBERY WITH DEADLY WEAPON, BURGLARY WITH DEADLY WEAPON and CONSPIRACY TO COMMIT ROBBERY. VEGEGAS was transported to CCDC and booked accordingly.

With the above information, MONAY-PINA, JOSE FERNANDO was arrested for ROBBERY WITH DEADLY WEAPON, BURGLARY WITH DEADLY WEAPON, BATTERY WITH DEADLY WEAPON WITH SUBSTANTIAL BODILY HARM, ROBBERY WITH DEADLY WEAPON, BURGLARY WITH DEADLY WEAPON and CONSPIRACY TO COMMIT ROBBERY. MONAY-PINA was transported to CCDC and booked accordingly.

**Justice Court, Las Vegas Township
Clark County, Nevada**

Custody Status Slip



L006010685

Clerk: stons

Housed At: NT-7C-03-U

Date: 1/14/2016: Initial Appearance

Department: 14

Judge: Hafen, Conrad

Name: Venegas, Casimiro

Case: 16F00568A

Defendant ID: 2666143

001: Consp robbery [50147] (F) (0025601938-007)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

002: Burglary while poss of gun/DW [50426] (F) (0025601938-003)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

003: Robbery, e/dw [50138] (F) (0025601938-002)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

004: Burglary while poss of gun/DW [50426] (F) (0025601938-006)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

005: Robbery, e/dw [50138] (F) (0025601938-005)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

006: Battery w/use of DW, r/SBH [50226] (F) (0025601938-004)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

007: Att murder, e/dw [50031] (F) (0025601938-001)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Future Justice Court Hearings

2/1/2016 9:00:00 AM: Preliminary Hearing (JC Department 14)

Added

CONFIDENTIAL

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

PRETRIAL SERVICES INFORMATION SHEET

CASE # 16F00568A DEPT # JC-14 REQUESTED BY:

NAME: Casimiro Venegas ID # 2666143

CHARGES:
ATT MURDER E/DW, ROBBERY E/DW 2cts, BURGLARY WHILE POSS OF GUN/DW 2cts,
BATTERY W/USE OF DW R/SBH, CONSP ROBBERY
CURRENT BAIL:
SIC/NO BAIL

VERIFIED: ADDRESS: NOT INTERVIEWED
WITH WHOM/HOW LONG: /

VERIFIED: EMPLOYMENT STATUS: /
LENGTH:

VERIFIED: RELATIVES - LOCAL : NOT LOCAL:

FELONY/GROSS MISDEMEANOR CONVICTIONS: 08 NV ROBBERY W/DW;
08 NV CONSP ROBBERY; 08 NV BURGLARY W/DW; 08 NV ROBBERY W/DW; 13 NV ROBBERY
MISDEMEANOR CONVICTIONS: NONE

FAIL TO APPEAR: 0

ALSO I/C: 08C244224-1 – PAROLE VIOL.

RECOMMENDATION:

DATE: 1/21/2016

PRETRIAL SERVICES: RENE DIAZ

16F00568A
IVS
Pretrial Information Sheet
6038111



AA0031

**Justice Court, Las Vegas Township
Clark County, Nevada**

Custody Status Slip



L006081547

Housed At: NT-7C-03-U

Clerk: montj

Date: 2/1/2016: Preliminary Hearing

Department: 14

Judge: Hafen, Conrad

Name: Venegas, Casimiro

Case: 16F00568A

Defendant ID: 2666143

001: Consp robbery [50147] (F) (0025601938-007)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

002: Burglary while poss of gun/DW [50426] (F) (0025601938-003)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

003: Robbery, e/dw [50138] (F) (0025601938-002)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

004: Burglary while poss of gun/DW [50426] (F) (0025601938-006)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

005: Robbery, e/dw [50138] (F) (0025601938-005)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

006: Battery w/use of DW, r/SBH [50226] (F) (0025601938-004)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

007: Att murder, e/dw [50031] (F) (0025601938-001)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Future Justice Court Hearings

2/17/2016 7:30:00 AM: Negotiations (JC Department 14)

Added

**Justice Court, Las Vegas Township
Clark County, Nevada**

Custody Status Slip



L006150671

Housed At: NT-3B-DY

Clerk: montj

Date: 2/17/2016: Preliminary Hearing

Department: 14

Judge: Hafen, Conrad

Name: Venegas, Casimiro

Case: 16F00568A

Defendant ID: 2666143

001: Consp robbery [50147] (F) (0025601938-007)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

002: Burglary while poss of gun/DW [50426] (F) (0025601938-003)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

003: Robbery, e/dw [50138] (F) (0025601938-002)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

004: Burglary while poss of gun/DW [50426] (F) (0025601938-006)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

005: Robbery, e/dw [50138] (F) (0025601938-005)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

006: Battery w/use of DW, r/SBH [50226] (F) (0025601938-004)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

007: Att murder, e/dw [50031] (F) (0025601938-001)

Bail Stands - Cash or Surety: Counts: 001; 002; 003; 004; 005; 006; 007 - \$0.00/\$0.00 Total Bail

Future Justice Court Hearings

3/3/2016 9:00:00 AM: Preliminary Hearing (JC Department 14)

Added

FILED
ORIGINAL
FEB 19 9 18 AM '16

JUSTICE COURT
LAS VEGAS NEVADA
BY JR DEPUTY

1 STEVEN B. WOLFSON
2 Clark County District Attorney
3 Nevada Bar #001565
4 MARY KAY HOLTHUS
5 Chief Deputy District Attorney
6 Nevada Bar #3814
7 200 Lewis Avenue
8 Las Vegas, Nevada 89155-2212
9 (702) 671-2500
10 Attorney for Plaintiff

7 JUSTICE COURT, LAS VEGAS TOWNSHIP
8 CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9 Plaintiff,

10 -vs-

CASE NO: 16F00568A

11 CASIMIRO VENEGAS, #2666143
12 Defendant.

DEPT NO: 14

14 ORDER RELEASING MEDICAL RECORDS

15
16 Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark
17 County District Attorney, by and through MARY KAY HOLTHUS, Chief Deputy District
18 Attorney, that certain records containing protected health information are necessary for the
19 prosecution of the above-captioned criminal case are being held in the custody of University
20 Medical Center (UMC); that said information is relevant and material to a legitimate law
21 enforcement inquiry; that the application was specific and limited in scope to the extent
22 reasonably practicable in light of the purpose for which the information is sought; and that de-
23 identified information could not reasonably be used;

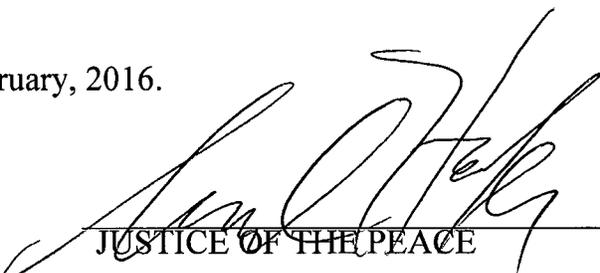
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1 NOW THEREFORE, pursuant to 45CFR164.512(f), and GOOD CAUSE
2 APPEARING, University Medical Center (UMC), shall release to a representative of the
3 DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis,
4 prognosis, and/or treatment of JAVIER COLEN, whose date of birth is April 21, 1975, for the
5 time period January 12, 2016.

6 IT IS HEREBY ORDERED.

7 DATED this 18 day of February, 2016.

8
9
10 
JUSTICE OF THE PEACE

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

14 BY 

MARY KAY HOLTHUS
15 Chief Deputy District Attorney
16 Nevada Bar #3814
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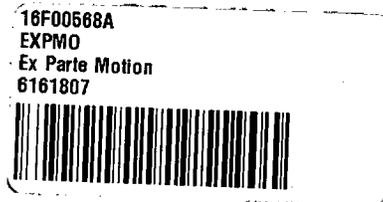
28 cmj/L3

ORIGINAL
FILED

1 STEVEN B. WOLFSON
2 Clark County District Attorney
3 Nevada Bar #001565
4 MARY KAY HOLTHUS
5 Chief Deputy District Attorney
6 Nevada Bar #3814
7 200 Lewis Avenue
8 Las Vegas, Nevada 89155-2212
9 (702) 671-2500
10 Attorney for Plaintiff

FEB 19 9 18 AM '16

JUSTICE COURT
LAS VEGAS NEVADA
BY _____
DEPUTY



7 JUSTICE COURT, LAS VEGAS TOWNSHIP
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 CASIMIRO VENEGAS,
13 #2666143

14 Defendant.

CASE NO: 16F00568A

DEPT NO: 14

15 EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

16 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
17 District Attorney, through MARY KAY HOLTHUS, Chief Deputy District Attorney, and
18 moves this Honorable Court for an Order Releasing which includes protected health
19 information being held by University Medical Center (UMC) consisting of any and all medical
20 records for patient JAVIER COLEN, DOB: April 21, 1975, concerning diagnosis, prognosis
21 and/or treatment given or provided on or about January 12, 2016, to be released to a
22 representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the
23 above referenced case charging the crime of CONSPIRACY TO COMMIT ROBBERY
24 (Category B Felony - NRS 200.380, 199.480 - NOC 50147); BURGLARY WHILE IN
25 POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426);
26 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380,
27 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY WEAPON RESULTING
28 IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226) and

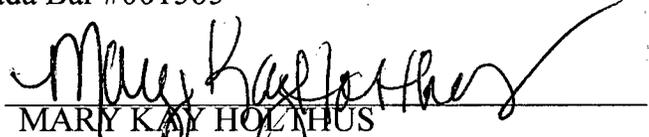
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ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031).

Pursuant to 45CFR164.512(f), Movant represents that the information sought is relevant and material to a legitimate law enforcement inquiry; that the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used.

DATED this 18 day of February, 2016.

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

BY 
MARY KAY HOLMUS
Chief Deputy District Attorney
Nevada Bar #3814

cmj/L3

ORIGINAL

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

MAR 13 2017

BY: *Sylvia D. Perez*
SYLVIA D. PEREZ, DEPUTY

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRYAN SCHWARTZ
6 Deputy District Attorney
7 Nevada Bar #013244
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,
12
13 -vs-
14
15 CASIMIRO VENEGAS, #2666143
16
17 Defendant.

CASE NO: C-16-313118-1

DEPT NO: VI

AMENDED
INFORMATION

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

17 STEVEN B. WOLFSON, Clark County District Attorney within and for the County of
18 Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the
19 Court:

20 That CASIMIRO VENEGAS, the Defendant(s) above named, having committed the
21 crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380,
22 199.480 - NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category
23 B Felony - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON
24 (Category B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A
25 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
26 Felony - NRS 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY
27 WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031);
28 COERCION WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190,

C-16-313118-1
AINF
Amended Information
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AA0039

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1 193.165 - NOC 53160); BATTERY WITH INTENT TO COMMIT A CRIME (Category B
2 Felony - NRS 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING
3 (Gross Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016,
4 within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes
5 in such cases made and provided, and against the peace and dignity of the State of Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

7 did willfully, unlawfully, and feloniously conspire with JOSE FERNANDO MONAY-
8 PINA, aka, Jose Fernando Monaypina and each other to commit a robbery, by the defendants
9 committing the acts as set forth in Count 2 through 13, said acts being incorporated by this
10 reference as though fully set forth herein.

11 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

12 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
13 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston
14 Boulevard, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain
15 possession of a firearm during the commission of the crime and/or before leaving the structure.

16 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

17 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money
18 of the United States, from the person of RICHARD DECAMP, or in his presence, by means
19 of force or violence, or fear of injury to, and without the consent and against the will of
20 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

21 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

22 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
23 robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las
24 Vegas, Clark County, Nevada, said Defendant did possess and/or gain possession of a firearm
25 during the commission of the crime and/or before leaving the structure.

26 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

27 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and
28 contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of

1 force or violence, or fear of injury to, and without the consent and against the will of JAVIER
2 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

3 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an
7 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,
8 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally
9 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly
10 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
11 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
12 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
13 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
14 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
15 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
16 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
17 lookout and confederate throughout.

18 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
20 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the
21 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being
22 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
27 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering
28 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the

1 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting
2 as lookout and confederate throughout.

3 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
7 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
8 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
9 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
10 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
11 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
12 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
13 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
14 conspiring in the following manner, to wit: by entering into a course of conduct whereby
15 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
16 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
17 confederate throughout.

18 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
19 SUBSTANTIAL BODILY HARM

20 did willfully, unlawfully, and feloniously use force or violence upon the person of
21 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
22 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
23 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
24 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
25 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
26 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
27 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
28 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or

1 conspiring in the following manner, to wit: by entering into a course of conduct whereby
2 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
3 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
4 confederate throughout.

5 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
6 SUBSTANTIAL BODILY HARM

7 did willfully, unlawfully, and feloniously use force or violence upon the person of
8 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
9 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
10 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
11 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
12 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
13 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
14 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
15 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
16 conspiring in the following manner, to wit: by entering into a course of conduct whereby
17 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
18 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
19 confederate throughout.

20 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

21 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other
22 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA COLON
23 and/or LIZBETH COLON and/or SAMANTHA ABANA and/or CAESAR ABANA; the
24 Defendant(s) being criminally liable under one or more of the following principles of criminal
25 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
26 commission of this crime, with the intent that this crime be committed, by counseling,
27 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

28 ///

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
2 crime be committed, Defendants acting in concert throughout.

3 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

4 did then and there willfully, unlawfully, and feloniously use physical force, or the
5 immediate threat of such force, against ADRIANA COLON and/or LIZBETH COLON and/or
6 SAMANTHA ABANA and/or CAESAR ABANA and/or JAVIER COLEN, with intent to
7 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from
8 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving
9 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable
10 under one or more of the following principles of criminal liability, to-wit: (1) by directly
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
15 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
16 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
17 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
18 lookout and confederate throughout.

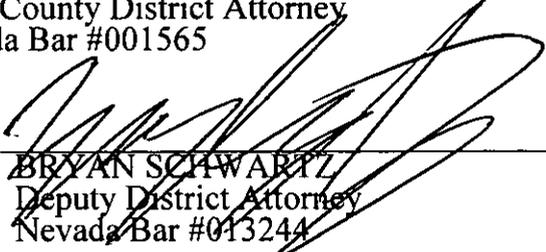
19 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

20 did then and there willfully, unlawfully, and feloniously use force or violence upon the
21 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial
22 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm
23 and/or axe; the Defendant(s) being criminally liable under one or more of the following
24 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
25 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
26 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the
27 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the
28 intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the

1 following manner, to wit: by entering into a course of conduct whereby Defendant CASIMIRO
2 VENEGAS directly committed the crime, Defendant JOSE FERNANDO MONAY-PINA,
3 aka, Jose Fernando Monaypina acting as lookout and confederate throughout.

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

7 BY


8 ~~BRYAN SCHWARTZ~~
9 Deputy District Attorney
10 Nevada Bar #013244

11 Names of witnesses known to the District Attorney's Office at the time of filing this
12 information are as follows:

13 <u>NAME</u>	14 <u>ADDRESS</u>
15 CUSTODIAN OF RECORDS 16 OR DESIGNEE	17 Clark County Detention Center, 18 330 S. Casino Center Blvd., LVNV
19 CUSTODIAN OF RECORDS 20 OR DESIGNEE	21 LVMPD Dispatch, 22 400 E. Stewart, Las Vegas, NV
23 CUSTODIAN OF RECORDS 24 OR DESIGNEE	25 LVMPD Communications, 26 400 E. Stewart, Las Vegas, NV
27 CUSTODIAN OF RECORDS 28 OR DESIGNEE	29 LVMPD Records, 30 400 E. Stewart, Las Vegas, NV
31 AGUIRRE, A.	32 LVMPD #9645
33 COLON, Javier	34 C/O District Attorney's Office
35 DECAMP, Richard	36 C/O District Attorney's Office
37 DURON, I.	38 LVMPD #14809
39 LEHMANN, S.	40 LVMPD #13885
41 MONAY-PINA, Jose Fernando	42 908 N. Jones Blvd., Las Vegas, NV
43 SIMMONS, J.	44 LVMPD #15067
45 SIMMS, J.	46 LVMPD #15111

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SMITH, T.
SPURLING, J.
TOMS, E.
WATTS, Joseph

LVMPD #5267
LVMPD #13647
LVMPD #5793
DA Investigator and/or Designee

1 **DO NOT READ TO THE JURY**

2 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
3 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
4 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

5 **NOTICE OF PRIOR BURGLARY AND/OR HOME INVASION CONVICTIONS**

6 The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice that
7 in the event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion
8 conviction pursuant to NRS 205.067 in the above-entitled action, he will not be eligible for
9 probation as Defendant CASIMIRO VENEGAS has already suffered ONE (1) prior Burglary
10 and/or Home Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment
11 as a Habitual Criminal," said notice being incorporated by this reference as though fully set
12 forth herein.

13 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
14 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
15 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

16 **NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL**
17 **CRIMINAL**

18 The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice of the
19 State's intent to seek punishment of Defendant CASIMIRO VENEGAS pursuant to the
20 provisions of NRS 207.010 and 207.012 as a habitual criminal in the event of a felony
21 conviction in the above-entitled action.

22 The State will seek punishment as a habitual criminal based upon the following felony
23 convictions, to wit:

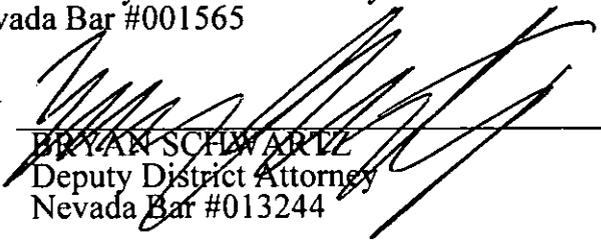
24 1. That in 2008, the Defendant was convicted in the Eighth Judicial District
25 Court, County of Clark, State of Nevada, for the crime of COUNT 1 - CONSPIRACY TO
26 COMMIT ROBBERY (Category B Felony) and COUNT 2 - ROBBERY WITH USE OF A
27 DEADLY WEAPON (Category B Felony), in Case No. C244224.

28 2. That in 2008, the Defendant was convicted in the Eighth Judicial District
Court, County of Clark, State of Nevada, for the crime of COUNT 1 - ROBBERY WITH USE

1 OF A DEADLY WEAPON (Category B Felony) and COUNT 2 - BURGLARY WHILE IN
2 POSSESSION OF A FIREARM (Category B Felony), in Case No. C246550.

3 3. That in 2013, the Defendant was convicted in the Eighth Judicial District
4 Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in
5 Case No. C284885-1.

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

9 BY 
10 ~~BRYAN SCHWARTZ~~
11 Deputy District Attorney
12 Nevada Bar #013244

13 **DO NOT READ TO THE JURY**

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27 DA#16F00568A/pm /L-2
28 LVMPD EV#1601120450; 1601120494
(TK14)

ORIGINAL

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

MAR 13 2017

BY, S D Perez
SYLVIA D. PEREZ, DEPUTY

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRYAN SCHWARTZ
6 Deputy District Attorney
7 Nevada Bar #013244
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 CASIMIRO VENEGAS, #2666143,
13 JOSE FERNANDO MONAY-PINA, aka,
14 Jose Fernando Monaypina, #7028317.

15 Defendants.

CASE NO: C-16-313118-1-2

DEPT NO: VII

SECOND AMENDED
INFORMATION

C-16-313118-1
AINF
Amended Information
4631668



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

18 STEVEN B. WOLFSON, Clark County District Attorney within and for the County of
19 Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the
20 Court:

21 That CASIMIRO VENEGAS and JOSE FERNANDO MONAY-PINA, aka, Jose
22 Fernando Monaypina, the Defendants above named, having committed the crimes of
23 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -
24 NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony
25 - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category
26 B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY
27 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS
28 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

1 (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION
2 WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC
3 53160); BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS
4 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross
5 Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016, within
6 the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
7 cases made and provided, and against the peace and dignity of the State of Nevada,

8 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

9 did willfully, unlawfully, and feloniously conspire with each other to commit a
10 robbery, by the defendants committing the acts as set forth in Count 2 through 13, said acts
11 being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

13 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
14 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston
15 Boulevard, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain
16 possession of a firearm during the commission of the crime and/or before leaving the structure.

17 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

18 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money
19 of the United States, from the person of RICHARD DECAMP, or in his presence, by means
20 of force or violence, or fear of injury to, and without the consent and against the will of
21 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

22 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
24 robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las
25 Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a firearm
26 during the commission of the crime and/or before leaving the structure.

27 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

28 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and

1 contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of
2 force or violence, or fear of injury to, and without the consent and against the will of JAVIER
3 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

4 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
5 SUBSTANTIAL BODILY HARM

6 did willfully, unlawfully, and feloniously use force or violence upon the person of
7 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an
8 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,
9 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally
10 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
15 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
16 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
17 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
18 lookout and confederate throughout.

19 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

20 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
21 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the
22 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being
23 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)
24 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
25 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
26 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)
27 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
28 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering

1 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the
2 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting
3 as lookout and confederate throughout.

4 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
5 SUBSTANTIAL BODILY HARM

6 did willfully, unlawfully, and feloniously use force or violence upon the person of
7 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
8 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
9 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
10 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
11 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
12 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
13 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
14 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
15 conspiring in the following manner, to wit: by entering into a course of conduct whereby
16 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
17 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
18 confederate throughout.

19 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
20 SUBSTANTIAL BODILY HARM

21 did willfully, unlawfully, and feloniously use force or violence upon the person of
22 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
23 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
24 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
25 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
26 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
27 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
28 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this

1 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
2 conspiring in the following manner, to wit: by entering into a course of conduct whereby
3 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
4 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
5 confederate throughout.

6 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
7 SUBSTANTIAL BODILY HARM

8 did willfully, unlawfully, and feloniously use force or violence upon the person of
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
10 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
11 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
12 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
13 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
14 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
15 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
16 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
17 conspiring in the following manner, to wit: by entering into a course of conduct whereby
18 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
19 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
20 confederate throughout.

21 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

22 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other
23 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA COLON
24 and/or LIZBETH COLON and/or SAMANTHA ABANA and/or CAESAR ABANA; the
25 Defendant(s) being criminally liable under one or more of the following principles of criminal
26 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
27 commission of this crime, with the intent that this crime be committed, by counseling,
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
2 crime be committed, Defendants acting in concert throughout.

3 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

4 did then and there willfully, unlawfully, and feloniously use physical force, or the
5 immediate threat of such force, against ADRIANA COLON and/or LIZBETH COLON and/or
6 SAMANTHA ABANA and/or CAESAR ABANA and/or JAVIER COLEN, with intent to
7 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from
8 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving
9 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable
10 under one or more of the following principles of criminal liability, to-wit: (1) by directly
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
15 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
16 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
17 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
18 lookout and confederate throughout.

19 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

20 did then and there willfully, unlawfully, and feloniously use force or violence upon the
21 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial
22 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm
23 and/or axe; the Defendant(s) being criminally liable under one or more of the following
24 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
25 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
26 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the
27 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the
28 intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the

1 following manner, to wit: by entering into a course of conduct whereby Defendant CASIMIRO
2 VENEGAS directly committed the crime, Defendant JOSE FERNANDO MONAY-PINA,
3 aka, Jose Fernando Monaypina acting as lookout and confederate throughout.

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

7 BY *M.R. Schwartz* 13476 So2

8 BRYAN SCHWARTZ
9 Deputy District Attorney
10 Nevada Bar #013244

11 Names of witnesses known to the District Attorney's Office at the time of filing this
12 information are as follows:

13 <u>NAME</u>	14 <u>ADDRESS</u>
15 CUSTODIAN OF RECORDS 16 OR DESIGNEE	17 Clark County Detention Center, 18 330 S. Casino Center Blvd., LVNV
19 CUSTODIAN OF RECORDS 20 OR DESIGNEE	21 LVMPD Dispatch, 22 400 E. Stewart, Las Vegas, NV
23 CUSTODIAN OF RECORDS 24 OR DESIGNEE	25 LVMPD Communications, 26 400 E. Stewart, Las Vegas, NV
27 CUSTODIAN OF RECORDS 28 OR DESIGNEE	29 LVMPD Records, 30 400 E. Stewart, Las Vegas, NV
31 AGUIRRE, A.	32 LVMPD #9645
33 COLON, Javier	34 C/O District Attorney's Office
35 DECAMP, Richard	36 C/O District Attorney's Office
37 DURON, I.	38 LVMPD #14809
39 LEHMANN, S.	40 LVMPD #13885
41 MONAY-PINA, Jose Fernando	42 908 N. Jones Blvd., Las Vegas, NV
43 SIMMONS, J.	44 LVMPD #15067
45 SIMMS, J.	46 LVMPD #15111

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SMITH, T.

LVMPD #5267

SPURLING, J.

LVMPD #13647

TOMS, E.

LVMPD #5793

VENEGAS, Casimiro

1759 Santa Margarita St., #123, LVN

WATTS, Joseph

DA Investigator and/or Designee

1 **DO NOT READ TO THE JURY**

2 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
3 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
4 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

5 **NOTICE OF PRIOR BURGLARY AND/OR HOME INVASION CONVICTIONS**

6 The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice that
7 in the event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion
8 conviction pursuant to NRS 205.067 in the above-entitled action, he will not be eligible for
9 probation as Defendant CASIMIRO VENEGAS has already suffered ONE (1) prior Burglary
10 and/or Home Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment
11 as a Habitual Criminal," said notice being incorporated by this reference as though fully set
12 forth herein.

13 **UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED**
14 **HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE**
15 **FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

16 **NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL**
17 **CRIMINAL**

18 The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice of the
19 State's intent to seek punishment of Defendant CASIMIRO VENEGAS pursuant to the
20 provisions of NRS 207.010 and 207.012 as a habitual criminal in the event of a felony
21 conviction in the above-entitled action.

22 The State will seek punishment as a habitual criminal based upon the following felony
23 convictions, to wit:

24 1. That in 2008, the Defendant was convicted in the Eighth Judicial District
25 Court, County of Clark, State of Nevada, for the crime of COUNT 1 - CONSPIRACY TO
26 COMMIT ROBBERY (Category B Felony) and COUNT 2 - ROBBERY WITH USE OF A
27 DEADLY WEAPON (Category B Felony), in Case No. C244224.

28 2. That in 2008, the Defendant was convicted in the Eighth Judicial District
Court, County of Clark, State of Nevada, for the crime of COUNT 1 - ROBBERY WITH USE

///

1 OF A DEADLY WEAPON (Category B Felony) and COUNT 2 - BURGLARY WHILE IN
2 POSSESSION OF A FIREARM (Category B Felony), in Case No. C246550.

3 3. That in 2013, the Defendant was convicted in the Eighth Judicial District
4 Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in
5 Case No. C284885-1.

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

9 BY M. D. N. L. 12476 for
10 BRYAN SCHWARTZ
11 Deputy District Attorney
12 Nevada Bar #013244

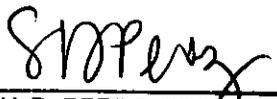
13 **DO NOT READ TO THE JURY**

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27 DA#16F00568A/pm /L-2
28 LVMPD EV#1601120450; 1601120494
(TK14)

ORIGINAL

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

MAR 15 2017

BY: 
SYLVIA D. PEREZ, DEPUTY

C-16-313118-1
AINF
Amended Information
4633726



DISTRICT COURT
CLARK COUNTY, NEVADA

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRYAN SCHWARTZ
6 Deputy District Attorney
7 Nevada Bar #013244
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 CASIMIRO VENEGAS, #2666143,
13 JOSE FERNANDO MONAY-PINA, aka,
14 Jose Fernando Monaypina, #7028317.

15 Defendants.

CASE NO: C-16-313118-1 ~~1~~

DEPT NO: VII

THIRD AMENDED
INFORMATION

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

18 STEVEN B. WOLFSON, Clark County District Attorney within and for the County of
19 Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the
20 Court:

21 That CASIMIRO VENEGAS and JOSE FERNANDO MONAY-PINA, aka, Jose
22 Fernando Monaypina, the Defendants above named, having committed the crimes of
23 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -
24 NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony
25 - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category
26 B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY
27 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS
28 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

AA0059

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1 (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION
2 WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC
3 53160); BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS
4 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross
5 Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016, within
6 the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
7 cases made and provided, and against the peace and dignity of the State of Nevada,

8 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

9 did willfully, unlawfully, and feloniously conspire with each other to commit a
10 robbery, by the defendants committing the acts as set forth in Count 2 through 13, said acts
11 being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

13 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
14 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston
15 Boulevard, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain
16 possession of a firearm during the commission of the crime and/or before leaving the structure.

17 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

18 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money
19 of the United States, from the person of RICHARD DECAMP, or in his presence, by means
20 of force or violence, or fear of injury to, and without the consent and against the will of
21 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

22 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
24 robbery and/or assault and/or battery and/or larceny that certain residence occupied by
25 JAVIER COLEN, located at 504 Brush Street, Las Vegas, Clark County, Nevada, said
26 Defendants did possess and/or gain possession of a firearm during the commission of the crime
27 and/or before leaving the structure.

1 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

2 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and
3 contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of
4 force or violence, or fear of injury to, and without the consent and against the will of JAVIER
5 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

6 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
7 SUBSTANTIAL BODILY HARM

8 did willfully, unlawfully, and feloniously use force or violence upon the person of
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an
10 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,
11 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally
12 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly
13 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
14 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
15 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
16 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
17 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
18 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
19 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
20 lookout and confederate throughout.

21 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

22 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
23 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the
24 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being
25 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)
26 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
27 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
28 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)

1 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
2 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering
3 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the
4 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting
5 as lookout and confederate throughout.

6 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
7 SUBSTANTIAL BODILY HARM

8 did willfully, unlawfully, and feloniously use force or violence upon the person of
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
10 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
11 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
12 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
13 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
14 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
15 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
16 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
17 conspiring in the following manner, to wit: by entering into a course of conduct whereby
18 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
19 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
20 confederate throughout.

21 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
22 SUBSTANTIAL BODILY HARM

23 did willfully, unlawfully, and feloniously use force or violence upon the person of
24 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
25 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
26 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
27 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
28 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be

1 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
2 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
3 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
4 conspiring in the following manner, to wit: by entering into a course of conduct whereby
5 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
6 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
7 confederate throughout.

8 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
9 SUBSTANTIAL BODILY HARM

10 did willfully, unlawfully, and feloniously use force or violence upon the person of
11 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
12 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
13 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
14 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
15 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
16 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
17 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
18 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
19 conspiring in the following manner, to wit: by entering into a course of conduct whereby
20 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
21 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
22 confederate throughout.

23 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

24 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other
25 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA AVINA and/or
26 LIZBETH AVINA and/or SAMANTHA AVINA and/or CAESAR AVINA; the Defendant(s)
27 being criminally liable under one or more of the following principles of criminal liability, to-
28 wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission

1 of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
2 commanding, inducing and/or otherwise procuring the other to commit
3 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
4 crime be committed, Defendants acting in concert throughout.

5 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

6 did then and there willfully, unlawfully, and feloniously use physical force, or the
7 immediate threat of such force, against ADRIANA AVINA and/or LIZBETH AVINA and/or
8 SAMANTHA AVINA and/or CAESAR AVINA and/or JAVIER COLEN, with intent to
9 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from
10 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving
11 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable
12 under one or more of the following principles of criminal liability, to-wit: (1) by directly
13 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
14 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
15 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
16 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
17 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
18 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
19 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
20 lookout and confederate throughout.

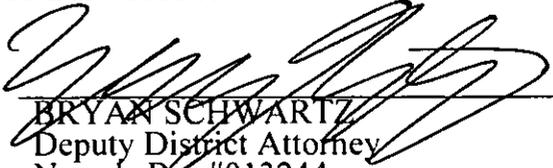
21 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

22 did then and there willfully, unlawfully, and feloniously use force or violence upon the
23 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial
24 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm
25 and/or axe; the Defendant(s) being criminally liable under one or more of the following
26 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
27 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
28 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the

1 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the
2 intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the
3 following manner, to wit: by entering into a course of conduct whereby Defendant CASIMIRO
4 VENEGAS directly committed the crime, Defendant JOSE FERNANDO MONAY-PINA,
5 aka, Jose Fernando Monaypina acting as lookout and confederate throughout.

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

9 BY


10 ~~BRYAN SCHWARTZ~~
11 Deputy District Attorney
12 Nevada Bar #013244

13 Names of witnesses known to the District Attorney's Office at the time of filing this
14 information are as follows:

14 <u>NAME</u>	<u>ADDRESS</u>
15 CUSTODIAN OF RECORDS 16 OR DESIGNEE	Clark County Detention Center, 330 S. Casino Center Blvd., LVNV
17 CUSTODIAN OF RECORDS 18 OR DESIGNEE	LVMPD Dispatch, 400 E. Stewart, Las Vegas, NV
19 CUSTODIAN OF RECORDS 20 OR DESIGNEE	LVMPD Communications, 400 E. Stewart, Las Vegas, NV
21 CUSTODIAN OF RECORDS 22 OR DESIGNEE	LVMPD Records, 400 E. Stewart, Las Vegas, NV
23 AGUIRRE, A.	LVMPD #9645
24 COLON, Javier	C/O District Attorney's Office
25 DECAMP, Richard	C/O District Attorney's Office
26 DURON, I.	LVMPD #14809
27 LEHMANN, S.	LVMPD #13885
28 MONAY-PINA, Jose Fernando	908 N. Jones Blvd., Las Vegas, NV

1	SIMMONS, J.	LVMPD #15067
2	SIMMS, J.	LVMPD #15111
3	SMITH, T.	LVMPD #5267
4	SPURLING, J.	LVMPD #13647
5	TOMS, E.	LVMPD #5793
6	VENEGAS, Casimiro	1759 Santa Margarita St., #123, LVN
7	WATTS, Joseph	DA Investigator and/or Designee

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1 OF A DEADLY WEAPON (Category B Felony) and COUNT 2 - BURGLARY WHILE IN
2 POSSESSION OF A FIREARM (Category B Felony), in Case No. C246550.

3 3. That in 2013, the Defendant was convicted in the Eighth Judicial District
4 Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in
5 Case No. C284885-1.

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

9 BY _____
10 BRYAN SCHWARTZ
11 Deputy District Attorney
12 Nevada Bar #013244

13 **DO NOT READ TO THE JURY**

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27 DA#16F00568A/bs /L-2
28 LVMPD EV#1601120450; 1601120494
(TK14)

MAR 15 2017 5:50pm

DISTRICT COURT BY: S. D. Perez
CLARK COUNTY, NEVADA SYLVIA D. PEREZ, DEPUTY

1 VER

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -vs-

8 CASIMIRO VENEGAS,

9 Defendant.

CASE

C-16-313118-1

NO:

VII

DEPT NO:

10 VERDICT

11 We, the jury in the above entitled case, find the Defendant CASIMIRO
12 VENEGAS, as follows:

13 COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

14 *(Please check the appropriate box, select only one)*

15 Not Guilty

16 Guilty of Conspiracy to Commit Robbery

18 COUNT 2 – BURGLARY WHILE IN POSSESSION OF A FIREARM

19 *(Please check the appropriate box, select only one)*

20 Not Guilty

21 Guilty of Burglary While in Possession of a Firearm

22 Guilty of Burglary

24 COUNT 3 – ROBBERY WITH USE OF A DEADLY WEAPON (DECAMP)

25 *(Please check the appropriate box, select only one)*

26 Not Guilty

27 Guilty of Robbery with Use of a Deadly Weapon

28 Guilty of Robbery

C-16-313118-1
VER
Verdict
4632278



AA0069

H

1 **COUNT 4** – BURGLARY WHILE IN POSSESSION OF A FIREARM (COLON)

2 *(Please check the appropriate box, select only one)*

- 3 Not Guilty
4 Guilty of Burglary While in Possession of a Firearm
5 Guilty of Burglary

6
7 **COUNT 5** – ROBBERY WITH USE OF A DEADLY WEAPON (COLON)

8 *(Please check the appropriate box, select only one)*

- 9 Not Guilty
10 Guilty of Robbery with Use of a Deadly Weapon
11 Guilty of Robbery

12
13 **COUNT 6** - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
SUBSTANTIAL BODILY HARM (COLON)

14 *(Please check the appropriate box, select only one)*

- 15 Not Guilty
16 Guilty of Battery With Use of a Deadly Weapon Resulting in
17 Substantial Bodily Harm
18 Guilty of Battery With Use of a Deadly Weapon
19 Guilty of Battery Resulting in Substantial Bodily Harm
20 Guilty of Battery

21
22 **COUNT 7** – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(COLON)

23 *(Please check the appropriate box, select only one)*

- 24 Not Guilty
25 Guilty of Attempt Murder With Use of a Deadly Weapon
26 Guilty of Attempt Murder

27 ///

1 **COUNT 8** - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
2 SUBSTANTIAL BODILY HARM (COLON)

3 *(Please check the appropriate box, select only one)*

4 Not Guilty

5 Guilty of Battery With Use of a Deadly Weapon Resulting in
6 Substantial Bodily Harm

7 Guilty of Battery With Use of a Deadly Weapon

8 Guilty of Battery Resulting in Substantial Bodily Harm

9 Guilty of Battery

10 **COUNT 9** - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
11 SUBSTANTIAL BODILY HARM (COLON)

12 *(Please check the appropriate box, select only one)*

13 Not Guilty

14 Guilty of Battery With Use of a Deadly Weapon Resulting in
15 Substantial Bodily Harm

16 Guilty of Battery With Use of a Deadly Weapon

17 Guilty of Battery Resulting in Substantial Bodily Harm

18 Guilty of Battery

19 **COUNT 10** - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
20 SUBSTANTIAL BODILY HARM (COLON)

21 *(Please check the appropriate box, select only one)*

22 Not Guilty

23 Guilty of Battery With Use of a Deadly Weapon Resulting in
24 Substantial Bodily Harm

25 Guilty of Battery With Use of a Deadly Weapon

26 Guilty of Battery Resulting in Substantial Bodily Harm

27 Guilty of Battery

28 ///

1 **COUNT 11** - AIMING A FIREARM AT A HUMAN BEING
2 (COLON / AVINA)

3 *(Please check the appropriate box, select only one)*

- 4 Not Guilty
5 Guilty of Aiming a Firearm at a Human Being

6 **COUNT 12** - COERCION WITH USE OF A DEADLY WEAPON
7 (COLON / AVINA)

8 *(Please check the appropriate box, select only one)*

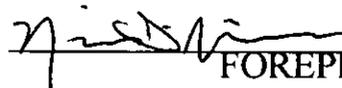
- 9 Not Guilty
10 Guilty of Coercion With Use of a Deadly Weapon
11 Guilty of Coercion

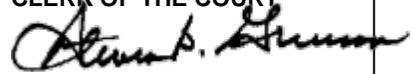
12 **COUNT 13** - BATTERY WITH INTENT TO COMMIT A CRIME (COLON)

13 *(Please check the appropriate box, select only one)*

- 14 Not Guilty
15 Guilty of Battery With Intent to Commit a Crime
16 Guilty of Battery

17
18
19 DATED this 15 day of March, 2017

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23  FOREPERSON
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1 **MEMO**
2 ADAM L. GILL, ESQ.
3 Nevada State Bar No. 11575
4 MICHAEL N. AISEN, ESQ.
5 Nevada State Bar No. 11036
6 723 South Third Street
7 Las Vegas, NV 89101
8 P: (702) 750-1590
9 F: (702) 548-6884
10 *Attorneys for Defendant*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,
14
15 Plaintiff,

Case No: C-16-313118-1

Dept. No: VII

16 vs.

17 CASIMIRO VENEGAS
18
19 Defendant.

20 **SENTENCING MEMORANDUM FOR CASIMIRO VENEGAS**

21 COMES NOW, Defendant, CASIMIRO VENEGAS, by and through his attorney of
22 record, ADAM L. GILL, ESQ., and hereby submits this Sentencing Memorandum to aid the Court
23 at the time of Sentencing on August 9, 2017.

24 DATED this 7th day of August, 2017.

25 */s/Adam L. Gill*

26 Adam L. Gill, Esq.
27 Nevada Bar No. 11575
28 Waleed Zaman, Esq.
Nevada Bar No. 13993

1 SENTENCING MEMORANDUM

2 **1. Procedure.**

3 After a jury trial, Mr. Venegas was found guilty of the following: one (1) count of
4 Conspiracy to Commit Robbery, two (2) counts of Burglary while in Possession of a Firearm, two
5 (2) counts of Robbery with use of a Deadly Weapon, two (2) counts of Battery with a Deadly
6 Weapon Resulting in Substantial Bodily Harm, one (1) count of Attempt Murder with Use of a
7 Deadly Weapon, two (2) counts of Battery with use of a Deadly Weapon, one (1) count of Aiming
8 a Firearm at a Human Being, one (1) count of Coercion with use of a Deadly Weapon, and one (1)
9 count of battery with Intent to Commit a Crime. For the reasons set forth below, Mr. Venegas this
10 Honorable Court to sentence him to an aggregate term of five (5) to twelve and a half (12.5) years
11 in the Nevada Department of Corrections.

12 **2. The Defendant.**

13 Mr. Venegas submits to this Court that there was no justification for his actions, and he
14 feels great shame and remorse for what he has done. Mr. Venegas has had significant time in
15 custody to consider the cause of his own shortcomings, and has identified that his own choices are
16 responsible for the position in which he now finds himself. This is a substantial change from Mr.
17 Venegas's attitude roughly one year prior, which indicates to Counsel a beneficial change in the
18 way that Mr. Venegas perceives his morality and his responsibilities. Recent conversations with
19 Mr. Venegas have remained focused on what he can do to one day develop the types of habits
20 commonplace in law-abiding citizens. In these conversations, it becomes clear that the greatest
21 source of Mr. Venegas' shame is the fact that he has let down his family; they, especially his
22 sisters, had expected more from him. In these moments of shame, Mr. Venegas appears to
23 challenge his previous vision of himself, and seek self-improvement. In fact, Mr. Venegas
24 indicated that he was almost too afraid to apologize, not because it would be disingenuous, but
25 because he felt that he has made such grave mistakes that no judge could possibly accept such an
26 apology.

27 Growing up, Mr. Venegas was raised in an area where he was exposed to gang activity at

1 the elementary school level. After his father left his family during his childhood, Mr. Venegas
2 started developing behavioral problems, and was frequently in trouble for fighting at school.
3 Throughout his formative years, he became convinced that violence, especially in response to
4 disrespect, was always the answer. Such an attitude, according to Mr. Venegas, was the only way
5 to avoid being singled out and harmed by his peers. Essentially, Mr. Venegas learned that respect
6 was currency, and that it could only be earned fighting. This misguided view went unchallenged
7 for a significant time and it is thus unsurprising to see Mr. Venegas' record in the Presentence
8 Investigation. However, Mr. Venegas would be the first to tell this Court that he knows himself to
9 be a different man today than the man he was at the time of the instant events.

10 Recently, it appears that Mr. Venegas understands that it is both necessary and possible for
11 him to be rehabilitated. Some of his recent statements made to Counsel indicate that the time Mr.
12 Venegas has spent in custody and reflecting on his choices has been beneficial to him. While
13 acknowledging great shame for what he has done, he also understands the eventual need to plan
14 for a life for himself. He is aware of the need to be away from a big city, where he hopes he can
15 use his experience in construction to make a living. It is also of note that Mr. Venegas recognizes
16 that his substance abuse contributes to his poor decision-making. Mr. Venegas consumed copious
17 amounts of alcohol daily, and has indicated that he was inebriated during the instant events. His
18 statements regarding his inebriation are in no way a justification for his actions, but are rather a
19 reflection of his understanding of the potential consequences associated with immoderate use of
20 alcohol. For this reason, it is Mr. Venegas' intention to take advantage of any substance abuse
21 treatment programs that may be offered to him while in prison. Upon speaking with Counsel last
22 week, it will also be his intention to seek and obtain any mental health services and treatment
23 available to him; Mr. Venegas is hopeful that such treatment, combined with his willingness to
24 obtain help, will help him find the tools to control his impulses and live a law-abiding life. In sum,
25 Mr. Venegas' willingness to be rehabilitated at this time suggests that he can alter his life in a way
26 to preclude any further encounters with the criminal justice system if given the chance.

1 **4. Conclusion.**

2 Therefore, Mr. Venegas respectfully requests that this court consider the above-mentioned
3 factors when deciding the appropriate sentence in this case, and sentence him to an aggregate term
4 of five (5) to twelve and a half (12.5) years.

5 **5. Exhibits.**

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DATED this 5th day of September, 2017.

/s/Adam Gill

Adam L. Gill, Esq.
Nevada Bar No. 11575
723 South Third St.
Las Vegas, Nevada 89101
(702) 750-1590

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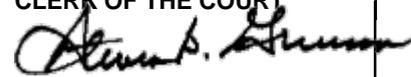
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Eighth Judicial District Court by using the Wiznet E-Filing system. I certify that the following parties or their counsel of record are registered as e-filers and that they will be served electronically by the system:

PDMotions@clarkcountyda.com

DATED this 5th day of September, 2017.

By: /s/Waleed Zaman
An employee of Aisen, Gill & Associates



1 **MEMO**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRYAN SCHWARTZ
6 Deputy District Attorney
7 Nevada Bar #013244
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-
12 CASIMIRO VENEGAS,
13 #2666143

14 Defendant.

CASE NO: C-16-313118-1

DEPT NO: VII

15 **STATE'S SENTENCING MEMORANDUM**

16 DATE OF HEARING: SEPTEMBER 7, 2017
17 TIME OF HEARING: 8:30 AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through BRYAN SCHWARTZ, Deputy District Attorney, and hereby
20 submits this Memorandum for the Court's consideration.

21 **REQUESTED SENTENCE**

22 NRS 207.012 provides:

23 1. A person who:

24 (a) Has been convicted in this State of a felony listed in
25 subsection 2; and

26 (b) Before the commission of that felony, was twice
27 convicted of any crime which under the laws of the situs of the
28 crime or of this State would be a felony listed in subsection 2,
whether the prior convictions occurred in this State or elsewhere,

1 is a habitual felon and shall be punished for a category A felony
2 by imprisonment in the state prison:

3 (1) For life without the possibility of parole;

4 (2) For life with the possibility of parole, with eligibility
5 for parole beginning when a minimum of 10 years has been
6 served; or

7 (3) For a definite term of 25 years, with eligibility for
8 parole beginning when a minimum of 10 years has been served.

9 2. The **district attorney shall** include a count under this
10 section in any information or shall file a notice of habitual felon
11 if an indictment is found, if each prior conviction and the alleged
12 offense committed by the accused constitutes a violation of
13 subparagraph (1) of paragraph (a) of subsection 1 of NRS
14 ...200.380...

15 3. The trial judge **may not** dismiss a count under this
16 section that is included in an indictment or information.

17 As this Court is well aware, NRS 200.380 defines the elements and punishment for Robbery.

18 Further, sentencing under NRS 207.012 is not optional or discretionary.. The language
19 of NRS 207.012 states that a Defendant "shall be punished" with life without the possibility
20 of parole, life with the possibility of parole after 10 years, or 10 to 25 years.

21 As such, under NRS 207.012, the State requests that the Court sentence Defendant
22 Venegas to life without parole on the applicable violent habitual charges that he was convicted
23 on at trial – Attempt Murder with Use of a Deadly Weapon, 2 counts of Robbery with Use of
24 a Deadly Weapon, 2 counts of Burglary while in Possession of a Firearm.

25 ARGUMENT

26 The purpose behind habitual criminal status is to increase sanctions for the recidivist
27 and to discourage repeat offender. Odoms v. State, 102 Nev. 27, 32, 714 P.2d 568, 571 (1986).
28 Here, Defendant Venegas is a habitual criminal, and a very violent one. Defendant began his
criminal career as a juvenile, when he was arrested on May 24, 2006 for Robbery, Battery,

1 and Battery with Intent to Commit Mayhem, Robbery, or Grand Larceny. On August 1, 2006,
2 he was placed on formal probation as a result.¹

3 Two years later, on March 24, 2008, once he was 18 years old, he picked up his first
4 felony case, where he was arrested for two counts of Conspiracy Robbery with Use of a Deadly
5 Weapon, 5 counts of Robbery with Use of a Deadly Weapon, and 1 count of Robbery
6 (C244224). The facts of the case are as follows: On March 24, 2008, Defendant committed a
7 slew of armed robberies. See Exhibit 1, LVMPD Arrest Report. Defendant was passenger in
8 a blue pick-up truck, when the truck stopped in front of a taxi cab driven by Balvinder Singh.
9 Defendant exited the truck, and approached the driver side window of Mr. Singh's taxi.
10 Defendant then pointed a revolver at Mr. Singh, and demanded money. Mr. Singh handed
11 over his wallet and \$30 cash. Defendant then fled in the blue pick-up truck. This same series
12 of events happened to Aliemayiehu Kassa, who was driving his taxi cab. Again, Defendant
13 exited the blue truck and robbed Mr. Kassa at gunpoint. Defendant continued and robbed two
14 other taxi cab drivers at gun point that night, Douglas Arras-Ussa and Abebe Beyene.
15 Defendant admitted to police officers that he threw the gun out the window prior to being
16 stopped by police. Defendant ultimately entered a guilty plea agreement, and pled guilty to 1
17 count of Conspiracy to Commit Robbery, and 1 count of Robbery with Use of a Deadly
18 Weapon. On August 25, 2008, the Court sentenced him to 4 – 14 years in the Nevada
19 Department of Corrections. See Exhibit 2, Defendant's Judgment of Conviction, C244224.
20 He was paroled and released on December 19, 2013, however he quickly picked up a parole
21 violation in January 2016, which would have been for picking up the instant case C313118.
22 As a result, his parole was subsequently parole revoked in May 2016.

23 When he was arrested on the above case, he was subsequently booked a few days later
24 for another Robbery case. He was charged with Robbery with Use of a Deadly Weapon, Grand
25 Larceny Auto, and Conspiracy to Commit Robbery (C246550). The facts of the case are as
26 follows: On March 19, 2008, Defendant along with an older suspect, approached a woman in
27 the parking lot of UMC. See Exhibit 3, LVMPD Arrest Report. They approached her while

28 ¹The State attempted to locate the police reports from this event but were informed that the records were sealed and
unavailable at this time.

1 she was sitting in her car alone. The Defendant began grabbing her and beating her in the
2 chest area. The victim also remembered that she was threatened with a large knife. They
3 instructed her to get out of the vehicle and leave her purse and keys behind. She complied and
4 watched as Defendant and the older suspect entered her car and drove away. The Defendant
5 later confessed, stating that he threatened her with the knife and held it over her while yelling
6 and cussing at the victim. He later pled guilty to Robbery with Use of a Deadly Weapon and
7 Burglary while in Possession of a Firearm. He was sentenced to a 47 – 204 months sentence,
8 to run concurrent to the above case. See Exhibit 4, Defendant's Judgment of Conviction,
9 C246550.

10 While in custody, he was charged with yet another Robbery with Use of a Deadly
11 weapon case (C284885). The facts of this case are as follows: On March 10, 2008, Defendant
12 again robbed a taxi cab driver, but this time he acted as if he was a customer who needed a
13 ride. See Exhibit 5, LVMPD Declaration of Arrest. Upon arriving at his destination,
14 Defendant pointed a revolver in the face of the driver, Howard Appel, and robbed him of \$400.
15 Defendant again confessed to the robbery and the gun used in the above robberies was
16 ultimately recovered. He pled guilty to Robbery in 2013 with credit for time served. See
17 Exhibit 6, Defendant's Judgment of Conviction, C284885.

18 Thus, Defendant was out of custody for less than one month when he picked up this
19 new case. The instant case is extremely violent, senseless, and a demonstration that the only
20 way to insure safety in our community is to keep the Defendant in custody as long as possible.
21 The Court is well aware of the facts of this case, but he first robbed a 7-Eleven clerk, Richard
22 Decamp, at gun point. He then fled from the scene, only to go about a mile down the road,
23 where he broke into the home of Adriana Avina, where she lived with her 3 young children,
24 along with her brother Javier. The Defendant pistol whipped Javier, and swung an ax at
25 Javier's head, while Javier lay defenseless in his bed. The only reason Javier did not die that
26 night at the hands of the Defendant is because Adriana's daughter, Lizbeth, had the sense to
27 call the police. Once Defendant heard the sirens, he stopped swinging the ax and fled the
28 scene again.

1 The State certainly understands the significance of the sentence that it is asking for and
2 does not do so lightly. The State further acknowledges that the Defendant is currently 27 years
3 old. However, the Defendant has demonstrated exactly what he will do when he is out of
4 custody. Next time, he will ensure that no victim survives to testify against him. The only
5 appropriate way to keep this community safe is to send him to prison for the rest of his life.
6 He has certainly demonstrated that he has no regard for the lives of others and will not stop.
7 A term of 10 – 25 years or life with parole after 10 years will ensure that someone else will be
8 victimized when Defendant is released from custody.

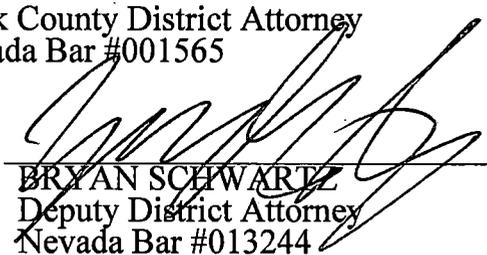
9 **CONCLUSION**

10 The Defendant's history demonstrates two things to this Court with absolute clarity: (1)
11 he is a danger to this community, and (2) he has and he will continue to escalate his violence
12 against the community as long as he is out of custody. As such, his history and behavior
13 deserve a term of imprisonment without the possibility of parole.

14 DATED this 6th day of September, 2017.

15 Respectfully submitted,

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

19 BY 

20 BRYAN SCHWARTZ
21 Deputy District Attorney
22 Nevada Bar #013244

23 **CERTIFICATE OF FACSIMILE TRANSMISSION**

24 I hereby certify that service of State's Sentencing Memorandum, was made this
25 6th day of September, 2017, by facsimile transmission to:

26 ADAM GILL, ESQ.
27 ATTORNEY FOR DEFENDANT
28 FAX#702-548-6884

BY: 

P. Manis
Employee of the District Attorney's Office

SCHWB/pm/L-2

EXHIBIT "1"

AA0083

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

ARREST REPORT

City County Adult Juvenile Metropolitan Police Sector/Beat W6

ID/EVENT# 2886143	ARRESTEE'S NAME (Last, First, Middle) VENEGAS, CASIMIRO		S.S.# 608-30-7343	
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) 824 LEVY STREET LAS VEGAS, NEVADA 89106				
CHARGES: ROBBERY WITH DEADLY WEAPON (THREE COUNTS), NRS 200.380 ATTEMPT ROBBERY WITH DEADLY WEAPON, NRS 200.380 CONSPIRACY TO COMMIT ROBBERY WITH DEADLY WEAPON (FOUR COUNTS), NRS 200.380				
OCURRED:	DATE 03-24-08	DAY OF WEEK MONDAY	TIME 2110	LOCATION OF ARREST (Number, Street, City, State, Zip Code) JEFFERSON AVENUE / "H" STREET LAS VEGAS, NEVADA 89106
RACE H	SEX M	D.O.B. 11-02-89	HT 5-11	WT 250
			HAIR BLK	EYES BRO
PLACE OF BIRTH SAN DIEGO, CALIFORNIA				

CIRCUMSTANCES OF ARREST

OFFICERS INVOLVED:

M. Dosch, P#7907
K. Long, P#6845
T. Weirauch, P#7465
B. Brown, P#8767
K. Fender, P#8896
J. Fullington, P#8763
K. West, P#5759
C. Lange, P#7792
D. Fulton, P#7528

OTHER LVMPD PERSONNEL:

ID Specialist K. Grammas, P#7808
Cadet S. Wimmel, P#9498

OTHER SUSPECT:

Avila, Luis
01-03-86
651-42-1906
5100 E. Tropicana Avenue #45E
Las Vegas, NV 89122

PROPERTY IMPOUNDED:

Item 1 of 2

Black sunglasses

Item 2 of 2

4" knife with black handle

VEHICLE:

2007, blue Dodge pickup
Nevada registration 478 UMG
VIN: 1D7HA162X7J608763
R/O: Gutierrez, Gonzalo
4801 Spencer Street #1
Las Vegas, NV 89119

DETAILS:

On March 24, 2008, at approximately 2110 hours, Balvinder Singh was driving his cab in the area of Stardust and Industrial Road. Singh was driving a white, 2005 Dodge Caravan with Nevada registration 219 RNZ. Singh works as a taxi driver for Ace Cab Company. While stopped on Industrial Road at the intersection with Stardust, a blue Dodge pickup bearing Nevada registration 478 UMG stopped along the left (drivers) side of Singh's vehicle. The right front passenger exited the Dodge and approached Singh. The suspect was described as a Hispanic or black male and approximately 5'

ARRESTING OFFICER(S)	P#	APPROVED BY	CONNECTING RPTS. (Type or Event Number)
M. DOSCH	7907		080324-3334, 080324-3378, and 080324-3423

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

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10" and 200 pounds. The suspect was wearing a dark blue hooded sweatshirt and armed with a revolver. Singh was unable to describe the driver.

The suspect pointed the revolver at Singh and demanded money. Singh emptied his pockets and handed the suspect all of his money which was approximately \$30.00. Singh also gave the suspect his wallet which contained Singh's Nevada driver's license, social security card, a two dollar bill, and other miscellaneous cards and documents. The suspect got back into the Dodge and fled southbound on Industrial Road. Singh pulled over and called police.

Patrol Officers Fender and Fullerton arrived and took a report under for robbery with a deadly weapon under event #080324-3298. I also responded to the scene and interviewed Singh. While investigating this robbery, LVMPD dispatch advised of another robbery to a cab driver in the area of Desert Inn Road and Valley View Boulevard. Details of this event indicated it may involve the same suspects and vehicle from the first robbery.

On March 28, 2008, at approximately 2121 hours, Douglas Arras-Ussa was stopped westbound on Desert Inn Road at the intersection with Valley View Boulevard. Arras-Ussa was driving was a white, 2007 Dodge Town and Country van bearing Nevada registration 326 UKZ. Arras-Ussa was employed as a taxi driver for Ace Cab Company. A blue Dodge pickup bearing Nevada registration 478UMG pulled along the left (drivers) side of Arras-Ussa's vehicle and stopped. The Dodge's passenger door opened which promptly struck the driver's door of Arras-Ussa's vehicle. The passenger exited the Dodge, pointed a silver revolver at Arras-Ussa and demanded money.

Arras-Ussa opened his fanny pack, removed approximately \$40.00 in US currency and gave it to the suspect. Arras-Ussa described the suspect as a Hispanic male, approximately 27 to 33 years of age, bald head and dark colored eyes. The suspect was wearing a black and white colored sweatshirt. The suspect re-entered the Dodge and it fled northbound on Valley View Boulevard. Arras-Ussa called police and Officer West arrived and took a robbery with a deadly weapon report under event #080324-3334. Arras-Ussa was unable to describe the driver.

Shortly thereafter, a third robbery (attempt) to a cab driver was reported by LVMPD dispatch. This robbery occurred on Highland Drive. I responded to that location where I learned that this robbery was connected to the first two. In On March 24, 2008, at approximately 2135 hours, Abebe Beyene was walking to his cab which was parked in front of 3177 Highland Drive. Beyene's vehicle was a 2006 Dodge Caravan bearing Nevada registration 316TSR. Beyene was employed as a taxi driver for Western Cab Company.

As Beyene reached the driver's door of his cab, a blue Dodge pickup pulled up next to him and the passenger door opened. A suspect exited the vehicle and pointed a small frame silver handgun at Beyene while simultaneously demanding money. Beyene, fearing for his life, ran away as fast as he could. The suspect was unable to get anything from Beyene. Beyene described the suspect as a Hispanic male, approximately 20 to 25 years of age, 5' 11" with black hair. The suspect was wearing a black jacket. Police were subsequently notified and Cadet Wimmer arrived and took a attempt robbery with a deadly weapon report under event #080324-3378. Beyene was only able to describe the driver as a male wearing sunglasses.

While completing the investigation of the third robbery, I was advised that Officer Brown was following the suspect vehicle in the area of Stewart Avenue and Las Vegas Boulevard South. Officer Brown knew the suspects were armed and waited until a sufficient number of patrol officers were in place before stopping the vehicle. Officer Brown followed the vehicle westbound on Bonanza Road. The Dodge then turned onto "H" Street where it continued northbound. Officer Brown initiated a felony car stop near the intersection of "H" Street and Jefferson Avenue. The vehicle was only occupied by two people, a driver and passenger.

The driver was ordered out of the vehicle and taken into custody without incident. The driver verbally identified himself as Luis Avila. Unlike the driver, the passenger never exited the vehicle as ordered. Officer Brown approached the vehicle to order to clear it for other suspects. Officer Brown did not know the passenger was still in the vehicle, most likely concealed by the dark tint on the Dodge. When Officer Brown opened the passenger door he found the passenger sitting there. Officer Brown ordered the passenger out of the vehicle and onto the ground. The passenger, later identified as Casimiro Venegas, complied but as he went to the ground a pair of sunglasses fell out of the truck and onto the ground. Venegas was placed in handcuffs and a 4" folding knife was recovered from his left rear pants pocket by Officer Brown.

I, along with Detective Long, arrived shortly thereafter to assume investigatory responsibility. Upon arriving I learned that there was a fourth robbery to a cab driver possibly linked to this spree. Detective Weirauch responded to that scene which was at Main Street and Bridger Avenue.

On March 24, 2008, at approximately 2200 hours, Allemayiehu Kassa was stopped northbound on Main Street at the intersection with Bridger Avenue. Kassa was driving was a white, 2006 Ford Explorer with Nevada registration 465 TDY. Kassa works as a taxi driver for Whittlesea Cab Company. A blue Dodge pickup bearing Nevada registration pulled along the left (drivers) side of Kassa's vehicle and stopped. The passenger door opened and a suspect exited. The suspect produced a black large frame handgun and demanded money from Kassa. Kassa complied and gave the suspect approximately \$100.00 to \$150.00 in US currency. The suspect got back in the Dodge which eventually fled east on Bridger Avenue. Kassa was unable to describe the driver. (Moments later the vehicle was spotted by Officer Brown).

All four victims were brought to the scene to perform one-on-ones. Singh stated he was 70% sure Venegas was the person who robbed him. Arras-Ussa was 100% sure Venegas was the person who robbed him. Beyene was 80% sure

AA0085

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

ID/Event Number: 2666143

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Venegas was the person who robbed him. Kassa was 100% sure Venegas robbed him. Avila was never identified by the victims due to the fact he never exited the vehicle during the robberies. Nonetheless, it was clear that Avila was equally involved in the robberies as he was the driver. Venegas and Avila were subsequently arrested for Robbery with Deadly Weapon (three counts), Attempt Robbery with Deadly Weapon, and Conspiracy to Commit Robbery with Deadly Weapon (four counts).

In the process of sealing the Dodge in anticipation of a search warrant, I observed various denominations of US currency resting in plain view on the floorboard. In addition, I observed a black wallet resting in plain view on the driver's side floorboard. I picked up the wallet believing it belonged to either Avila or Venegas (Venegas did not have identification on his person at the time of his arrest). When I picked up the wallet I immediately observed that it belonged to Singh. Singh's wallet, minus his two dollar bill, was returned to him at the scene. The vehicle was then photographed, sealed and towed to the LVMPD seizure lot by Ewing Bros Towing.

Avila and Venegas were transported to the robbery office located at 4750 W. Oakey Boulevard to be interviewed. I interviewed Venegas and Detective Weirauch interviewed Avila. Detective Weirauch advised Avila of his rights to which Avila stated he understood and agreed to speak about the robbery spree. Avila gave a full confession. I, too, advised Venegas of his rights to which Venegas stated he understood and agreed to speak with me concerning the robbery spree. Like Avila, Venegas provided a full confession. Moreover, Venegas admitted to throwing the revolver out of the vehicle just prior to being stopped. Venegas recalled throwing the firearm out somewhere on "H" Street north of Bonanza Road. See recorded interviews under LVMPD event #080324-3298 for complete information.

Avila and Venegas were subsequently transported to the Clark County Detention Center where they were booked accordingly. Detective Weirauch went to the area of "H" Street and Bonanza Road in an effort to locate the firearm. Detective Weirauch later found the firearm under a bush at 820 "H" Street. The firearm was a silver, .32 caliber Harrington and Richardson Arms revolver, serial number 278333. The revolver had four live rounds in the cylinder. The revolver was photographed and recovered by criminalistics personnel. The aforementioned knife and sunglasses were later impounded as evidence.

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EXHIBIT "2"

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Cliff
DISTRICT COURT CLERK OF THE COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASIMIRO VENEGAS
#2666143

Defendant.

CASE NO. C244224

DEPT. NO. XIV

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNT 2 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; thereafter, on the 25th day of August, 2008, the Defendant was present in court for sentencing with his counsel, MIKE FELICIANO, Deputy Public Defender, and good cause appearing.

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee

CLERK OF THE COURT

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CLERK OF THE COURT

1 including testing to determine genetic markers, the Defendant is sentenced to the
2 Nevada Department of Corrections (NDC) as follows: as to COUNT 1 - to a MAXIMUM
3 of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)
4 MONTHS; as to COUNT 2 - to a MAXIMUM of ONE HUNDRED TWENTY (120)
5 MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, plus a
6 CONSECUTIVE term of FORTY-EIGHT (48) MAXIMUM and TWELVE (12) MONTHS
7 MINIMUM for the Use of a Deadly Weapon, COUNT 2 to run CONSECUTIVE to
8 COUNT 1; with ONE HUNDRED FIFTY-FOUR (154) DAYS credit for time served.
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DATED this 27TH day of August, 2008

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE
Alvin D. Johnson
CLERK OF THE COURT

Donald M. Mosley
DONALD M. MOSLEY
DISTRICT JUDGE

FEB 17 2016

EXHIBIT "3"

AA0090

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

ARREST REPORT

ENTERED
LMS
989178

City

County

Adult

Juvenile

Sector/Beat U2

ID/EVENT# 2666143	ARRESTEE'S NAME (Last, First, Middle) Venegas, Casimiro		S.S.# 606-30-7343
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) 824 Levy Lane, Las Vegas, NV 89106			
CHARGES: Robbery with a Deadly Weapon Grand Larceny Auto Conspiracy to Commit Robbery			
OCURRED:	DATE 03-19-08	DAY OF WEEK Wednesday	TIME 2340
LOCATION OF ARREST (Number, Street, City, State, Zip Code) 330 S. Casino Center, Las Vegas, NV 89101 (Re-Booking at CCDC)			
RACE H	SEX M	D.O.B. 11-02-89	HT 6'0"
WT 200	HAIR Bald	EYES Brown	PLACE OF BIRTH California

CIRCUMSTANCES OF ARREST

VICTIM:

Lisa Marie Morgan
DOB: 08-04-60
SOC# 393-78-8168
White Female, 5'11", 200 Lbs, Brown Hair, Green Eyes
Address: 8445 S. Las Vegas Blvd., Las Vegas, NV 89123
Home Phone: (702) 697-8554
Cell Phone: (702) 279-5268

VICTIM VEHICLE:

2007 Ford Focus
White in Color
Nevada License Plates 536-SJU
VIN # 1FAHP34NX7W357351
Registered Owner: Gerry Morgan (Victim's Husband)

CO-DEFENDANT "A":

Casimiro Venegas
Scope ID# 2666143
DOB: 11-02-89
SOC# 606-30-7343
Hispanic Male, 6'0", 200 Lbs, Bald, Brown Eyes
Address: 824 Levy Lane, Las Vegas, NV 89106
Phone # 1: (702) 383-8638
Phone # 2: (702) 808-3651

CO-DEFENDANT "B":

Leticia Nalynn Louis
DOB: 12-10-91
SOC# 530-61-9124
Hispanic Female, 5'6", 150 Lbs, Brown Hair, Brown Eyes

* In Custody at the Clark County Juvenile Detention Center

ARRESTING OFFICER(S) Dave Miller	P# 6627	APPROVED BY	CONNECTING RPTS. (Type or Event Number) Event # 080318-3464
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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

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SUSPECT WEAPON:

Black Handled Knife with a Silver Blade
Blade Approximately 4" In Length

PATROL DIVISION:

Officer T. Hatchett P# 8250
Officer A. Carreon P# 9025
Officer M. Hatten P# 9794

INVESTIGATIVE DIVISION:

Detective E. LaNeve P# 5612 (Robbery)
Detective D. Miller P# 6627 (Robbery)
Detective M. Dosch P# 7907 (Robbery)

CRIMINALISTICS:

CSA R. McPhail P# 3326

OTHER JURISDICTION:

Officer Tolliver P# 1279 (North Las Vegas PD)
CSA J. Beck P# 1613 (North Las Vegas PD)

WITNESS:

Miguel Rodriguez
DOB: 10-10-66
Hispanic Male, 5'4", 140 Lbs, Brown Hair, Brown Eyes
Address: 520 College Dr., # 1217, Henderson, NV 89015
Home Phone: (702) 565-9203
Cell Phone: (702) 406-8045

CONTACT:

Angelica Venegas
Scope ID# 2615227
DOB: 11-10-88
SOC# 625-18-3530
Hispanic Female, 5'6", 189 Lbs, Brown Hair, Brown Eyes
Address: 824 Levy Lane, Las Vegas, NV 89106
Phone # 1: (702) 383-8638
Phone # 2: (702) 808-3651

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

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DETAILS

PATROL DIVISION NOTIFICATION:

On 03-19-08, at approximately 2340 hours, the Las Vegas Metropolitan Police Department (LVMPD) received an emergency phone call from a female that was later identified as Lisa Morgan, DOB: 08-04-60. Mrs. Morgan requested police assistance, indicating that she had just been robbed in the visitor parking lot at the University Medical Center (UMC) located at 1800 W. Charleston Blvd., Las Vegas, NV 89106. Mrs. Morgan indicated that her vehicle had been stolen during the robbery as well, and she described it as a White 2007 Ford Focus. Although Mrs. Morgan did not initially know the license plate numbers on her stolen vehicle, they were later determined to be (NV) 536-SJU. Initially, Mrs. Morgan described the two suspects as follows:

- 01) Hispanic Male, 30's, 5'3", Heavy Build, Black Clothing
- 02) Hispanic Male, 9 Years Old, Thin Build, Black Hooded Sweatshirt

LVMPD Dispatch created event # 080319-3464, and assigned several officers to the call, to include Officer M. Hatten, P# 9794, and Officer T. Hatchett, P# 8250. The officers arrived and completed a crime report to document the incident. The officers also located a witness that identified himself as Miguel Rodriguez, DOB: 10-10-66. The officers witnessed Mrs. Morgan and Mr. Rodriguez complete written voluntary statements at that time. Mrs. Morgan's vehicle was registered to her husband, Gerry Morgan, and the officers had it listed in the "Wanted Vehicle System" as a stolen vehicle. For further details regarding the night of the crime, please refer to the crime report, the voluntary statements, and the CAD.

LISA MORGAN STATEMENTS:

Mrs. Morgan indicated that she was at the hospital (UMC) visiting a friend. She was sitting alone in her car when two suspects approached her. She indicated that one was an older Hispanic male that was possibly between 35 to 45 years old. She said that the older male had a "big bladed knife" in his hands and there was a younger Hispanic male suspect as well that she thought was somewhere between 9 and 12 years old. Mrs. Morgan said that the younger suspect began grabbing her and beating her in the chest area while the older male began screaming at her, telling her to get out of the car. Mrs. Morgan said that the older male then screamed for her to place her keys into the vehicle ignition and she complied. Mrs. Morgan said that the older male then made her get out of the car, and he told her to leave her purse on the seat. Mrs. Morgan complied with the suspects' orders and the older male then got into the driver's seat while the younger male got into the passenger seat. The suspects then drove away in her car, leaving her in the parking lot, but she still had her cell phone so she called the police.

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MIGUEL RODRIGUEZ STATEMENTS:

Mr. Rodriguez indicated that he was parked beside the victim in a white SUV. He said that he saw the two suspects robbing Mrs. Morgan, and he described one as a bald Hispanic male, approximately 25 years old, 5'7" to 5'8", 170 Lbs, with a mustache. Mr. Rodriguez indicated that there was a second suspect as well, and he described her as a Hispanic female, approximately 18 to 20 years old, 5'6", to 5'7", with long hair. Mr. Rodriguez indicated that as he saw the fight occurring, he drove his vehicle away (white SUV) toward the entrance of the hospital where he waited until the police arrived. Mr. Rodriguez said that the male suspect appeared to be more aggressive than the female suspect, who he thought was acting as a "look out." Overall, Mrs. Morgan and Mr. Rodriguez contradicted each other regarding the descriptions of the suspects. Mrs. Morgan thought that the suspects were a Hispanic male adult and a Hispanic male juvenile, but Mr. Rodriguez thought that the suspects were a Hispanic male adult and a young Hispanic female.

INVESTIGATION

VEHICLE RECOVERY:

On 03-20-08, at approximately 2008 hours, North Las Vegas Police Officer Tolliver, P# 1279, was at Washburn and Simmons when he observed a 2007 Ford Focus fail to yield for a stop sign. The vehicle had Nevada license plates 536-SJU. The vehicle was registered to Gerry Morgan and was the same vehicle that was stolen from Lisa Morgan on 03-19-08 (event # 080319-3464). Officer Tolliver tried to stop the vehicle, but the driver wouldn't pull over. Officers pursued the vehicle to some apartments located on the 1200 block of W. Cheyenne. The driver of the vehicle lost control and crashed into a brick wall at that location. Officer Tolliver then observed the driver and passenger exit the vehicle and attempt to flee on foot. The officers caught both suspects a short distance away and identified them as follows:

Driver: Leticia Louis, DOB: 12-10-91
Passenger: Angelica Venegas, DOB: 11-10-88

LVMPD Officer A. Carreon, P# 9025, responded to the 1200 W. Cheyenne address where the two females were taken into custody. Officer Carreon then contacted me, Det. Dave Miller, P# 6627, to advise me of the incident since the vehicle had originally been stolen during a robbery in our jurisdiction (event # 080319-3464). Officer Carreon told me that North Las Vegas Crime Scene Analyst J. Beck, P# 1613, was going to process the vehicle for evidence, so I decided not to have LVMPD crime scene analysts duplicate the effort. The victim's vehicle was badly damaged (likely "totaled") so it was towed by Quality Towing and stored on one of their lots located at 2201 N. Commerce, North Las Vegas, NV 89030. Officer Carreon told me that Angelica Venegas had already been arrested and booked at the North Las Vegas Detention Center regarding the vehicle pursuit, and Leticia Louis had already been transported to the University Medical Center (UMC) where she was receiving treatment for injuries allegedly sustained in the car wreck.

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

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Initially, based on the age and descriptions of Angelica Venegas and Leticia Louis, I felt that Mrs. Venegas probably wasn't one of the suspects involved in the crime, but that Mrs. Louis possibly was. I decided to interview Mrs. Venegas for intelligence purposes, hoping that she might know who was responsible for the actual robbery. I decided to interview Mrs. Louis as well, believing that she might actually be the younger female suspect involved in the crime (based on the statement obtained by the witness, Miguel Rodriguez).

For further information regarding the vehicle pursuit and recovery, please refer to Officer Tolliver's report completed under North Las Vegas event # 08-7305.

CONTACT INTERVIEW (ANGELICA VENEGAS):

I responded to the North Las Vegas Detention Center where I had the opportunity to look at the property that was found to be in Angelica Venegas' possession at the time of her arrest. I noticed several forms of identification in the name of Casimiro Venegas, DOB: 11-02-89 (Nevada ID, etc.). Officers informed me that Angelica had previously claimed that Casimiro was her brother. In the pictures, Casimiro appeared to be a bald Hispanic male with a mustache. I considered the possibility that Casimiro was actually one of the suspects involved in the original robbery.

I then conducted a surreptitiously recorded interview with Angelica. I advised her of her Miranda rights to which she stated that she understood. Angelica agreed to speak with me and I led her to believe that Leticia had already confessed to the robbery and "snitched" on Casimiro, naming him as the other suspect involved. Angelica told me that Leticia originally claimed that the car was her girlfriends, but when the police tried to stop them, she admitted that it was a "GTA" (Grand Theft Auto). Ultimately, Angelica wanted me to believe that Casimiro probably wasn't involved in the robbery, but she admitted that we might find his fingerprints on the car. She explained that Casimiro had been looking at the car the night before (the night that the car was stolen 03-19-08).

After performing a records check, Casimiro Venegas was further identified as follows:

Casimiro Venegas
Scope ID# 2666143
DOB: 11-02-89
SOC# 606-30-7343
Hispanic Male, 6'0", 200 Lbs, Bald, Brown Eyes
Address: 824 Levy Lane, Las Vegas, NV 89106

ANGELICA VENEGAS JAIL CALLS:

After interviewing Angelica, I knew that she would possibly make calls to her brother (Casimiro) and I wanted to know what he would say when he found out that I suspected him. North Las Vegas Officer J. Pacheco, P# 1640, ultimately provided me with several calls made by Angelica between the dates of 03-20-08 and 03-21-08. The primary number that Angelica called was (702) 383-8638. Several calls of interest were made, and the following is only a summary:

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DATE OF CALL	TIME OF CALL	NUMBER DIALED	DETAILS
03-20-08	2153	(702) 383-8638	Angelica speaks to a male that she calls "Pokey," who is allegedly Leticia Louis' brother. She tells him about her arrest and that Leticia was driving a "GTA" (Grand Theft Auto). Angelica also indicated that the police were asking questions about her brother and Pokey told her not to say anything.
03-20-08	2321	(702) 383-8638	Angelica tells "Pokey" that Det. Dave Miller just interviewed her. She says that the detective is accusing her brother of committing the robbery. "Pokey" makes comments like, "but your brother was there with the knife." When "Pokey" makes these statements, Angelica would interrupt and say, "Pokey, no he wasn't there." "Pokey" calls Angelica's brother "Alex." As the conversation continues, both Angelica and "Pokey" sound scared and say that they need to get Alex out of there and that his fingerprints might be on the car. Angelica goes on to tell "Pokey" what her brother's real name is, "Casimiro Venegas, DOB: 11-02-88. Apparently his nickname is "Alex."
03-21-08	0007	(702) 383-8638	Angelica is apparently speaking to Leticia Louis' mother. The female tells Angelica that she had just spoken to "Alex" (her brother) and that he said he would rather turn himself in than have her serve time for something he'd done. Angelica told the female to tell her brother not to turn himself in.
03-21-08	0117	(702) 383-8638	"Pokey" told Angelica that her brother doesn't want to run and that he is going to turn himself in.

Overall, Angelica's phone calls further led me to believe that Casimiro Venegas was possibly one of the suspects involved in the robbery.

SUSPECT INTERVIEW (LETICIA LOUIS):

I responded to the University Medical Center (UMC) where Leticia Louis was being treated for injuries allegedly sustained during the car wreck. North Las Vegas officers were watching Leticia because she was also under arrest at that time for charges evolving from the vehicle pursuit. I conducted a surreptitiously recorded interview with Leticia while she was lying in bed. I advised Leticia of her juvenile Miranda rights to which she stated that she understood. Leticia agreed to speak with me.

I felt that Leticia was likely the juvenile suspect involved in the robbery along with Casimiro Venegas. I accused Leticia of being involved in the actual theft of the car, and she ultimately admitted to being present during the commission of the crime. Leticia told me that the other suspect was Angelica Venegas' brother named "Alex." I felt that "Alex" was likely Casimiro Venegas. Leticia indicated that on 03-19-08, she and Alex walked from the west side to "Frankie's Bar" on Charleston Blvd. near UMC. Leticia would later tell me (off tape) that she waited outside the bar while Alex went inside.

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Leticia told me that Alex had been wearing white shoes, blue jeans, and a black, white, and blue checkered jacket with a hood. Leticia explained that before the robbery, Alex turned his checkered jacket inside out so that it appeared to be black. Leticia said that they left the bar and began walking towards the hospital. Leticia said that in the UMC parking lot, Alex suddenly confronted a female that was in the same white car the she'd just wrecked that evening (the victim's Ford Focus). Leticia told me that Alex began hitting the female and she saw him place a knife to her neck while telling her (the victim) to start the car. She described Alex's knife as having a black handle and approximately a 3 1/2" blade (she thought that it looked as long as my knife).

Leticia indicated that she wasn't really involved, and stood about two car lengths away during the duration of the crime. Leticia indicated that she was scared of Alex, and after he got the female out of the car and got into the driver's seat, she got into the passenger seat as well. Leticia said that Alex then backed out and hit another car before driving out of the area. Leticia told me that during the crime, there was another witness nearby that was on a cell phone calling the police (possibly Miguel Rodriguez). After stealing the car, Leticia indicated that they went and got "messed up" (drugs and alcohol).

Leticia indicated that she was sorry for her involvement in the crime, but she also acted like she wasn't really involved, stating that she was simply present when the crime occurred. Leticia admitted that she never tried to stop the crime from occurring, she never ran away during the crime, but instead, she got into the vehicle with Alex, hung out with him after the robbery, and never contacted the police to report the incident. Furthermore, a day after the crime, Leticia was driving the victim's vehicle during a vehicle pursuit with the North Las Vegas Police Department (at which time she was arrested for felony evading).

Based on these facts and circumstances, I felt that Leticia was downplaying her role in the crime, and that she was just as involved as the male suspect. As previously mentioned, the victim (Lisa Morgan) indicated that both suspects took an active role in the crime. The younger suspect grabbed and hit her while the older suspect threatened her with the knife.

As previously mentioned, Leticia indicated that Alex was the other suspect involved in the crime. She told me that Alex was a bald Hispanic male with a mustache, and she told me that he had tattoos on both of his wrists, that when placed together, read, "Trust No Bitch." Leticia told me that Alex also had some fresh tattoos on his forearms that read, "San Diego" (SAN on one arm and DIEGO on the other). Leticia didn't know Alex's exact address, but she drew me a map which ultimately led me to 824 Levy Lane, Las Vegas, NV 89106.

After the interview, I left Leticia in the custody of the North Las Vegas Police Department, and she was ultimately booked at the Clark County Juvenile Detention Center for charges related to the vehicle pursuit (she was not charged for the robbery at that time).

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PHOTO LINE-UP INTERVIEW (LETICIA LOUIS):

On 03-21-08, Det. LaNeve and I met Leticia Louis at the Clark County Juvenile Detention Center where she was still in custody. I advised Leticia of her juvenile Miranda rights to which she stated that she understood. Leticia agreed to speak with us. I showed Leticia a photo line-up containing a picture of Casimiro Venegas mixed among the pictures of five other Hispanic males. I asked Leticia if she recognized anyone pictured and she almost immediately pointed to the picture of Casimiro Venegas. Leticia told us that she was positive that it was a picture of "Alex." Leticia explained that it was the same male that committed the robbery in the UMC parking lot. Leticia circled Casimiro's picture and she placed her initials beneath it. I placed the date and time beside her initials and the interview was concluded. I impounded the photo line-up paperwork as evidence, but copies were sent to the LVMPD Records Section. For further details, please refer to the photo line-up paperwork used during the interview.

FRANKIE'S COCKTAIL LOUNGE SURVEILLANCE:

As previously mentioned, Leticia suggested that she and Casimiro were at a bar called "Frankie's" shortly before the crime. Leticia told me that Frankie's was a bar on Charleston Blvd. near the UMC where the crime occurred. I did in fact locate a bar called "Frankie's Cocktails" at 1712 W. Charleston Blvd., Las Vegas, NV 89106 (pretty close to the UMC in question). The manager, Shane McIntosh, reviewed his video surveillance system and provided me with a small piece of video from 03-19-08 at approximately 2208 hours. Mr. McIntosh told me that the video showed a bald Hispanic male inside the business, and he thought it might be the suspect I was looking for. I picked the video up and reviewed it, and it did in fact show a heavier set bald Hispanic male leaving the business about an hour and a half before the robbery occurred. The video quality was rather poor, but the male did resemble Casimiro Venegas (although the male pictured appeared to have a goatee and Casimiro only had a mustache in a picture taken in December of 2007.....also Leticia indicated that Casimiro only had a mustache).

PHOTO LINE-UP INTERVIEW (MIGUEL RODRIGUEZ):

On 03-21-08, I conducted a photo line-up interview with Miguel Rodriguez. I showed Mr. Rodriguez two line-ups. The first line-up had pictures of females, including one of Leticia Louis, and the second line-up had pictures of males, including one of Casimiro Venegas. Mr. Rodriguez could not identify any of the females pictured, and he didn't positively identify any of the males either. However, Mr. Rodriguez did point to Casimiro Venegas' picture while explaining that he did look the most like the suspect he saw committing the crime (because he was not certain, he did not circle any pictures).

For further details, please refer to the photo line-up paperwork which I impounded as evidence. Copies of the paperwork were sent to the LVMPD Records Section (except for the juvenile pictures).

AA0098

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 2666143

Page 9 of 12

PHOTO LINE-UP INTERVIEW (LISA MORGAN):

On 03-22-08, I conducted a photo line-up interview with Lisa Morgan. I showed Mrs. Morgan two line-ups. The first line-up had pictures of females, including one of Leticia Louis, and the second line-up had pictures of males, including one of Casimiro Venegas. In summary, Mrs. Morgan was unable to identify anyone pictured and she was confused that I'd even show her pictures of females (she still felt that the younger suspect was a male). Overall, Mrs. Morgan left me with the impression that she simply could not identify the suspects (she couldn't even be sure about the gender).

For further details, please refer to the photo line-up paperwork which I impounded as evidence. Copies of the paperwork were sent to the LVMPD Records Section (except for the juvenile pictures). During the interview, Mrs. Morgan told me that there were several items in her purse and in her car that she didn't originally list as stolen. Mrs. Morgan made a detailed list of the items and faxed it to our office to be included with the report.

FORENSICS:

On 03-22-08, I contacted North Las Vegas Crime Scene Analyst J. Beck, P# 1613. I was hoping to get a copy of her crime scene report to see if any of the victim's property was found in the recovered vehicle. I was also hoping that fingerprints or DNA had been recovered. CSA Beck informed me that she did not process the vehicle for fingerprints, and the only thing she did was take photographs. CSA Beck indicated that she tried to take further investigative steps, but she was told not to, because she thought that an LVMPD crime scene analyst was responding. Clearly, there was some miscommunication, but CSA Beck offered to provide the pictures she took when the vehicle was originally recovered. Once I obtain the pictures, they will be maintained with the case file.

On 03-22-08, CSA Randy McPhail responded to Quality Towing located at 2201 N. Commerce, North Las Vegas, NV 89030. We located the victim's Ford Focus on the lot and processed it for evidence. The car was basically empty, and the only substantial items left inside the vehicle were a phone charger, car keys, a large black jacket, and a sun visor. I spoke to the victim on the phone and the only item that she didn't seem to recognize was the black jacket. The jacket was impounded as evidence. CSA McPhail located and recovered several fingerprints from the vehicle. The rest of the victim's stolen property was missing.

On 03-26-08, I received a Forensic Report of Examination indicating that two fingerprints recovered on the vehicle were matched in AFIS. One of the prints belonged to Casimiro Venegas, ID# 2666143, and it was found on the vehicle's roof above the right front door. The second print belonged to Angelica Venegas, Casimiro's sister.

These facts are further evidence of Casimiro Venegas' involvement in the crime. For further details, please refer to the Crime Scene Report completed by CSA McPhail, and the Forensic Report of Examination completed by Forensic Scientist Vicki Farnham.

AA0099

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 2666143

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UMC VIDEO SURVEILLANCE:

On 03-22-08, I contacted UMC Deputy Chief of Security Tod Miller. Mr. Miller informed me that he was aware of the robbery that occurred in the parking lot on 03-19-08, and he had video surveillance showing portions of the crime. Mr. Miller provided me with a copy of the surveillance (CD) and I viewed the video and will maintain a copy with the case file. Although the video showed the parking lot from a distance, and will not serve as a means for suspect identification, it did show portions of the incident that should prove useful. The video shows two suspects walk into the UMC parking lot and loiter there for several minutes. The victim's vehicle was parked in the lot, but cannot initially be seen because it was parked on the other side of a larger vehicle.

The video ultimately shows both suspects approach the vehicle and disappear from view. Seconds later, the victim (Lisa Morgan) runs from her vehicle, and her car can be seen backing out and quickly leaving the parking lot (with both suspects presumably inside at that point). While the crime is occurring, the video also shows a large white SUV pull out from beside the victim's vehicle and leave the parking lot. The white SUV is likely the one that the witness, Miguel Rodriguez, was driving when he witnessed the crime occur. Overall, the video basically just confirms that the incident occurred the way the victim and witness said it did. One of the interesting things about the video, is that it seems to corroborate the victim's statement that both suspects approached and robbed her. Leticia Louis tried to make me believe that she was only present during the crime, that she took no active role in the crime, and that she saw the whole thing occur from approximately two cars away. The video clearly shows that both suspects approached the victim, which again led me to believe that Leticia was more involved in the robbery than she was willing to admit.

SUSPECT INTERVIEW (CASIMIRO VENEGAS):

On 03-24-08, there were several robberies to taxi drivers, one that was reported under LVMPD event # 080324-3298. Two suspects were arrested for the robberies, and one was identified as Casimiro Venegas, ID# 2666143. Search incident to arrest, Mr. Casimiro was found to be in possession of a black handled knife with a long blade. The description of the knife seemed to fit the description of the knife that was used against Mrs. Morgan during the original robbery. The knife was impounded as evidence. Robbery Det. M. Dosch conducted an interview with Casimiro and he confessed to all of the taxi cab robberies, but he denied any involvement in the robbery that occurred to Lisa Morgan at the UMC. Det. Dosch booked Casimiro at the Clark County Detention Center for the taxi cab robberies.

When I found out that Casimiro had been arrested for unrelated robberies, I spoke to Det. Dosch and confirmed that he (Casimiro) hadn't invoked any of his Miranda rights. On 03-26-08, I conducted a surreptitiously recorded interview with Casimiro Venegas at the Clark County Detention Center where he was still in custody. I advised Casimiro of his Miranda rights to which he stated that he understood. Casimiro agreed to speak with me.

In summary, Casimiro Venegas fully confessed to his involvement in the robbery. He said that Leticia chose the area (UMC) because they thought there would be people with money there. Casimiro explained that since he didn't have a job, and he didn't have food, they were going to rob someone for money. Casimiro denied ever going into a bar before the robbery (Frankie's) and when I showed him the still shots from the "Frankie's Cocktails" surveillance system, he said that it wasn't him. He pointed out that the male in the surveillance shots had a full goatee and he clearly didn't (mustache only). Although he could have shaved off the goatee, there didn't seem to be any reason for him to lie about it, and the surveillance pictures won't likely help to much since the quality of the video was so poor.

AA0100

CONTINUATION REPORT

ID/Event Number: 2666143

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Casimiro told me that they loitered in a UMC parking lot for around 20 minutes and he was wearing a blue and white checkered jacket that he had turned inside out, so it actually appeared to be black. Leticia had previously described his clothing in the same manner. The UMC video surveillance did in fact show the suspects loitering in the parking lot for a good period of time before the robbery. Casimiro said that he and Leticia saw a middle aged White female sitting alone in a white four door car, although he didn't know the make or model of the vehicle (otherwise an accurate description of the victim and her vehicle). He said that Leticia approached the female and began hitting her and he then stepped in and told the female to put the keys in the car and leave her bag (purse) behind. These details are corroborated by the UMC video (that they both approached) and by the victim's statements.

Casimiro told me that during the robbery, he had a large black knife in his hand, and he held it over the female victim while yelling and cussing at her. Casimiro indicated that his intent was simply to scare her and to take her money, but he never planned on actually cutting or hurting the victim. Casimiro went on to explain that he was actually worried that he might have scared the victim so bad, that she might have had a heart attack. Casimiro told me that the female victim complied and put the keys in the ignition, but he told me that he couldn't be sure if she left her purse behind or not. Casimiro described the knife he used as having a black handle and approximately a five inch blade (using his hands to show me the approximate length). Casimiro told me that it was the same knife that Det. Dosch impounded two days earlier (event # 080324-3298).

Casimiro told me that the victim got out of her vehicle and he got into the driver's seat while Leticia got into the passenger seat. Casimiro told me that as he backed the car out, he struck another vehicle and then left the parking lot. The officers that originally took the crime report were never aware of a secondary car accident, but the accident was mentioned by both Leticia Louis and Casimiro Venegas (they corroborated one another). Casimiro told me that they drove the stolen car a short distance away before he pulled over and let Leticia drive (allegedly at her request).

Casimiro told me that they drove back to his home where Leticia allegedly cleaned out the car and possibly took some of the stolen property inside. Casimiro told me that Leticia got all the stolen property from the car, and he only got the stolen car itself (he said there was no money). Casimiro indicated that his home was located at 824 Levy Lane, and that some of the stolen property was still possibly inside, placed there by Leticia. Casimiro told me that he was "beyond sorry" for his involvement in the robbery.

Casimiro had tattoos on his arms similar to those described by Leticia. He had tattoos on the top of his wrists, that when placed together, read, "Trust No Bitch." He also had a tattoo along one forearm that read, "SAN." Casimiro indicated that the tattoo wasn't finished, and that he was going to have the second part of the tattoo placed on his other forearm to read, "GABRIEL." I took digital pictures of Casimiro's tattoos. It would appear that Leticia accurately described and identified him.

CASIMIRO VENEGAS' HOME IDENTIFIED:

As previously mentioned, Leticia Louis provided directions to Alex's home (Casimiro Venegas' home) which led me to the address of 824 Levy Lane. The information was further corroborated during a records check on Casimiro which revealed the same address in his Scope record. 824 Levy Lane is controlled by the government (government housing),

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CONTINUATION REPORT

ID/Event Number: 2666143

Page 12 of 12

and I contacted Rita Larson from the Marlboro Manor Las Vegas Housing Authority. Mrs. Larson confirmed that Casimiro Venegas was currently one of the tenants at 824 Levy Lane. Finally, as previously mentioned, during an interview with Casimiro Venegas, he admitted that his current home is in fact located at 824 Levy Lane, where he stated that he lived alone.

CONCLUSION

Based on the above listed facts and circumstances, there is probable cause to believe that Casimiro Venegas and Leticia Louis planned on robbing someone in the UMC parking lot on 03-19-08 so that they could get some money. Casimiro and Leticia loitered in the parking lot until they found their victim, Lisa Morgan, and they both approached her to commit the crime. They found Lisa Morgan sitting inside her 2007 Ford Focus alone, and Leticia confronted her and began grabbing and hitting her in the chest area. Casimiro then stepped in and held a knife over Mrs. Morgan while yelling and cussing at her. The suspects ordered Mrs. Morgan to put the keys in her ignition, to leave her purse inside the vehicle, and to exit. Mrs. Morgan, in fear for her life, complied with the suspects' orders. Casimiro then got into the driver's seat of the vehicle while Leticia got into the passenger seat. The suspects drove away at that time, stealing Mrs. Morgan's vehicle and personal property (multiple items in her purse and vehicle).

Casimiro and Leticia's actions meet the criminal elements of Robbery with a Deadly Weapon, Grand Larceny Auto, and Conspiracy to Commit Robbery.

On 03-27-08, Leticia Louis was still in custody at the Clark County Juvenile Detention Center for charges related to her possession of Mrs. Morgan's vehicle (felony evading, etc.). I responded to the juvenile detention center where I re-booked her for these described charges.

On 03-28-08, Casimiro Venegas was still in custody at the Clark County Detention Center for unrelated robbery charges. I responded to the detention center where I re-booked him for these described charges as well.

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EXHIBIT "4"

AA0103

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ORIGINAL SEP 26 11 45 AM '08

DISTRICT COURT CLERK OF THE COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASIMIRO VENEGAS
#2666143

Defendant.

CASE NO. C246550

DEPT. NO. I

CC

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 -- ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 2 -- BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation of NRS 205.060; thereafter, on the 17th day of September, 2008, the Defendant was present in court for sentencing with his counsel, ANTHONY GOLDSTEIN, ESQ., and good cause appearing.

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee

RECEIVED

SEP 26 2008

CLERK OF THE COURT

1 including testing to determine genetic markers, and \$15,840.81 Restitution, the
2 Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: as
3 to COUNT 1 - to a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a
4 MINIMUM Parole Eligibility of THIRTY-FIVE (35) MONTHS, plus a CONSECUTIVE
5 term of FORTY-EIGHT (48) MONTHS MAXIMUM and TWELVE (12) MONTHS
6 MINIMUM for the Use of a Deadly Weapon; as to COUNT 2 - to a MAXIMUM of ONE
7 HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM Parole Eligibility of THIRTY-
8 FIVE (35) MONTHS, COUNT 2 to run CONCURRENT with COUNT 1, SENTENCE to
9 run CONCURRENT with C244224; with ONE HUNDRED SEVENTY-THREE (173)
10 DAYS credit for time served.
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14 DATED this 24 day of September, 2008

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16 CERTIFIED COPY
17 DOCUMENT ATTACHED IS A
18 TRUE AND CORRECT COPY
19 OF THE ORIGINAL ON FILE

20 Alan T. Johnson
21 CLERK OF THE COURT

22 FEB 17 2016

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24 Kenneth C. Cory
25 KENNETH C. CORY
26 DISTRICT JUDGE KC

EXHIBIT "5"

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF WARRANT/SUMMONS
(N.R.S. 171.106)
(N.R.S. 53 amended 07/13/93)

ENTERED LRMS
R13445A

EVENT: 080310-3958

STATE OF NEVADA)
) ss: Casimiro Venegas
COUNTY OF CLARK) ID# 2666143

J. Nelson, being first duty sworn, deposes and says:

That he is a police officer with the Las Vegas Metropolitan Police Department, being so employed for a period of 9 years, assigned to investigate the crime(s) of Robbery With Deadly Weapon committed on or about March 10th, 2008, which investigation has developed CASIMIRO VENEGAS as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME TO WIT:

On March 10th, 2008 at about 2330 hours, Howard Appel was driving his cab for A-Car cab company in the area of the Texas Station Hotel and Casino. There he was dispatched to pick up a fare at 824 Levy Las Vegas NV 89106. Upon his arrival, he was greeted by a white male adult and a Hispanic female adult. The male asked if he, "took luggage to the airport." He stated that he did. Both the male and female went inside the residence at 824 Levy and closed the door.

Appel stated that he got out of his cab to open the trunk. While outside his cab on the driver's side, he was approached by a Hispanic male with a silver revolver. He knew that it was a revolver, because he could see the bullets in the cylinder as the gun was pointed in his face. When the suspect pointed the revolver at him, he told him, "Give me all of your money, all of your money." Appel gave him \$400 in United States currency. The male suspect then fled eastbound on Morgan Street.

During the month of August, 2009 I, Detective J. Nelson P# 6825, got assigned this case. I conducted a records check for 824 Levy Las Vegas NV 89106. I learned that Casimiro Venegas ID# 2666143 was living here during March of 2008. I then conducted a records check on Venegas and learned that he was currently in custody for a slew of robberies to cab drivers. This was documented under LVMPD event numbers 080318-0162, 080324-3298, 080324-3334, 080324-3378 and 080324-3423.

I then spoke with Detective M. Dosch P# 7907. Detective Dosch was the lead detective for all of the four armed robberies that occurred on March 24th, 2008. Detective Dosch told me that Venegas had confessed to his robberies and that he even recovered a silver .32 caliber revolver during the investigation. I checked the transcribed statement that Detective Dosch conducted and learned that Venegas told him that he threw the gun on near Bonanza and "H" Street. This is about 4 blocks away from 824 Levy, being Venegas' residence. Venegas described the gun as a silver revolver.

A crime scene investigation report under LVMPD event number 080324-3298 showed that this revolver was recovered by CSA K. Grammas P# 7808 and stored at the LVMPD vault. The revolver was described as a Harrington and Richardson .32 caliber revolver bearing serial number 278333.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF WARRANT/SUMMONS
Page 2

EVENT: 080310-3958

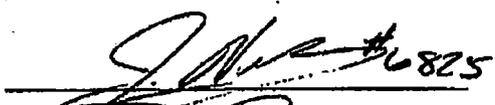
I believed that through the totality of the circumstances that Venegas was my suspect.

On August 26th, 2009, I met with the victim Howard Appel. I showed Appel a photo line up that contained a picture of Casimiro Venegas. Appel immediately and without hesitation identified Venegas as the man who pointed a silver revolver at him and robbed him of his \$400 in United States Currency. The photo line up was impounded as evidence.

Wherefore, declarant prays that a Warrant of Arrest be issued for suspect CASIMIRO VENEGAS on a charge(s) of Robbery With Deadly Weapon.

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

Executed on this 13th day of September, 2009.

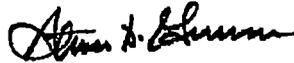
DECLARANT: 

WITNESS: 

DATE: 09.13.09

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EXHIBIT "6"



CLERK OF THE COURT

1 JOCP

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DISTRICT COURT
CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,

8

Plaintiff,

CASE NO. C284885-1

9

-vs-

DEPT. NO. XXIV

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11 CASIMIRO VENEGAS
#2666143

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Defendant.

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JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

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The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of ROBBERY (Category B Felony), in violation of NRS 200.380; thereafter, on the 8TH day of January, 2013, the Defendant was present in court for sentencing with his counsel, ANTHONY GOLDSTEIN, ESQ., and good cause appearing.

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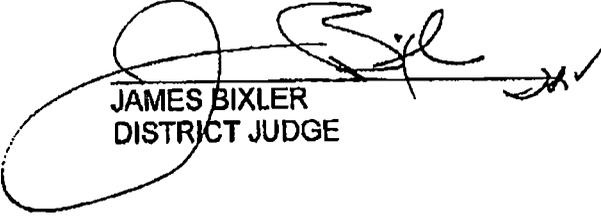
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THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee including testing to determine genetic markers to be waived if previously imposed, and to PAY \$400.00 RESTITUTION, the Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: TO A MAXIMUM of SIXTY (60) MONTHS with a

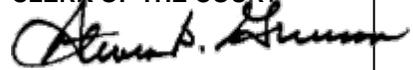
1 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS and this Sentence to run
2 CONCURRENT with Cases C246550 and C244224; with ONE THOUSAND SEVEN
3 HUNDRED FIFTY-TWO (1,752) days Credit for Time Served.
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6 DATED this 15th day of January, 2013

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9 DOCUMENT ATTACHED IS A
10 TRUE AND CORRECT COPY
11 OF THE ORIGINAL ON FILE
12 *Alvin L. Johnson*
13 CLERK OF THE COURT


14 JAMES BIXLER
15 DISTRICT JUDGE

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FEB 17 2016



1 **MEMO**
2 ADAM L. GILL, ESQ.
3 Nevada State Bar No. 11575
4 MICHAEL N. AISEN, ESQ.
5 Nevada State Bar No. 11036
6 723 South Third Street
7 Las Vegas, NV 89101
8 P: (702) 750-1590
9 F: (702) 548-6884
10 *Attorneys for Defendant*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,
14
15 Plaintiff,

Case No: C-16-313118-1

Dept. No: VII

16 vs.

17 CASIMIRO VENEGAS
18
19 Defendant.

20 **AMENDED SENTENCING MEMORANDUM FOR CASIMIRO VENEGAS**

21 COMES NOW, Defendant, CASIMIRO VENEGAS, by and through his attorney of
22 record, ADAM L. GILL, ESQ., and hereby submits this Sentencing Memorandum to aid the Court
23 at the time of Sentencing on September 7, 2017.

24 DATED this 6th day of September, 2017.

25 */s/Adam L. Gill*

26 Adam L. Gill, Esq.
27 Nevada Bar No. 11575
28 Waleed Zaman, Esq.
Nevada Bar No. 13993

1 SENTENCING MEMORANDUM

2 **1. Procedure.**

3 After a jury trial, Mr. Venegas was found guilty of the following: one (1) count of
4 Conspiracy to Commit Robbery, two (2) counts of Burglary while in Possession of a Firearm, two
5 (2) counts of Robbery with use of a Deadly Weapon, two (2) counts of Battery with a Deadly
6 Weapon Resulting in Substantial Bodily Harm, one (1) count of Attempt Murder with Use of a
7 Deadly Weapon, two (2) counts of Battery with use of a Deadly Weapon, one (1) count of Aiming
8 a Firearm at a Human Being, one (1) count of Coercion with use of a Deadly Weapon, and one (1)
9 count of battery with Intent to Commit a Crime. For the reasons set forth below, Mr. Venegas this
10 Honorable Court to sentence him to an aggregate term of ten (10) to twenty-five (25) years in the
11 Nevada Department of Corrections.

12 **2. The Defendant.**

13 Mr. Venegas submits to this Court that there was no justification for his actions, and he
14 feels great shame and remorse for what he has done. Mr. Venegas has had significant time in
15 custody to consider the cause of his own shortcomings, and has identified that his own choices are
16 responsible for the position in which he now finds himself. This is a substantial change from Mr.
17 Venegas's attitude roughly one year prior, which indicates to Counsel a beneficial change in the
18 way that Mr. Venegas perceives his morality and his responsibilities. Recent conversations with
19 Mr. Venegas have remained focused on what he can do to one day develop the types of habits
20 commonplace in law-abiding citizens. In these conversations, it becomes clear that the greatest
21 source of Mr. Venegas' shame is the fact that he has let down his family; they, especially his
22 sisters, had expected more from him. In these moments of shame, Mr. Venegas appears to
23 challenge his previous vision of himself, and seek self-improvement. In fact, Mr. Venegas
24 indicated that he was almost too afraid to apologize, not because it would be disingenuous, but
25 because he felt that he has made such grave mistakes that no judge could possibly accept such an
26 apology.

27 Growing up, Mr. Venegas was raised in an area where he was exposed to gang activity at
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1 the elementary school level. After his father left his family during his childhood, Mr. Venegas
2 started developing behavioral problems, and was frequently in trouble for fighting at school.
3 Throughout his formative years, he became convinced that violence, especially in response to
4 disrespect, was always the answer. Such an attitude, according to Mr. Venegas, was the only way
5 to avoid being singled out and harmed by his peers. Essentially, Mr. Venegas learned that respect
6 was currency, and that it could only be earned fighting. This misguided view went unchallenged
7 for a significant time and it is thus unsurprising to see Mr. Venegas' record in the Presentence
8 Investigation. However, Mr. Venegas would be the first to tell this Court that he knows himself to
9 be a different man today than the man he was at the time of the instant events.

10 Recently, it appears that Mr. Venegas understands that it is both necessary and possible for
11 him to be rehabilitated. Some of his recent statements made to Counsel indicate that the time Mr.
12 Venegas has spent in custody and reflecting on his choices has been beneficial to him. While
13 acknowledging great shame for what he has done, he also understands the eventual need to plan
14 for a life for himself. He is aware of the need to be away from a big city, where he hopes he can
15 use his experience in construction to make a living. It is also of note that Mr. Venegas recognizes
16 that his substance abuse contributes to his poor decision-making. Mr. Venegas consumed copious
17 amounts of alcohol daily, and has indicated that he was inebriated during the instant events. His
18 statements regarding his inebriation are in no way a justification for his actions, but are rather a
19 reflection of his understanding of the potential consequences associated with immoderate use of
20 alcohol. For this reason, it is Mr. Venegas' intention to take advantage of any substance abuse
21 treatment programs that may be offered to him while in prison. Upon speaking with Counsel last
22 week, it will also be his intention to seek and obtain any mental health services and treatment
23 available to him; Mr. Venegas is hopeful that such treatment, combined with his willingness to
24 obtain help, will help him find the tools to control his impulses and live a law-abiding life. In sum,
25 Mr. Venegas' willingness to be rehabilitated at this time suggests that he can alter his life in a way
26 to preclude any further encounters with the criminal justice system if given the chance.

1 **4. Conclusion.**

2 Therefore, Mr. Venegas respectfully requests that this court consider the above-mentioned
3 factors when deciding the appropriate sentence in this case, and sentence him to an aggregate term
4 of ten (10) to twenty-five (25) years.

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DATED this 6th day of September, 2017.

/s/Adam Gill

Adam L. Gill, Esq.
Nevada Bar No. 11575
723 South Third St.
Las Vegas, Nevada 89101
(702) 750-1590

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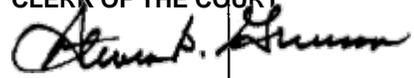
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Eighth Judicial District Court by using the Wiznet E-Filing system. I certify that the following parties or their counsel of record are registered as e-filers and that they will be served electronically by the system:

PDMotions@clarkcountyda.com

DATED this 6th day of September, 2017.

By: /s/Waleed Zaman
An employee of Aisen, Gill & Associates



JOC

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASIMIRO VENEGAS
#2666143

Defendant.

CASE NO. C-16-313118-1

DEPT. NO. VII

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS
200.380, 199.480; COUNTS 2 and 4 – BURGLARY WHILE IN POSSESSION OF A
FIREARM (Category B Felony) in violation of NRS 205.060; COUNTS 3 and 5 –
ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
NRS 200.380, 193.165; COUNTS 6, 8, 9 and 10 – BATTERY WITH USE OF A
DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
Felony) in violation of NRS 200.481; COUNT 7 – ATTEMPT MURDER WITH USE OF A



AA0117

1 DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330,
2 193.165, of COUNT 11 – AIMING A FIREARM AT A HUMAN BEING (Gross
3 Misdemeanor) in violation of NRS 202.290; COUNT 12 – COERCION WITH USE OF A
4 DEADLY WEAPON (Category B Felony) in violation of NRS 207.190, 193.165; and
5 COUNT 13 – BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony) in
6 violation of NRS 200.400.2; and the matter having been tried before a jury, and the
7 Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO
8 COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480;
9 COUNTS 2 and 4 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category
10 B Felony) in violation of NRS 205.060; COUNTS 3 and 5 – ROBBERY WITH USE OF A
11 DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165;
12 COUNTS 6 and 8 – BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
13 SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS 200.481;
14 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B
15 Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, COUNTS 9 and 10 –
16 BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
17 NRS 200.481; COUNT 11 – AIMING A FIREARM AT A HUMAN BEING (Gross
18 Misdemeanor) in violation of NRS 202.290; COUNT 12 – COERCION WITH USE OF A
19 DEADLY WEAPON (Category B Felony) in violation of NRS 207.190, 193.165; and
20 COUNT 13 – BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony) in
21 violation of NRS 200.400.2; thereafter, on the 7th day of September, 2017, the
22 Defendant was present in court for sentencing with counsel ADAM GILL, ESQ., and
23 good cause appearing,
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1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
2 addition to the \$25.00 Administrative Assessment Fee and \$350.00 Court Appointed
3 Attorney Fee plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
4 Nevada Department of Corrections (NDC) as follows: **COUNT 1** – a MAXIMUM of
5 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
6 MONTHS; **COUNT 2** - a MAXIMUM of TWENTY-FIVE (25) YEARS with a MINIMUM
7 parole eligibility of TEN (10) YEARS, CONCURRENT with COUNT 1; **COUNT 3** – a
8 MAXIMUM of TWENTY-FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10)
9 YEARS; CONCURRENT with COUNTS 1, 2; **COUNT 4** - a MAXIMUM of TWENTY-
10 FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10) YEARS,
11 CONSECUTIVE to COUNTS 1, 2, 3; **COUNT 5** – a MAXIMUM of TWENTY-FIVE (25)
12 YEARS with a MINIMUM parole eligibility of TEN (10) YEARS, CONSECUTIVE to
13 COUNTS 1, 2, 3 and CONCURRENT with COUNT 4; **COUNT 6** - a MAXIMUM of ONE
14 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of TWENTY-
15 FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2, 3, 5; **COUNT 7** – a
16 MAXIMUM of TWENTY-FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10)
17 YEARS, CONSECUTIVE to COUNTS 1, 2, 3 and CONCURRENT with COUNTS 4, 5,
18 6; **COUNT 8** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a
19 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
20 COUNTS 1, 2, 3, 4, 5, 6, 7; **COUNT 9** – a MAXIMUM of SIXTY (60) MONTHS with a
21 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
22 COUNTS 1, 2, 3, 4, 5, 6, 7, 8; **COUNT 10** - a MAXIMUM of SIXTY (60) MONTHS with
23 a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
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1 COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9; **COUNT 11** – THREE HUNDRED SIXTY-FOUR (364)
2 DAYS in the Clark County Detention Center, CONCURRENT with COUNTS 1, 2, 3, 4,
3 5, 6, 7, 8, 9, 10; **COUNT 12** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM
4 parole eligibility of TWENTY-FOUR (24) MONTHS, CONSECUTIVE to COUNTS 1, 2,
5 3, 4, 5, 7 and CONCURRENT to COUNTS 6, 8, 9, 10, 11; **COUNT 13** - a MAXIMUM of
6 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
7 MONTHS, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12; with FOUR
8 HUNDRED SEVENTY-SIX (476) DAYS credit for time served. As the \$150.00 DNA
9 Analysis Fee and Genetic Testing have been previously imposed, the Fee and Testing
10 in the current case are WAIVED. The AGGREGATE TOTAL sentence is SIX
11 HUNDRED SIXTY (660) MONTHS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY
12 of TWO HUNDRED SIXTY-FOUR (264) MONTHS or MAXIMUM OF FIFTY-FIVE (55)
13 YEARS with a MINIMUM PAROLE ELIGIBILITY of TWENTY-TWO (22) YEARS.

14 DATED this 20th day of September, 2017.

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LINDA MARIE BELL
DISTRICT COURT JUDGE

KS

1 CASIMIRO Venegas SID NO. 1024122
2 HIGH DESERT STATE PRISON
3 22010 COLD CREEK RD
4 P.O. BOX 650
5 INDIAN SPRINGS, NV. 89070

FILED
FEB 01 2019
Ann S. Blum
CLERK OF COURT

6 IN THE 8TH JUDICIAL DISTRICT COURT OF THE
7 STATE OF NEVADA FOR THE COUNTY OF CLARK.

8 State of Nevada,)

Case No.: C-16-313118-1

Plaintiff,)

Dept. No.: V II

9 vs.)

10 CASIMIRO Venegas,)

Defendant)

February 26 2019
@ 9:00 AM

11
12
13 NOTICE OF MOTION

14 MOTIONS FOR MODIFICATION OF SENTENCE

15 Comes now, Defendant, Casimiro Venegas, pro per, and respectfully moves this Honorable
16 Court for a Modification of Sentence.

17 This motion is made and based pursuant to the supporting Points and Authorities attached hereto,
18 NRS 176.555, as well as all papers, pleadings, and documents on file herein.

19 POINTS AND AUTHORITIES

20 I. STANDARD OF REVIEW

21 The Nevada Supreme Court has long recognized that Court's have the power and jurisdiction to
22 modify sentence, see, *Staley v. State*, 787 P2d 396, 106 Nev. 75 (1990):

23 "that if a sentencing court pronounces sentence within statutory limits, the court will have
24 jurisdiction to MODIFY, suspend or other wise correct that sentence if it is based upon materially
25 untrue assumptions or mistakes which work to the extreme detriment of the defendant".

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FEB 01 2019
CLERK OF THE COURT

C-16-313118-1
MMSE
Motion to Modify Sentence
4813061



8

1 Defendant believes that this court has, based upon Staley, the jurisdiction to MODIFY his
2 sentence, due to that sentence being pronounced based upon a Pre-Sentence Investigation Report which
3 did have several material facts in error, which will be discussed below in the statement of facts.

4 Respondent may argue that laches apply due to the fact that thee [3] years have passed since
5 sentence was pronounced. However, the Nevada Supreme Court held that such time requirement does not
6 apply to a request for Modification of Sentence, see, *Passanisi v. State*, 831 P2d 1371, 108 Nev. 318
7 (1995):

8
9 ... "we note that the trial court has inherent authority to correct a sentence at any time if such
10 sentence based on mistake of material fact that worked to the extreme detriment of the defendant.
11 (Citations Omitted). If the trial court has inherent authority to correct a sentence, a Fortiori, if has
12 the power to entertain a motion requesting it to exercise that inherent authority.... Thus, the time
13 limits and other restrictions with respect to a post-conviction relief do not apply to a Motion to
14 Modify a Sentence based on a claim that the sentence was illegal or was based on an untrue
15 assumption of the fact that amounted to denial of due process (Emphasis added) Id. 831 P2d at
16 1372n. 1. See also, *Edwards v. State*, 918 P2d 321, 324, 112 Nev. 704 (1996).

17 Defendant, as stated above, is alleging that his sentence by this Court was based upon
18 assumptions founded upon his Pre-Sentence Investigation Report (PSI) that had several factors in error,
19 and as such, his constitutional right to due process was violated. See, *State v. District Court*, 677 P2d
20 1044, 100 Nev. 90 (1984):

21 The district court's inherent authority to correct a judgment or sentence founded on mistake is in
22 accord with the constitutional considerations underlying the sentencing process. The United
23 States Supreme Court has expressly held that where a defendant is sentenced on the basis of
24 materially untrue assumptions concerning his criminal record, "(the) result whether caused by
25 carelessness or design, is inconsistent with due process of law". *Townsend v. Burke*, 736, 741,
26 68 S. Ct. 12552, 1255, 92 L. Ed. 1690 (1948). Further, the cases clearly established that
27 constitutionally Violate "materially untrue assumptions" concerning a criminal record may arise
28 either as a result of a sentencing judge's correct perception of misapprehension. (Emphasis in
29 original). Id. 677 P2d at 1048 n. 3.

30 Defendant would asks that this Court not perceive this request to be pointing the finger at the
31 Court and saying 'you were wrong' as that is not the case. Defendant is merely requesting that the Court
32 reconsider the sentence that was pronounced based upon mistakes of fact in the PSI report and at
33 sentencing.

II. STATEMENT OF FACTS

ON September 7th, 2017. I WAS sentenced AS
A HABITUAL CRIMINAL OF A 10 TO 25, consecutive
to ANOTHER 10 TO 25, and also a consecutive OF
A 2 TO 5 years. These sentences were aggregated.
I read law (NRS 193, 165.) The NO separate
sentence law under HABITUAL CRIMINAL. I realize
and believe My sentence is suppose to serve
AS AN ENHANCEMENT OF MY charges case (#)
C-16-313118-1. NOT to do 2 enhancements con-
secutively. I'm only (As it states), suppose to
be doing A 10 TO 25 sentence, NOTHING consecutive.
Please review McCall V. State, 97 Nev, 514, 634
P2d 1210 1981 Nev, Lexis 578 (Nev, 1981).
Also, please review Lisby V. State 82 Nev
183, 414 P2d, 592, 1966 Nev, Lexis 212
(Nev 1966).

I am respectfully ReQuesting The Honorable
court/ judge to please modify My sentence
AS ONLY ONE 10 TO 25 sentence only. TO Run
all 3 OF MY consecutive sentences concurrent
to do one. Also with credit For time
served given me by the courts up to the
present time. I ASK you to please review
this and Fix it. Thank you For your time,
And Have a good Day.

1 CONCLUSION

2 WHEREFORE, all of the above stated reasons, Defendant respectfully requests this Honorable
3 Court to Modify his/her Sentence in accordance with this Court's fair and just consideration of the facts
4 of the case.
5
6

7 Dated this 28 day of JANUARY, 20 19
8

9 By: CASIMIRO JENEGAS
10 1024122 #
11

12 High Desert State Prison
13 22010 Cold Creek Rd.
14 P.O. Box 650
15 Indian Springs, NV. 89070
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1 I, Casimiro Venegas, certify that the foregoing "Motion For
2 Modification of Sentence", was served upon the Respondent pursuant to NRCP 5 (b), by placing same in
3 the United States Postal Service, postage being fully pre-paid, and addressed as follows:
4
5

6 Clerk of Courts

District Attorney's Office

7 200 Lewis Avenue, 3rd
8 Floor

200 Lewis Ave
LAS VEGAS, NV

9
10 LAS VEGAS NV
11 89155-1160

89155

12
13
14 Dated this 28 day of JANUARY, 2019.

15
16
17 By: CASIMIRO VENEGAS

1024122

#

18
19 High Desert State Prison
20 22010 Cold Creek Rd.
21 P.O. Box 650
22 Indian Springs, NV. 89070

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28 Defendant, In Proper Person

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion

to Modification of Sentence
(Title of Document)

filed in District Court Case number C-16-313118-1

Does not contain the social security number of any person.

-OR-

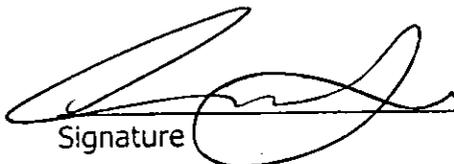
Contains the social security number of a person as required by:

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

(State specific law)

-or-

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


Signature

1/28/19
Date

CASIMIRO VENEGAS
Print Name

Modification of Sentence
Title

Casimiro VENEZGAS # 1024122
#DSP
PO BOX 650
INDIAN SPRINGS NV
89070



STEVEN D. GRIERSON,
CLERK OF THE COURT
200 LEWIS AVENUE 3RD Floor
LAS VEGAS NV 89155-1160

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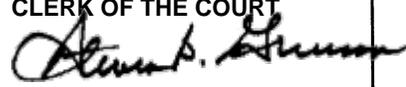


HIGH DESERT STATE PRISON

JAN 28 2019

UNIT 12

AA0128



1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4

5 STATE OF NEVADA,
6
7 vs. Plaintiff,
8 CASMIRO VENEGAS,
9 Defendant.

Case No. C-16-313118-1
Dept. No. VII

10 DECISION AND ORDER

11 Casmiro Venegas filed a Motion for Modification of sentence, requesting I change his
12 sentence from three consecutive terms to one single ten to twenty-five sentence. After reviewing Mr.
13 Venegas's Motion, I am denying his request.

14 **I. Factual and Procedural Background**

15 On March 15, 2017, a jury found Mr. Venegas guilty of:

16 1) Conspiracy to Commit Robbery, to which Mr. Venegas was sentenced to a minimum of
17 twenty-four months and a maximum of sixty months;

18 2) Burglary While in Possession of a Firearm to which Mr. Venegas was sentenced to, under
19 the Mandatory Habitual Felon Enhancement Statute, to a minimum of ten years and a maximum of
20 twenty-five to run concurrent with Count 1;

21 3) Robbery with Use of a Deadly Weapon to which Mr. Venegas was sentenced to, under the
22 Mandatory Habitual Felon Enhancement Statute, to a minimum of ten years and a maximum of
23 twenty-five years to run concurrent with Counts 1 and 2;

24 4) Burglary While in Possession of a Firearm to which Mr. Venegas was sentenced to, under
25 the Mandatory Habitual Felon Enhancement Statute, to a minimum of ten years and a maximum of
26 twenty-five years to run consecutive with Counts 1, 2, and 3;

LINDA MARIE BELL
CLERK OF THE COURT
DEPARTMENT VII
MAR - 7 2019
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1 5) Robbery with Use of a Deadly Weapon to which Mr. Venegas was sentenced to, under the
2 Mandatory Habitual Felon Enhancement Statute, to a minimum of ten years and a maximum of
3 twenty-five years to run consecutive with Counts 1, 2, and 3 and concurrent with Count 4;

4 6) Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm to which Mr.
5 Venegas was sentenced to a minimum of twenty-four months and a maximum of 120 months
6 concurrent with Counts 1, 2, 3, 4, and 5;

7 7) Attempt Murder with Use of a Deadly Weapon to which Mr. Venegas was sentenced to,
8 under the Mandatory Habitual Felon Enhancement Statute, to a minimum of ten years and a
9 maximum of twenty-five years to run consecutive to Counts 1, 2, and 3 and concurrent with 4, 5, and
10 6;

11 8) Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm to which Mr.
12 Venegas was sentenced to a minimum of twenty-four months and a maximum of 120 months,
13 concurrent with Counts 1, 2, 3, 4, 5, 6, and 7;

14 9) Battery with Use of a Deadly Weapon to which Mr. Venegas was sentenced to a minimum
15 of twenty-four months and a maximum of sixty months, concurrent with Counts 1, 2, 3, 4, 5, 6, 7,
16 and 8;

17 10) Battery with Use of a Deadly Weapon to which Mr. Venegas was sentenced to a
18 minimum of twenty-four months and a maximum of sixty months, concurrent with Counts 1, 2, 3, 4,
19 5, 6, 7, 8, and 9;

20 11) Aiming a Firearm at a Human Being to which Mr. Venegas was sentenced to 364 days,
21 concurrent with Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10;

22 12) Coercion with Use of a Deadly Weapon to which Mr. Venegas was sentenced to a
23 minimum of twenty-four months and a maximum of sixty months, consecutive to Counts 1, 2, 3, 4,
24 5, and 7 and concurrent with Counts 6, 8, 9, 10, and 11;

25 13) Battery with Intent to Commit a Crime to which Mr. Venegas was sentenced to a
26 minimum of twenty-four months and a maximum of sixty months, concurrent to Count 1, 2, 3, 4, 5,
27 6, 7, 8, 9, 10, 11, and 12.
28

1 These sentences, ordered on September 07, 2017, gave an aggregate total of a minimum of 264
2 months and a maximum of 660 months. Mr. Venegas had 476 days credit for time served.

3 On February 01, 2019, Mr. Venegas filed a pro per Motion for Modification of Sentence. In
4 this Motion, Mr. Venegas claims that his sentence was in error. Specifically, Mr. Venegas argues
5 that his Presentence Investigation Report contained several material errors in fact and that the
6 habitual criminal statute was not applied properly. The State did not respond.

7 II. Discussion

8 NRS 207.010, the habitual criminal statute, provides:

9 (b) Any felony, who has previously been three times convicted, whether in this
10 State or elsewhere, of any crime which under the laws of the situs of the crime or of
11 this State would amount to a felony is a habitual criminal and shall be punished for
12 a category A felony by imprisonment in the state prison:

- 13 (1) For life without the possibility of parole;
- 14 (2) For life with the possibility of parole, with eligibility for parole
15 beginning when a minimum of 10 years has been served; or
- 16 (3) For a definite term of 25 years, with eligibility for parole beginning
17 when a minimum of 10 years has been served.

18 Mr. Venegas claims that there were material facts in error in the Pre-Sentence Investigation
19 Report which led to his current sentence. Mr. Venegas does not specify what those errors are, and
20 thus I am unable to evaluate this claim, and his Motion is denied on this basis.

21 Mr. Venegas also claims that his sentence was contrary to law. Mr. Venegas argues that there
22 is no separate sentencing law under the habitual criminal statute NRS 193.165. Mr. Venegas argues
23 that the sentence for habitual criminal as supposed to serve as an enhancement of his sentence, not
24 separate sentences all together. Mr. Venegas argues that his true sentence should be a ten to twenty-
25 five year sentence without any other sentences consecutive to it. Mr. Venegas cites to McCall v.
26 State, 97 Nev. 514, 634 P.2d 1210 (Nev. 1981) and Lisby v. State 82 Nev. 183, 414 P.2d 592, (Nev.
27 1966).

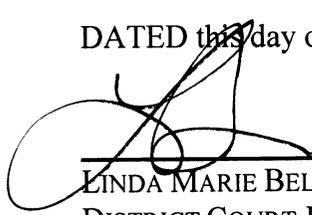
28 Mr. Venegas's habitual criminal status served as an enhancement to Counts 2, 3, 4, 5, and 7.
Mr. Venegas was not sentenced separately as a habitual criminal. Thus, NRS 207.010 was properly
applied. Mr. Venegas's Motion is denied.

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III. Conclusion

Mr. Venegas did not provide how his Presentence Investigation Report had material facts in error. Mr. Venegas was not separately sentenced as a habitual criminal. Therefore, his Motion is denied.

DATED this day of March 6, 2019.



LINDA MARIE BELL
DISTRICT COURT JUDGE

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
DA's Office	Counsel for State
Casimiro Venegas High Desert State Prison 22010 Cold Creek RD P.O. Box 650 Indian Springs, NV 89070	Defendant

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



SYLVIA PERRY
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number D551013 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell
District Court Judge

Date: 3/6/19
~~02/12/19~~

Casimiro Venegas # 1024122
P.O.Box 650
Indian Springs, NV 89070

A-19-791881-W
Dept. VII

FILED
MAR 18 2019
Ann Williams
CLERK OF COURT

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

Case ~~10-CV-313118~~

CASIMIRO VENEGAS
Petitioner,

State of Nevada et al
Brian Williams, Warden
Respondent.

"First Amendment"
PETITION FOR WRIT
OF HABEAS CORPUS
NRS 34 et seq 28 USC 2254

Motion for leave to file this Court document,
under USCA 1. 3.4.5.6.8.9.10.14. under Affidavit

Now Comes CASIMIRO VENEGAS in Pro-se
to file the enclosed writ of Habeas Corpus
Pursuant to Haines v Kerner 404 US 519, 520 (72)
"Pro-se liberally construed"

All Allegations Submitted under
Affidavit, And Attached documents of Court
Proceedings. And other State enactment
Clause issues, that Prove some Statutes are
Clearly unconstitutional or unconstitutionally
APPLIED, (ex-A)

RECEIVED
MAR 18 2019
CLERK OF THE COURT

Dated March 15th 2019


CASIMIRO VENEGAS

#

AA0134

Eighth Judicial District Court
Clark County Nevada

CASIMIRO Venegas
Petitioner

v.

BRIAN WILLIAMS WARDEN HDSP
For the State of Nevada.
Respondent
(name of warden or authorized person having custody of petitioner)

Case No. 16-C 31318
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. 2254, 28 USC 2241
NRS 34, et seq.

1. (a) Your full name: CASIMIRO Venegas
(b) Other names you have used: _____
2. Place of confinement: _____
(a) Name of institution: HDSP State of Nevada
(b) Address: 22010 Cold Creek Rd Indian Springs NV 89070
- (c) Your identification number: _____
3. Are you currently being held on orders by: _____
 Federal authorities State authorities Other - explain: _____

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: HDSP HIGH Desert State Prison
2. Name and location of court which entered the judgment of conviction under attack: EIGHTH JUDICIAL DISTRICT Court 200 Lewis Ave LV NV 89155
3. Date of judgment of conviction: September 21 2017
4. Case number: C-16-31318
5. (a) Length of sentence: 22 years to 55 years with Parole eligibility
22 years, with Credit of time Served of 476 days.
He is represented by ATTORNEY ADAM L GILL # 11575

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MAR 18 2019

CLERK OF THE COURT

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

2 6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

3 Yes No

4 If "yes," list crime, case number and sentence being served at this time:

7 7. Nature of offense involved in conviction being challenged: Robbery, Conspiracy, Burglary
8 Battery, attempt Murder

9 8. What was your plea? (check one)

10 (a) Not guilty before District Judge Linda Bell

11 (b) Guilty

12 (c) Guilty but mentally ill

13 (d) Nolo contendere

14 9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a
15 plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was
16 negotiated, give details: N/A

18 10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

19 (a) Jury while represented by attorney ANAM L GILL ESQ

20 (b) Judge without a jury

21 11. Did you testify at the trial? Yes No

22 12. Did you appeal from the judgment of conviction? Yes No

23 13. If you did appeal, answer the following:

24 (a) Name of court: NEVADA Supreme Court while represented by A. GILL

25 (b) Case number or citation: 74241

26 (c) Result: AFFIRMED

27 (d) Date of result: 11/20/2018

28 (Attach copy of order or decision, if available.)

Decision or Action You Are Challenging

5. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention

Immigration detention

Detainer

The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

Disciplinary proceedings

Other (explain): NO JURY WAS SWORN BY THE TRIAL COURT NRS 175.111

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: _____

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: NEVADA SUPREME COURT

(2) Date of filing: APRIL 16, 2018

(3) Docket number, case number, or opinion number: 74241

(4) Result: AFFIRMED

(5) Date of result: 11/20/2018

(6) Issues raised: ① Closing argument shifted burden of proof during Fair trial, ② TRIAL COURT failed to Suppress Inflammatory Remarks, ③ Cumulative error.

Request for Relief

State exactly what you want the court to do: Reverse Conviction, And Free Prisoner From Unconstitutional Conviction as No Jury Was Sworn or Given Oath by the Court.

Violating: USCA 1, 3, 4, 5, 6, 8, 7, 10, 13, 14, by actions below:

Petitioner AE No Time Waives Jurisdiction, be it Structural errors, or Jurisdictional errors, that maybe Present, NACUP 12(b) McKim v District Court 33 NEV 33 10 PACY (1910) BRADLEY v FISHER 80 US 335 13 WALL 335 (1872) ONIEL v City of Lake Oswego 642 F.2d 367, 369 (9CIR81) See FAY v Noia 372 US 391, 450 83 SET 822 (64) also: ARBAUGH v Y & H Corp 546 US 500, 514 126 SCT 1235 (2006) cite omitted

Actions under Unconstitutional Laws (non-existent) EX Parte Rosenblatt 17 P. 298, 299 (NV 1857) are void from the onset. EX Parte Siebold 100 US 371, 377 (1880)

Jurisdiction must be actual not Hypothetical. RUBENAS A. G. v Marathon Oil Co 526 US 574, 577 119 Sct 1563 (97) Phelps v Alameda 569 F.3d 1120, 1142 And without it there is No Case or Controversy NEEDED in NEVADA Laws Wedekind v Bell 26 NV 395 69 P. 612 (1902) ALTERNATIVELY the Case is Moot. US Const Art III § 2 (CL-1)

Declaration Under Penalty Of Perjury

→ you are incarcerated, on what date did you place this petition in the prison mail system: HIDSP
March 15, 2019

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury. 28 USC 2254 NRS 208.165. I also certify any exhibits attached hereto, as ORIGINAL unredacted copies, thereof:

Date: 3/15/2019

Casimiro Venegas Signature of Petitioner # 1024122

Prepared by Steven Bramstein #61697

1 (a) Ground ONE: Counsel was Ineffective Under
2 Strickland STANDARDS That involve USCA 6.14,
3 And due Process Clause, of USCA 5.14
4 denial of a fair trial. as a result,

5 Supporting FACTS (Tell your story briefly):

6 Petitioner Casimiro Venegas was charged by
7 Third Amended Information Filed March 15, 2017.
8 Charging (13) Thirteen Counts, of Various offenses in
9 which a trial was held, Starting March 13, 2017
10 and Concluding March 15, 2017 with Sentence affirmed
11 on Appeal November 20, 2018.

12
13 Under Strickland v. Washington, there was
14 both, ineffectiveness, applicable to trial procedure,
15 And a Denial of Constitutional Rights, id @ 466 US 668
16 104 SOT 2052 (84)

17 AND, Appellate Counsel, was ineffective in
18 So far, as "Structural error" was not raised, properly
19 federalized before the trial Court.

20 21 Relevant Law

22
23 "Strickland" established that there was (2) two
24 Components to an ineffective Claim by Counsel,
25 (1) WAS Prejudice And the (2ND) Deficient Performance
26 resulting in an Unreasonable representation falling
27 below Professional Norms, at the time of trial..
28 id @ 466 US 688

Strickland was adopted in Nevada by WARDON v
LYONS 100 NV 430, 432 683 P2D 504-505 (84) also Kirksey v State
112 NEV 980, 998 923 P2D 1102, 1114 (96)

1 Ground 1 (Cont) TT: 3-13-17

2 "No Voir Dire Oath Given" NRS 16.030

3 The trial court overlooked

4 the decision of Barral v State 353 P3D 1197, 1200

5 Structural error, requires No Cause or

6 Prejudice be Proved. NEDEP v US 527 US 1, 7

7 119 SCT 1827 (1999) "Words mistated." Baldwin v State of Kansas

8 129 US 52 (1889) but also:

9 Here, the Structural error revolves around

10 the Barral decision, and the Stressing of "shall"

11 NRS 0.025, as Mandatory.

12 TT: March 13, 2017

13 In this case, the Structural error, involves

14 NRS 175.111 which requires that the "trial court"

15 Give An Oath" to the Jury. (NRS 248(3) defining

16 Judge As the Court)

17 "Without a Sworn Jury." There was No fact

18 finder Jury, which contributed to Constitutional

19 error, in obtaining A Verdict, which cannot be

20 considered harmless error; See;

21 Weaver v Massachusetts 137 SCT 1899, 1902

22 2017 U.S. Lexis 4043 (6-22-2017)

23 This type of Structural error defies

24 harmless error Analysis, as it affects the

25 framework in which the trial Proceeded.

26 ARIZONA v Fulminante 499 US 279, 310 -

27 111 SCT 1246 (91) The Courts "must" recognize

28

1 "That Jeopardy doesn't Attach until a Jury
2 is Seated And Sworn," Serfass v US 420 US 377, 394
3 95 Sct 1055 (75) State of NV v Blackwell 65 NV 405 (98)
4 Crist v Bretz 437 US 28, 35 98 Sct 2156 (1978)
5 6. W. Lafave, J. Israel et al Crim Proc. § 25.11(d) 3rd 2007

6
7 In Barral, (373 P3D 1198) The NEVADA Supreme
8 Court relied upon U.S Supreme Court rulings
9 that Structural errors, Preclude showings of actual
10 Prejudice to warrant relief. (373 P3D 1199)

11 And that if NRS 16.030 did not Give a
12 trial Court discretion, whether to impose an Oath
13 So must NRS 175.111 (requires the trial Court
14 to Give an Oath.) citing Peters v Kift 407 US 493, 502
15 92 Sct 2163 (72) This Structural error was not
16 Preserved, "And was Ineffective." Werner 137 Sct 1912

17 Clearly trial And Appellate Counsel, didn't know
18 the law, that He Practiced Under; Kimmelman v Morrison
19 477 U.S 365, 378 106 Sct 2574 (86)

20 And, Failure of the Court to Swear in the
21 Jury, means there was No Case or Controversy
22 that was Required for Jurisdiction by the Court.

23
24 Further, Counsel was required to inform
25 the Court of recognized development, that could affect
26 outcome of litigation. ARIZONA for official language v
27 ARIZONA 520 US 43, 68 (N23) (97) ("Counsel must raise
28 Mootness") Generally, Violating the RPC's 1.4 § 4(a)(6)

1 Express Mention (Exclusion of Another)

2 NRS 175.111 States:

3 AFTER JURY IS Seated, The Court "Shall"
4 Administer The following Oath:

5
6 Do You and each of You Solemnly Swore
7 That You will well and truly try This Case now
8 Pending before This Court and a true Verdict
9 render according to the evidence Given, So help
10 You God.

11 Express mention: Leake v Blasdel 6 NEV 40 (1870)

12 Here, it is Overruled by AFFIDAVIT, That NO
13 JURY WAS Given an Oath by any Court, after Seating
14 The Panel, and "That, Unsworn" The Panel was nothing
15 more Than a Mob. Slaughter v State 28 S.E 159 (1897)
16 State v Moore 57 W. Va 146, 49 S.E 1015 (1905) also
17 People v Pelton 7 P.2d 205 (1931) (and) a Nullity.
18 See 47 A.M JUR 2d 897 JURY § 217 (95)
19 50 A CJS 545 JURIES § 496 (1997) State of Michigan v
20 David Lee Allen docket 305283 (1-10-2013)

21 "
22 The State Statutes cited above are not
23 Cleavable," and Nevada Law makes Clear that a
24 defect Cannot be Procedurally defaulted. (emphasis)

25 EX Parte Rosenblatt 14 P. 298, 299 NV 1887

26 EX Parte Siebold 100 U.S. 371, 377 (1880)

27 "Upon Seating of the Jury Panel," and without

1 The Court Swearing in the Jury, "it was then fully
2 disqualified by Statute." Frequent v S.T. Swift.
3 19 NEV 363 11 P. 273 (1886) State ex rel Schaw v Hayes
4 25 NEV 31 56 P. 946 (1899) State ex rel Bullion and
5 exchange bank v MACK 26 NV 430 69 P. 862 (1902)
6 Hoff v Eighth Judicial Dist CT 79 NEV 108. 378 P2d 977
7 (1963)

8 Under title 14, NRS 175.111, AS well as:
9 USCA 1, 3, 4, 5, 6, 8, 9, 10, 13, 14, The JURY must have been
10 Sworn by the trial Court Judge Linda M Bell on
11 March 13, 2017, for Jeopardy to begin. Martinez v
12 Illinois 134 SCT 2070, 2074 EX Parte Maxwell
13 11 NEV 428 (1876) Simmons v US 142 US 148, 151 (1891)
14 Sheriff v Morfin 107 NEV 557, 561 (91) Sorless v U.S
15 420 U.S. 377 (1975) Baldwin v Kansas 129 US 52 9 SCT 193 (1889)

16 ~~_____~~
17 Affidavit of CASIMIRO VENEZAS.

18 Injian Springs NV
19 Clark County - Under Penalty of Perjury -
20 NRS 208.165 28 USC 1746

21 I Casimiro VENEZAS, Swear after being duly
22 sworn, that No Court Judge NRS 175.111, ever
23 gave a Jury An Oath AS required, and that
24 I have attached the First Day transcript, 3-13-2017
25 as evidence, that it was not done. And that
26 it is Unredacted, And in ORIGINAL form, that I Am over
27 18 Years of Age And willing to testify.

28 Dated 3/15 / 2019 Page 9

CASIMIRO VENEZAS

AA0143

1 (b) Ground TWO: With No Jury Sworn The Right to a Speedy
2 trial by a Jury of peers was denied, as well
3 as RIGHT to a Fair trial, by impartial Jury, due Process,
4 USCA 1, 3, 4, 5, 6, 8, 9, 10, 13, 14, equal Protection

5 Supporting FACTS (Tell your story briefly):

6 Grounds 1 is to be Considered fully Set forth here,

7
8 With the Information in Case C-16-313118
9 filed on March 4, 2016, and the trial not occurring
10 until March 13, 2017. The right to a Speedy trial
11 (STA) was denied under NRS NRS 178.556, See also
12 18 USC 3161-3174 Zenker v US 547 US 489, 506 (2006)

13 The Putative Defendant "Petitioner" Could not
14 Prospectively waive the Speedy trial Right under
15 Federal law, by any Agreement by Counsel to a
16 Continuance, The state never made findings
17 expressly, that the Continuances met specified
18 exclusions under 18 USC 3161(h) NRS 178.556(d) (The
19 act above does not expressly provide for such waiver)

20 See Generally US v GAUDIN 515 US 506, 115 SCT 2310 (95)
21 Klopfer v North Carolina 386 US 213, 223 87 SCT 988 (67)

22 23 Law Application

24 under "STA" it requires a defendant to
25 be tried within 60 days under Nevada law, and
26 70 days, under Federal law, after filing of a indictment
27 (or Information) or a defendant's first (1st) appearance
28 before a Judicial officer. The initial Arraignment was
March 7th 2016. — "TRIAL Counsel Put on the record.

1 That Putative defendant waived Speedy trial
2 right (minutes April 25 2016.) but this cannot be
3 assumed by a silent record. - US v SAADYA 750 F.2d 1419, 1420
4 (9 Cir 85) CARNEY v Cochran 369 US 506, 516 82 Sct 884 (62) Generally,

5 The remedy for violation of either the
6 60 day rule or the 70 day rule requirement is the
7 dismissal of the Criminal information either with or
8 without Prejudice. Here, under 18 USC 3161 et SEQ
9 The Speedy trial act commences once Panel Seated,
10 (empanelled) even if not sworn.*

11 Why this Punctiliousness? The US Supreme
12 Court in Henderson v US 476 US 321, 322 106 Sct 1871
13 (1986) says the first appearance sets the "STA Clock".
14 18 USC 3162(a)(2) US v Ramirez 973 F.2d 36, 39 (1-92)
15 Klopper v North Carolina 386 US 213, 223 (1967) NEVADA
16 SPECIFICALLY has the 60 day rule ADAMS v Sheriff White
17 Pine County 91 NV 575 540 P.2d 118 (75) Zenner v U.S.
18 547 U.S 506 (2006)

19 ≡ NEVADA State Law ≡
20 Regressing NRS 175.111, has been law since 1967
21 as has NRS 178.556(1) in which the Court "shall" Give the
22 Oath "shall" is Mandatory NRS 0.025, and then
23 Protects the Petitioner from future Double Jeopardy
24 Issues, and the fundamental right to trial by state
25 Law, The NEVADA Constitution, And the Federal Right
26 to a fair Speedy trial by an impartial JURY.
27 USCA 1.3.4.5.6.8.9.10.13.14 Groppi v Wisconsin -
28 400 US 505, 509 91 Sct 490 (71) "Court" NSCR 248(3)
(Page 11)

(c) Ground THREE: Denial of a Public trial, under Due Process Clause. Substantial and Procedural Violations;
USCA 1, 3, 4, 5, 6, 8, 9, 10, 13, 14

Supporting FACTS (Tell your story briefly without citing cases or law.):
The right to a Public trial is enunciated in Waller v Georgia 467 US 39, 104 SCT 2210 (84)
Ground 1, 2 should be considered fully set forth here

without an Oath Given by the trial Court, NRS 175.111 it made the the Criminal Trial, fundamentally unfair, and Unreliable Vehicle for determination of Guilt or innocence. Rivera v Illinois 556 US 148, 160. 129 SCT 1446 (2009) WEND v US 527 US 1; - 8, 9 119 SCT 1827 (1999)

In a Jury trial, to Convict facts "Must" (NRS 0.025) be found by a Jury beyond a reasonable doubt, for which there is a Charge. US v GAUDIN 515 US 506. 115 SCT 2310 (1995) Duncan v LOUISIANA 391 US 145, 149. 88 SCT 1444 (1968) "A Judge Cannot be the Proper fact finder, and direct a Verdict for the State." Corella v California 491 US 263, 268 109 SCT 2419 (89)
In re Winship 397 US 358, 364 90 SCT 1068 (1970)

Jeopardy only begins when a Jury Panel is Sworn And without, Complying with NRS 175.111, the Jury was a Nullity

Minich v People 9 P. 4 (1885) Fitzhugh v State 81 TENN 258, 265 (1884)
State v Davis 52 VT 376, 381 (1880) Beale v Commonwealth 25 P.A. 11, 17 (1855)
Brown v State 220 S.W.3d 552, 554 (TX CT APP 2007) Spencer v State 640 - SW.2d 267 (2007) EX Parte Benford 935 So2d 421, 429 (ALA 2006)
People v Felton 7 P2d 205 (1931) 12 State of Michigan v Allan (SUPRA @ P 68)

USCA 14

1 The Fourteenth amendment, And the fifth
2 amendment equal Protection Clause Command that
3 No State shall deny to any Person within it's
4 Jurisdiction, the right to Similarly Situated be treated
5 alike USCA 1,3,4,5,10,8,9,10,13,14

6 Lee v City of L.A. 250 F3D 1668, 1686 (9 CIR 2001)

7 But the trial transcripts of March 13, 2017
8 do not reflect, either a Voir dire, or an Oath
9 by the "trial Court" NRS 175.111 which was mandatory.

10
11 Thus Under the above Statute, without the
12 Proper Application, there was No Valid fact finders
13 and they were never officers of the Court, for
14 Speedy trial Purposes.

15
16 The First Amendment right to Access the
17 Court and "Rely on God" in the Jury Oath was
18 denied a Christian defendant USCA 1, 5, 6, 8, 14

19
20 Without a Sworn Jury Panel, there
21 could be no ruling on evidence. Cominett v
22 United States 242 US 470 (1913) Clark v U.S
23 289 US 1, 11 (1933) CJS JURY § 35 US Const art III § 2
24 35 Corpus Juris 422

25
26 All of which State in relevant Part
27 that: in the U.S. Constitution:

1 The Right to trial by a Jury in Criminal
2 Cases is Secured by (2) two Constitutional Provisions
3 that Provides: The trial of Crimes except in Cases
4 of impeachment "shall" be by Jury US Const art III § 3
5 along with the Sixth Amendment Guarantee, in
6 Pertinent Part, that:

7 In all Criminal Prosecutions, the accused
8 shall enjoy the right to a speedy and public trial, by
9 an impartial Jury of the State and District where the
10 Crime shall have been committed (USCA 6.14)

11
12 As stated in US v Marchant, 25 US. 480, 482 (1827)
13 "The law Presumes that only a Sworn Juror, in a Case
14 is indifferent and above legal exception"

15 An Oath, has been an integral part of the
16 fact finding Process since ancient times, Generally
17 US v Cox 36 US 162, 163 (1837) Noah Webster: dictionary on
18 English Language 168 (1806) defining JURY as: Persons Sworn
19 to deliver the truth:

20 As a First Amendment issue that's been
21 denied to a "Christian Person" by it's most basic
22 Iteration, "that includes God" in "NES 175.111", USCA 1.14
23 "BY inviting God to Punish one if decided wrongly"

24
25 See: Ryan Patrick Alford "How do you trim the
26 Seamless Web." 77 U. Cin L Rev 1273, 1297 (2009)

27 By the wording in the above State Law...

1 .. It is difficult to imagine the JURY GAINING
2 Legitimacy as a fact finding body without a Swearing
3 requirement: = 1 McCormick on evidence §114 (6th ed)
4 The term beyond a reasonable doubt, means the
5 elements "must" (NRS 0.025) be found by a JURY. See
6 In re Winship 397 US 358 90 SCT 1068 (70) =

7 = "Defendant not present, for any Court administering an Oath"
8 With the JURY Unsworn by State Law, it's a
9 Structural error, that can be raised at Anytime, and
10 because it's a Nullity, "it is Void." Ketchum v Salles
11 748 P.2d 67, (1987) Barral v State of Nevada 353 P3D 1197,
12 @ 1200 (201) Howard v State of Texas 192 SW 770
13 LRA 1917 @ Pg 399. "No Statute of Limitations to file"

14
15 Moreover, if the Problem were one of the
16 JURY's authority to hold office, and "act without"
17 ever being Sworn. And Given an Oath. The issue
18 then is Analogous to Cases involving irregularity
19 in a Judge's authority to Preside over a Case.
20 "That Precept amounts to a Judgment by Fraud
21 because there would be no Jurisdiction".

22 "Which of Course in Nevada, Can be Challenged
23 Years Later" Marshal v City of Carson 469 P2d 494
24 86 NV 107 (70) NRCIVP 8(6) N/C Dash Inc v Goedner
25 218 P3D 858 125 NV 647 (NV 2009) Hazel-Atlas v Hartford
26 322 U.S. 238, 245, 64 SCT 997 (1944) NRCIVP 60(6)

27 The Following exhibits are Proof that:

The trial transcripts. Are Un Controversial
as filed by the Court Reporter Renee Vincent

1 TT: 3-13-2017. The transcript of Court
2 reflects that without the Court administering the
3 Oath. An actual innocence argument, relies
4 on the fact that No JURY found all the elements
5 beyond a reasonable doubt. In re Winship,
6 (SUPRA) JACKSON v VIRGINIA 443 US 307. 313. 99 Sct-
7 2781 (79) Schlup v Delo 513 US 298. 115 Sct 851
8 (1995) House v Bell 547 US 518. 126 Sct 2064
9 2006 Mitchell v State 149 P3d 33 (NV 2006)

10 = US Const art IV § 1 =

11 ▲ The Stenographic recorded evidence that
12 was accepted on direct appeal. And bates stamped
13 must be accepted as true! 28 USC 753(b)
14 US v Anzalone 886 F.2d 229. 232 (1989) Maine v Taylor
15 477 US 131. 144. 106 Sct 2440 (86) US v Marshal 488 F2D 1169
16 -1196 (9 Cir 73) Abotino v U.S 750 F.2d 1442, 1445 (9 Cir 85)
17 US v Hoffman 607 F2d 280. 286 (9 Cir 79) United States v
18 Zammello 432 F.2d 72. 74 (9 Cir 70) ▲ AND
19 There never was any bill of exceptions filed
20 against the trial record prior to appeal, as
21 such it is now "Law of the Case" Thiess v Roppert
22 59 NV 180. 185 89 P2d 5 (1939) Yeager v US 557 US 110
23 129 Sct 2360 (2009) And it is subject to Judicial
24 estoppel Ashe v Swenson 397 US 436. 443 (1970)
25 USCA 5.

26 Not only was a "Moot Case" Presented to
27 The Appellate Court, There was a Violation of
28

1 The rules of Candor, hereafter "RPC" 1.4
2 RPC 3.3(a)(1) RPC 3.8(a) RPC 8.4(a)(b)(d)

3 ALL of the transcripts, "AS ADMISSIONS,"
4 had the effect of then and there, of withdrawing
5 any later fact findings on ANY of the charging
6 informations, because it dispenses with the
7 need of Proof, of fact by inconsistent Positions.

8 Generally Reed v City of Arlington 650 F.3d
9 571.573 (5 CIR 2011) Sechrest v IGNACIO 549 F3d 789, 805
10 9 CIR 2008 NRCIVP 60(b) FRCIVP 60(b) Swift and Co v
11 United States 276 US 311, 324 48 Sct 311 (1927) ..
12 ACLU et al v Mastro et al 670 F.3d 1046, 1065 (9.2012)

13
14 With No Oath Given by the Trial Court to
15 The Jury. The Judgment issued Violates Petitioners
16 Thirteenth Amendment Under due Process USCA 5, 13, 14

17
18 "Jurisdiction is never Waived," US v Cotton 535 US-
19 625, 630 122 Sct 1781 (2002) And without it, there
20 is a Claim of treason AGAINST the Court by
21 Violating both State And Federal Constitutions See
22 US v Throckmorton 98 U.S 61, 71 (1878) US v Will
23 749 U.S. 200, 216, 101 Sct 471 (80) and also Violating
24 The Separation of Powers doctrine, NV Const art 3 § 1
25 N Lake Tahoe Fire v Washoe County NV 310 P3d 583, (2013 NV)

26 In Nevada Jurisdictional defects cannot be
27 Procedurally defaulted ex Parte Rosenblatt 14 P. 298, 299 (1887)
28 The writ should be Granted.

1 (d) Ground FOUR: ENUMERATION in the U.S. Constitution of certain
2 rights shall not be construed to deny or disparage others that
3 are retained by the People. Such as the Due Process, that then
4 APPLIES Substantive Law as well as Procedure. USCA 1, 3, 4, 5, 6, 8, 9, 13, 14

5 Supporting FACTS (Tell your story briefly without citing cases or law.): Ground 1-3 Set forth here.

6 Whitney v California 274 U.S. 357, 373, 47 S.Ct. 641 (1927)
7 The 5th and 14th US Const amendment Guarantees More than a
8 fair Process. The Clause includes Heightened Protection Against
9 Government interference with Certain Rights, and Liberty interests.

10 Troxel v Granville 530 U.S. 57, 65, 120 S.Ct. 2054 (2000) also
11 citing Glucksberg 521 U.S. 719, 720, 117 S.Ct. 2258, 2302

12 with No Sworn Jury, there was No Case or Controversy.
13 US Const art III §(2)(3) Smith v Adams 130 U.S. 167, 173, 9 SUP CT
14 - Rep 566 Mills v Green 159 U.S. 651, 16 SUP CT Rep 132.

15 ≡ ** Concentric Charges - Convictions ** ≡
16 The (3rd) Third Amended Information filed on 3/15/19
17 in Counts 6-8-9-10, was Duplicious, and resulted in Multiple
18 Convictions and enhancements, with No distinctive facts
19 Proved to any Jury. OHIO v Johnson 467 U.S. 493, 498,
20 97 S.Ct. 2221 (77) Brown v OHIO 432 U.S. 161, 165, 97 S.Ct. 2221
21 (77) Salazar v State 119 Nev. 224, 70 P.3d 749, 751 (2003)

22
23 And with the trial Court's failure to comply
24 with either NRS 16.030 (or) NRS 175.111. The Court
25 HAS Abused it's discretion by Convicting of one
26 Count Multiple times; Prince v US 352 U.S. 322, 77 S.Ct. 403
27 1957 which is Treason Against the U.S. Constitution AND Sedition
28 Claim. This implicates Blockburger v US 284 U.S. 299, @ 304
52 S.Ct. 180 (1932) Lachance v State 321 P.3d 919, 926 (4-3-2014)

1 The Judgment of Conviction is clearly beyond
2 the Court's Jurisdiction but in addition, with no
3 Statute Listed only NRS 207.010 APPLIES, (All other
4 Statutes exclude 3rd Conviction wording) and
5 even then it was not mandatory, which it's
6 Presumed is the reason the trial Court then
7 omitted NRS 207.010. but still incorrectly
8 Sentenced Petitioner, Violating Apprendi v New
9 Jersey 530 US 466, 490 120 SCT 2348 (6-26-2000)
10 as did Raising the Minimum / Maximums Alleyne v
11 U.S 133 SCT 2151 570 U.S. (2013) under Nevada Law.

12
13 Again, No JURY found basic elements
14 because of NRS 175.111 Thus there was no fair or
15 impartial JURY Bergerv U.S. 295 US 78, 79 (1935)
16 (by using Valid State Law Procedure)

17
18 Then, there was the Duplicity in the 3rd
19 amended information March 13 2017 State v Douglas
20 65 P. 802 803 26 NV 196 (1901) Benton v Maryland 395 US
21 -784-794 89 SCT 2052 (1969) Thus there was a Pyramiding
22 of Penalties, by the State Prince v U.S 352 US 322 -
23 77 SCT 403 (57) Parr v U.S 351 US 513, 518 76 SCT 912
24 (1956) and as long as the Second and Third Sentences
25 stand it's a second Punishment Ray v US 481 US 736, 737
26 107 SCT 2093 (87) This was a dead beat winner
27 Counsel failed to do, and was ineffective Evitts v Lucey
28 469 US 387, 397 105 SCT 830 (85) (Informations indistinct)

1 (with EMPHASIS) Valentine v Konteh 395 F3D 626, 642 (2005)
2 US v Scott 437 US 82, 92-98 SCT 1287 (78) Williams v State 2014-
3 NV UnPub Lx 1555 Wilson v State 121 NV 345 114 P3D 285 (2005)
4 ≡ "with the Jury Unsworn. The trial was over even
5 without a formal order." Colin v Lamport 233 F.S.2d 1293
6 -1300 (9 CIR 2002)

7 The above represents a defect in the integrity
8 of the Court itself. NRCIVP 60(b) FRCIVP 60(b) Clark v
9 Stephens 2015 US APP Lx 17396. Chand v Romero 2012 US
10 APP Lx 11869 and "Actual innocence" operates in Reese
11 Schlup v Delo 513 US 298. 115 SCT 851 (95)

12 ▲ ▲ No State Law Used ▲ ▲

13 Moreover, the Process, used by the trial
14 Court, was Unconstitutional, because it Violated the
15 Elections Clause, US Const art 1 § 4 (CL-1) by making
16 a non-existent Process lead to a Conviction, by a
17 fraudulent document. ARIZONA State lvs v ARIZONA indOPT
18 Redist 135 SCT 2652. "It is the legislature THAT MAKES
19 the Laws, not the trial Court." Smiley v Holm 285 US 353,
20 -365. 52 SCT 397 (1932)

21 The Enactments Clause for the Procedure
22 used by the trial Court "did not exist" and still doesn't
23 NV Const art IV § 23 State v S.T. Swift 10 NEV 176 (1875)

24 In fact, the Statute's used in the
25 Criminal Information (amended 3rd) don't have a
26 Proper enactments. See NHP Assoc v State of NV
27 107 NEV 547. 815 P2D 608 (91) (Exhibit A)

28

* 3RD Amended Information *

... None of the Jury instructions, required a connection to a specific count and convicting of, (even though not properly sworn.)

And this denied the Court subject matter jurisdiction, As Jeopardy does not begin until the jury was properly sworn in. Willhaver v FLANAGAN 448 US 1323, 1325 101 SCT 10 (1980)
Serfass v US 420 US 377, 388 95 SCT 1055 (75)
The state law did not delegate authority to the court to ignore "shall" in NRS 175.111

* Structural error *

→ Refusal of Trial Court to follow valid law IF only a properly sworn jury could find facts, according to procedure, and standards in title 17. The court could not then cure the deficiencies it caused. Cabona v Bullock 474 US 376, 384 106 SCT 689 (86) State v Blackwell 65 NV 405 (48)

And the entire sentence is illegal under NRS 176.555 because only a jury could find facts. W v Gaudin 515 US 506, 509 115 SCT 2310 (95)

It is beyond speculation, that there was an overt conspiracy between all the court officers to deny petitioner of a fair trial under due process, where harmless error cannot apply. Moreover, "the above issues are never forfeited or waived". US v Cotton 535 US 625, 630 122 SCT 1781 (2002)
IN NEVADA.

... The Court was not at Liberty to impose upon the Putative defendant discrimination in its trial Procedure, which the Constitution of the United States and an act of Congress approved, Pursuant to the Constitution.. alike forbid;

In this matter, as a timely objection, the Conviction Cannot Stand, because the State Laws and State and Federal Constitutions Prohibit, & the Procedure by which it was obtained. Generally HILL v TEXAS 316 U.S 400, 406 (1942) Likewise, the due Process clause Protects Putative defendants from Jurors whom are actually incapable of rendering a Verdict that is based on evidence and Law. Thus a defendant Cannot Consistent with due Process, "be Subject to TRIAL by an INSANE Juror." Jordan v Massachusetts 325 U.S 167, 176. (1912)

It is in the nature of the Practices here Challenged that the Proof of actual harm, or lack of harm is Virtually impossible to adduce, there is no way to determine what a Properly Sworn Jury would have decided,

Consequently, it's obvious, that the Court directed the Verdict, And who suffered the Consequences of unavoidable Certainty, of unconstitutional Conviction, Specifically directed by the deputy DA's in this Case, as well as the Defense Counsel, And the Court Generally Speiser v Randall 357 U.S 513, 525 (1958) In re Winship 397 U.S 358, 370-373 (1970)

"The Writ Should be Granted" There was No fair trial, In re Murchison 349 U.S 133, 136 (1955) Goldberg v Kelly 397 U.S 254, 271 (1970) Generally Turner v Ohio 273 U.S 510 (1927) The Silver bullet The Court

Thought it had, was missing it's Primer.

The trial, Sentencing Proceeding is even more Problematic where the Court made no Particularized findings, And only recognized the Judgments, Previously entered, and then the Court MISUNDERSTANDING the Procedure, of habitual Criminal ad Jusiction, forgot it's Jury, had "not been Sworn in" the transcribed Proceedings by the Court itself.

*** JURY trial Right denied ***

EACH AND EVERY Sentence exceeds their respective Statutes, in Counts 2, 3, 4, 5, 7, as well as ordering a Payment of 350⁰⁰ for a Court Appointed Attorney The State was required to Provide. (argument infra)

*** Counsel was Clearly Ineffective ***

Further, Count 2, and 4 Sentenced as a CAT B, would Limit the Sentences to a 2-15 Years as would Count 3, 5 (also Cat B, as does Count 7) (CAT B) minimum Sentence exceeds Attempt Statute, And is An Apprendi issue, As well as a JURY TRIAL RIGHT: AGAIN denied, by the State, on the MAXIMUM.

NRS 176.555 (USCA 5)

As Such the District Court abused it's discretion in procedure leading to the September 21, 2017 Judgment, which the Court Clerk had No discretion over, since it was done by the Court itself, and didn't speak the determination. Chanel 13 of L.V. Inc v Ettlinger 94 NV 578, 580 583 P2D 1085, 1086 (78) that the Court made during Sentencing. This necessitates an Ineffective Assistance finding Under Strickland, (SUPRA) either way the Judgment is not final, And makes As much sense as getting a female Manicured Pregnant!

1 (d) Ground 5: Counsel was ineffective in allowing illegal
2 Penalty to be imposed. That Violates Due Process.

5 Supporting FACTS (Tell your story briefly, Violating USCA 1.3.4.5.6.8.9.10.14
6 Ground 1-4 is to be considered fully set forth here.

8 Petitioner C. Venegas, was denied effective
9 assistance of Counsel at Sentencing, by not knowing
10 the Laws he Practiced Under. Mayfield v Woodford (infra)
11 270 F3D 915 (9Cir 2001) Kimmelman v Morrison (SUPRA)
12 Specht v Patterson 386 U.S. 605 (1967)
13 Witherspoon v Illinois 391 US 510 (1968)

14 ** Court Appointed Attorney Fee \$350⁰⁰ **

15 (A) NRS 178.3975 specifically states that costs
16 for Attorney representation, is beyond the Courts Jurisdiction.
17 See: "The Court shall not order a defendant to make
18 such a Payment unless the defendant is or will
19 be able to do so. "shall" is mandatory (NRS 0.025)
20 NRS 176.555

21 → State Laws are "Contracts" and that standard
22 is easily proven by the wording in the above.

23 Flak v Yonkers S&L 307 F3d 565.583 (2Cir 2004)
24 ACU et al v Masto et al 670 F3D 1046.1060 (9Cir 2012)
25 US trust Co v New Jersey 431 US 1.25 97SCT 1505 (97)

26 The trial Court, by ordering \$350⁰⁰ to
27 be Paid, was an illegal Penalty. And Surely Violates the
28 Separation of Powers doctrine. Nixon v Admin' of Gen Serv's
433 US 425.469 97SCT 2777. (1977) (Legislature's make the laws
not the Courts....)

(23)

1 While the Sentence was imposed on September
2 7th 2017 orally, the finalized version, of September 21st
3 2017, as recorded by the Nevada Department of
4 Corrections, must run the sentence concurrent, with
5 the Custody Case of 12-C-284885, which would advance
6 Parole date, since it was not ordered consecutive

7
8 The NSOC, has current sentence structure,
9 starting after 12-C-284885 had ended. This is
10 ILLEGAL AT BEST, and not within Statute, the
11 Prison System is changing the meaning of NRS 176.035(1)
12 "Like a Chameleon wearing a mood Ring". NRS 176.045(1)

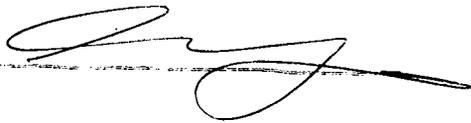
13
14 whatever the case Petitioner comes to this Court
15 with clean hands TRACY v CAPAZZI 1642 P2D591-98NW120
16 (NV82) And the consequences flow from NRS 175.111
17 and what has actually happened, what what the
18 State or the Prosecutor may have done with hindsight.
19 Central Tablet v U.S 417 US 673, 679 94 SCT 2516, 2525
20 (74)

21 Ans. fully supported by the attached exhibits
22 and transcript of 3-13-2017 as evidence.

WHEREFORE, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

EXECUTED at High Desert State Prison on the 15 day of the month of 3, 2019

Dated 3/15/ 2019

SIGNATURE 

VERIFICATION

Under penalty of perjury, the undersigned declares that the undersigned is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of the undersigned's own knowledge, except as to those matters stated on information and belief, and as to such matters the undersigned believes them to be true. NRS 209.145 28 USC 1746

This includes all attachments of any court FINANCIAL NOTICE FILED IN

3/15/19

SIGNED 

AFFIRMATION (Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding PETITION FOR Habeas corpus filed in District Court Case Number 17C313118 Does not contain the social security number of any person.


1024122

CERTIFICATE OF SERVICE BY MAIL

I, CASIMIRO VENEGAS, hereby certify pursuant to N.R.C.P. 5(b), that on this 15 day of the month of 3/15/ 2019, I mailed a true and correct copy of the foregoing PETITION FOR Habeas Corpus addressed to:

Warden High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155

Attorney General of Nevada
100 North Carson Street
Carson City, Nevada 89701

AT _____

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

Print your name and NDOC back number and sign

3/3  # 1024122
DATE - 3/15/ 2019

EXHIBIT A

CASE SUMMARY
CASE NO. C-16-313118-1

State of Nevada
 vs
 Casimiro Venegas

§ Location: **Department 7**
 § Judicial Officer: **Bell, Linda Marie**
 § Filed on: **03/03/2016**
 § Case Number History:
 § Cross-Reference Case **C313118**
 § Number:
 § Defendant's Scope ID #: **2666143**
 § ITAG Booking Number: **0**
 § ITAG Case ID: **1864132**
 § Lower Court Case # Root: **16F00568**
 § Lower Court Case Number: **16F00568A**
 § Metro Event Number: **1601120494**
 § Supreme Court No.: **74241**

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court				
1. CONSPIRACY TO COMMIT ROBBERY PCN: 0025601938 ACN: 1601120494 Arrest: 01/12/2016 MET - Metro	F	01/12/2016	Case Status:	03/03/2016 Open
2. BURGLARY WHILE IN POSSESSION OF A FIREARM	F	01/12/2016		
3. ROBBERY WITH USE OF A DEADLY WEAPON	F	01/12/2016		
4. BURGLARY WHILE IN POSSESSION OF A FIREARM	F	01/12/2016		
5. ROBBERY WITH USE OF A DEADLY WEAPON	F	01/12/2016		
6. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM	F	01/12/2016		
7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	F	01/12/2016		
8. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM	F	01/12/2016		
9. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM	F	01/12/2016		
10. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM	F	01/12/2016		
11. AIMING A FIREARM AT A HUMAN BEING	G	01/12/2016		
12. COERCION WITH USE OF A DEADLY WEAPON	F	01/12/2016		
13. BATTERY WITH INTENT TO COMMIT A CRIME	F	01/12/2016		

Related Cases
 C-16-313118-2 (Multi-Defendant Case)

DATE CASE ASSIGNMENT

Current Case Assignment	
Case Number	C-16-313118-1
Court	Department 7
Date Assigned	02/28/2017
Judicial Officer	Bell, Linda Marie

PARTY INFORMATION

Defendant Venegas, Casimiro

Lead Attorneys
Gill, Adam
Retained

CASE SUMMARY

CASE NO. C-16-313118-1

702-750-1590(W)

Plaintiff State of Nevada

Wolfson, Steven B
702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
03/03/2016	 Criminal Bindover Packet Las Vegas Justice Court	
03/04/2016	 Information <i>Information</i>	
03/15/2016	 Order for Production of Inmate <i>Order for Production of Inmates</i>	
04/08/2016	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses</i>	
04/21/2016	 Motion to Continue <i>Motion to Continue Trial Date</i>	
04/29/2016	 Reporters Transcript <i>Reporter's Transcript of Preliminary Hearing 3/3/2016</i>	
12/22/2016	 Notice of Witnesses and/or Expert Witnesses <i>Amended Notice of Expert Witnesses [NRS 174.234(2)]</i>	
12/30/2016	 Receipt of Copy <i>Receipt of Copy</i>	
01/06/2017	 Supplemental Witness List <i>Supplemental Notice of Witnesses</i>	
01/20/2017	 Receipt of Copy <i>Receipt of Copy</i>	
03/13/2017	 Jury List	
03/13/2017	 Amended Information <i>Amended Information</i>	
03/13/2017	 Amended Information <i>Second Amended Information</i>	
03/15/2017	 Instructions to the Jury	
03/15/2017	 Verdict	
03/15/2017	 Amended Information <i>Third Amended Information</i>	

CASE SUMMARY

CASE NO. C-16-313118-1

05/04/2017  Order
Order to Reschedule Hearing Date

06/01/2017  PSI

06/08/2017  Stipulation and Order
Filed by: Plaintiff State of Nevada
Stipulation to Continue Sentencing Hearing

08/15/2017  Motion to Continue
Filed By: Defendant Venegas, Casimiro
Motion To Continue Sentencing

09/05/2017  Memorandum
Filed By: Defendant Venegas, Casimiro
Sentencing Memorandum

09/06/2017  Memorandum
Filed By: Plaintiff State of Nevada
State's Sentencing Memorandum

09/06/2017  Memorandum
Filed By: Defendant Venegas, Casimiro
Amended Memorandum For Casimiro Venegas

09/21/2017  Judgment of Conviction
JUDGMENT OF CONVICTION (JURY TRIAL)

10/10/2017  Notice of Appeal (criminal)
Party: Defendant Venegas, Casimiro
Notice of Appeal

10/10/2017  Case Appeal Statement
Filed By: Defendant Venegas, Casimiro
ASTA - Venegas, Jory

10/10/2017  Request
Filed by: Defendant Venegas, Casimiro
Request for Rough Draft Transcript

12/07/2017  Reporters Transcript
Court Reporters Transcript of Hearing (Criminal) - Day 1 - Jury Trial - 3-13-2017

12/07/2017  Reporters Transcript
Recorders Transcript of Jury Trial - Day 3 - 3-15-2017

12/07/2017  Recorders Transcript of Hearing
Recorders Transcript of Jury Trial - Day 2 - 3-14-2017

11/02/2018  Motion
Filed By: Defendant Venegas, Casimiro
Motion to Withdraw Counsel

CASE SUMMARY
CASE NO. C-16-313118-1

- 11/02/2018  Notice of Motion

- 11/20/2018  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed

- 02/01/2019  Motion to Modify Sentence
Filed By: Defendant Venegas, Casimiro
Motion for Modification of Sentence

- 02/13/2019  Notice of Change of Hearing
Notice of Change of Hearing

DISPOSITIONS

- 03/07/2016 **Plea** (Judicial Officer: Bell, Linda Marie)
 1. CONSPIRACY TO COMMIT ROBBERY
Not Guilty
PCN: 0025601938 Sequence:

 2. BURGLARY WHILE IN POSSESSION OF A FIREARM
Not Guilty
PCN: Sequence:

 3. ROBBERY WITH USE OF A DEADLY WEAPON
Not Guilty
PCN: Sequence:

 4. BURGLARY WHILE IN POSSESSION OF A FIREARM
Not Guilty
PCN: Sequence:

 5. ROBBERY WITH USE OF A DEADLY WEAPON
Not Guilty
PCN: Sequence:

 6. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
Not Guilty
PCN: Sequence:

 7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
Not Guilty
PCN: Sequence:

 8. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
Not Guilty
PCN: Sequence:

 9. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
Not Guilty
PCN: Sequence:

 10. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
Not Guilty
PCN: Sequence:

 11. AIMING A FIREARM AT A HUMAN BEING
Not Guilty
PCN: Sequence:

 12. COERCION WITH USE OF A DEADLY WEAPON

CASE SUMMARY
CASE NO. C-16-313118-1

Not Guilty
PCN: Sequence:

13. BATTERY WITH INTENT TO COMMIT A CRIME

Not Guilty
PCN: Sequence:

09/07/2017 **Disposition** (Judicial Officer: Bell, Linda Marie)

1. CONSPIRACY TO COMMIT ROBBERY

Guilty
PCN: 0025601938 Sequence:

2. BURGLARY WHILE IN POSSESSION OF A FIREARM

Guilty
PCN: Sequence:

3. ROBBERY WITH USE OF A DEADLY WEAPON

Guilty
PCN: Sequence:

4. BURGLARY WHILE IN POSSESSION OF A FIREARM

Guilty
PCN: Sequence:

5. ROBBERY WITH USE OF A DEADLY WEAPON

Guilty
PCN: Sequence:

6. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

Guilty
PCN: Sequence:

7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

Guilty
PCN: Sequence:

8. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

Guilty
PCN: Sequence:

9. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

Guilty
PCN: Sequence:

10. BATTERY WITH USE OF DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

Guilty
PCN: Sequence:

11. AIMING A FIREARM AT A HUMAN BEING

Guilty
PCN: Sequence:

12. COERCION WITH USE OF A DEADLY WEAPON

Guilty
PCN: Sequence:

13. BATTERY WITH INTENT TO COMMIT A CRIME

Guilty
PCN: Sequence:

ORIGINAL

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

MAR 15 2017

BY Sylvia D. Perez
SYLVIA D. PEREZ, DEPUTY

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRYAN SCHWARTZ
6 Deputy District Attorney
7 Nevada Bar #013244
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

C-16-313118-1
AINF
Amended Information
4633726



9 THE STATE OF NEVADA,
10
11 Plaintiff,
12
13 -vs-
14 CASIMIRO VENEGAS, #2666143,
15 JOSE FERNANDO MONAY-PINA, aka,
16 Jose Fernando Monaypina, #7028317.
17
18 Defendants.

CASE NO: C-16-313118-1 ~~3~~

DEPT NO: VII

THIRD AMENDED
INFORMATION

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

18 STEVEN B. WOLFSON, Clark County District Attorney within and for the County of
19 Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the
20 Court:

21 That CASIMIRO VENEGAS and JOSE FERNANDO MONAY-PINA, aka, Jose
22 Fernando Monaypina, the Defendants above named, having committed the crimes of
23 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -
24 NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony
25 - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category
26 B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY
27 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS
28 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

10

1 (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION
2 WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC
3 53160); BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS
4 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross
5 Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016, within
6 the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
7 cases made and provided, and against the peace and dignity of the State of Nevada,

8 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

9 did willfully, unlawfully, and feloniously conspire with each other to commit a
10 robbery, by the defendants committing the acts as set forth in Count 2 through 13, said acts
11 being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

13 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
14 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston
15 Boulevard, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain
16 possession of a firearm during the commission of the crime and/or before leaving the structure.

17 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

18 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money
19 of the United States, from the person of RICHARD DECAMP, or in his presence, by means
20 of force or violence, or fear of injury to, and without the consent and against the will of
21 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

22 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did then and there willfully, unlawfully, and feloniously enter, with intent to commit
24 robbery and/or assault and/or battery and/or larceny that certain residence occupied by
25 JAVIER COLEN, located at 504 Brush Street, Las Vegas, Clark County, Nevada, said
26 Defendants did possess and/or gain possession of a firearm during the commission of the crime
27 and/or before leaving the structure.

28

1 **COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON**

2 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and
3 contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of
4 force or violence, or fear of injury to, and without the consent and against the will of JAVIER
5 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

6 **COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN**
7 **SUBSTANTIAL BODILY HARM**

8 did willfully, unlawfully, and feloniously use force or violence upon the person of
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an
10 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,
11 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally
12 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly
13 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
14 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
15 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
16 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
17 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
18 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
19 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
20 lookout and confederate throughout.

21 **COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON**

22 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
23 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the
24 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being
25 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)
26 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this
27 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
28 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)

1 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,
2 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering
3 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the
4 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting
5 as lookout and confederate throughout.

6 **COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN**
7 **SUBSTANTIAL BODILY HARM**

8 did willfully, unlawfully, and feloniously use force or violence upon the person of
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
10 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
11 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
12 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
13 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
14 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
15 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
16 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
17 conspiring in the following manner, to wit: by entering into a course of conduct whereby
18 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
19 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
20 confederate throughout.

21 **COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN**
22 **SUBSTANTIAL BODILY HARM**

23 did willfully, unlawfully, and feloniously use force or violence upon the person of
24 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
25 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
26 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
27 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
28 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be

1 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
2 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
3 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
4 conspiring in the following manner, to wit: by entering into a course of conduct whereby
5 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
6 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
7 confederate throughout.

8 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
9 SUBSTANTIAL BODILY HARM

10 did willfully, unlawfully, and feloniously use force or violence upon the person of
11 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the
12 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily
13 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the
14 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or
15 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
16 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
17 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
18 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or
19 conspiring in the following manner, to wit: by entering into a course of conduct whereby
20 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE
21 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and
22 confederate throughout.

23 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

24 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other
25 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA AVINA and/or
26 LIZBETH AVINA and/or SAMANTHA AVINA and/or CAESAR AVINA; the Defendant(s)
27 being criminally liable under one or more of the following principles of criminal liability, to-
28 wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission

1 of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring,
2 commanding, inducing and/or otherwise procuring the other to commit
3 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
4 crime be committed, Defendants acting in concert throughout.

5 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

6 did then and there willfully, unlawfully, and feloniously use physical force, or the
7 immediate threat of such force, against ADRIANA AVINA and/or LIZBETH AVINA and/or
8 SAMANTHA AVINA and/or CAESAR AVINA and/or JAVIER COLEN, with intent to
9 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from
10 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving
11 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable
12 under one or more of the following principles of criminal liability, to-wit: (1) by directly
13 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with
14 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,
15 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a
16 conspiracy to commit this crime, with the intent that this crime be committed, Defendants
17 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course
18 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,
19 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as
20 lookout and confederate throughout.

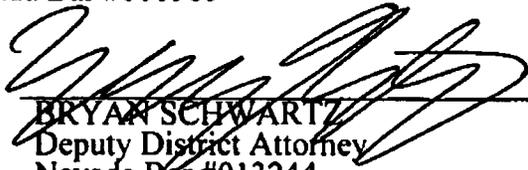
21 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

22 did then and there willfully, unlawfully, and feloniously use force or violence upon the
23 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial
24 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm
25 and/or axe; the Defendant(s) being criminally liable under one or more of the following
26 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by
27 aiding or abetting in the commission of this crime, with the intent that this crime be committed,
28 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the

1 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the
2 intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the
3 following manner, to wit: by entering into a course of conduct whereby Defendant CASIMIRO
4 VENEGAS directly committed the crime, Defendant JOSE FERNANDO MONAY-PINA,
5 aka, Jose Fernando Monaypina acting as lookout and confederate throughout.

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

9 BY


10 BRYAN SCHWARTZ
11 Deputy District Attorney
12 Nevada Bar #013244

13 Names of witnesses known to the District Attorney's Office at the time of filing this
14 information are as follows:

15 <u>NAME</u>	16 <u>ADDRESS</u>
17 CUSTODIAN OF RECORDS 18 OR DESIGNEE	Clark County Detention Center, 330 S. Casino Center Blvd., LVNV
19 CUSTODIAN OF RECORDS 20 OR DESIGNEE	LVMPD Dispatch, 400 E. Stewart, Las Vegas, NV
21 CUSTODIAN OF RECORDS 22 OR DESIGNEE	LVMPD Communications, 400 E. Stewart, Las Vegas, NV
23 CUSTODIAN OF RECORDS 24 OR DESIGNEE	LVMPD Records, 400 E. Stewart, Las Vegas, NV
25 AGUIRRE, A.	LVMPD #9645
26 COLON, Javier	C/O District Attorney's Office
27 DECAMP, Richard	C/O District Attorney's Office
28 DURON, I.	LVMPD #14809
LEHMANN, S.	LVMPD #13885
MONAY-PINA, Jose Fernando	908 N. Jones Blvd., Las Vegas, NV

1	SIMMONS, J.	LVMPD #15067
2	SIMMS, J.	LVMPD #15111
3	SMITH, T.	LVMPD #5267
4	SPURLING, J.	LVMPD #13647
5	TOMS, E.	LVMPD #5793
6	VENEGAS, Casimiro	1759 Santa Margarita St., #123, LVN
7	WATTS, Joseph	DA Investigator and/or Designee
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DO NOT READ TO THE JURY

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

NOTICE OF PRIOR BURGLARY AND/OR HOME INVASION CONVICTIONS

The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice that in the event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion conviction pursuant to NRS 205.067 in the above-entitled action, he will not be eligible for probation as Defendant CASIMIRO VENEGAS has already suffered ONE (1) prior Burglary and/or Home Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment as a Habitual Criminal," said notice being incorporated by this reference as though fully set forth herein.

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

**NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL
CRIMINAL**

The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice of the State's intent to seek punishment of Defendant CASIMIRO VENEGAS pursuant to the provisions of NRS 207.010 and 207.012 as a habitual criminal in the event of a felony conviction in the above-entitled action.

The State will seek punishment as a habitual criminal based upon the following felony convictions, to wit:

1. That in 2008, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) and COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony), in Case No. C244224.

2. That in 2008, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of COUNT 1 - ROBBERY WITH USE

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1 OF A DEADLY WEAPON (Category B Felony) and COUNT 2 - BURGLARY WHILE IN
2 POSSESSION OF A FIREARM (Category B Felony), in Case No. C246550.

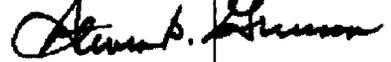
3 3. That in 2013, the Defendant was convicted in the Eighth Judicial District
4 Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in
5 Case No. C284885-1.

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

9 BY _____
10 BRYAN SCHWARTZ
11 Deputy District Attorney
12 Nevada Bar #013244

13 **DO NOT READ TO THE JURY**

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27 DA#16F00568A/bs /L-2
28 LVMPD EV#1601120450; 1601120494
(TK14)



JOC

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

9

Plaintiff,

10

-vs-

11

CASIMIRO VENEGAS
#2666143

13

Defendant.

14

CASE NO. C-16-313118-1

DEPT. NO. VII

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16

JUDGMENT OF CONVICTION
(JURY TRIAL)

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The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS
200.380, 199.480; COUNTS 2 and 4 – BURGLARY WHILE IN POSSESSION OF A
FIREARM (Category B Felony) in violation of NRS 205.060; COUNTS 3 and 5 –
ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
NRS 200.380, 193.165; COUNTS 6, 8, 9 and 10 – BATTERY WITH USE OF A
DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
Felony) in violation of NRS 200.481; COUNT 7 – ATTEMPT MURDER WITH USE OF A

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1 DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330,
2 193.165, of COUNT 11 – AIMING A FIREARM AT A HUMAN BEING (Gross
3 Misdemeanor) in violation of NRS 202.290; COUNT 12 – COERCION WITH USE OF A
4 DEADLY WEAPON (Category B Felony) in violation of NRS 207.190, 193.165; and
5 COUNT 13 – BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony) in
6 violation of NRS 200.400.2; and the matter having been tried before a jury, and the
7 Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO
8 COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480;
9 COUNTS 2 and 4 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category
10 B Felony) in violation of NRS 205.060; COUNTS 3 and 5 – ROBBERY WITH USE OF A
11 DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165;
12 COUNTS 6 and 8 – BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
13 SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS 200.481;
14 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B
15 Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, COUNTS 9 and 10 –
16 BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
17 NRS 200.481; COUNT 11 – AIMING A FIREARM AT A HUMAN BEING (Gross
18 Misdemeanor) in violation of NRS 202.290; COUNT 12 – COERCION WITH USE OF A
19 DEADLY WEAPON (Category B Felony) in violation of NRS 207.190, 193.165; and
20 COUNT 13 – BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony) in
21 violation of NRS 200.400.2; thereafter, on the 7th day of September, 2017, the
22 Defendant was present in court for sentencing with counsel ADAM GILL, ESQ., and
23 good cause appearing,
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1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
2 addition to the \$25.00 Administrative Assessment Fee and \$350.00 Court Appointed
3 Attorney Fee plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
4 Nevada Department of Corrections (NDC) as follows: **COUNT 1** – a MAXIMUM of
5 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
6 MONTHS; **COUNT 2** - a MAXIMUM of TWENTY-FIVE (25) YEARS with a MINIMUM
7 parole eligibility of TEN (10) YEARS, CONCURRENT with COUNT 1; **COUNT 3** – a
8 MAXIMUM of TWENTY-FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10)
9 YEARS; CONCURRENT with COUNTS 1, 2; **COUNT 4** - a MAXIMUM of TWENTY-
10 FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10) YEARS,
11 CONSECUTIVE to COUNTS 1, 2, 3; **COUNT 5** – a MAXIMUM of TWENTY-FIVE (25)
12 YEARS with a MINIMUM parole eligibility of TEN (10) YEARS, CONSECUTIVE to
13 COUNTS 1, 2, 3 and CONCURRENT with COUNT 4; **COUNT 6** - a MAXIMUM of ONE
14 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of TWENTY-
15 FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2, 3, 5; **COUNT 7** – a
16 MAXIMUM of TWENTY-FIVE (25) YEARS with a MINIMUM parole eligibility of TEN (10)
17 YEARS, CONSECUTIVE to COUNTS 1, 2, 3 and CONCURRENT with COUNTS 4, 5,
18 6; **COUNT 8** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a
19 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
20 COUNTS 1, 2, 3, 4, 5, 6, 7; **COUNT 9** – a MAXIMUM of SIXTY (60) MONTHS with a
21 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
22 COUNTS 1, 2, 3, 4, 5, 6, 7, 8; **COUNT 10** - a MAXIMUM of SIXTY (60) MONTHS with
23 a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
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1 COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9; **COUNT 11** – THREE HUNDRED SIXTY-FOUR (364)
2 DAYS in the Clark County Detention Center, CONCURRENT with COUNTS 1, 2, 3, 4,
3 5, 6, 7, 8, 9, 10; **COUNT 12** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM
4 parole eligibility of TWENTY-FOUR (24) MONTHS, CONSECUTIVE to COUNTS 1, 2,
5 3, 4, 5, 7 and CONCURRENT to COUNTS 6, 8, 9, 10, 11; **COUNT 13** - a MAXIMUM of
6 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)
7 MONTHS, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12; with FOUR
8 HUNDRED SEVENTY-SIX (476) DAYS credit for time served. As the \$150.00 DNA
9 Analysis Fee and Genetic Testing have been previously imposed, the Fee and Testing
10 in the current case are WAIVED. The AGGREGATE TOTAL sentence is SIX
11 HUNDRED SIXTY (660) MONTHS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY
12 of TWO HUNDRED SIXTY-FOUR (264) MONTHS or MAXIMUM OF FIFTY-FIVE (55)
13 YEARS with a MINIMUM PAROLE ELIGIBILITY of TWENTY-TWO (22) YEARS.
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17 DATED this 20th day of September, 2017.

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20 LINDA MARIE BELL KS
21 DISTRICT COURT JUDGE
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1 JOCP

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2 ORIGINAL SEP 26 11 45 AM '08

Edna H. Smith

3 DISTRICT COURT CLERK OF THE COURT

4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

CC

6 Plaintiff,

CASE NO. C246550

7 -vs-

DEPT. NO. 1

8 CASIMIRO VENEGAS
9 #2666143

10 Defendant.

11 JUDGMENT OF CONVICTION

12 (PLEA OF GUILTY)

13 The Defendant previously appeared before the Court with counsel and entered a
14 plea of guilty to the crimes of COUNT 1 – ROBBERY WITH USE OF A DEADLY
15 WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 2 –
16 BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation
17 of NRS 205.060; thereafter, on the 17th day of September, 2008, the Defendant was
18 present in court for sentencing with his counsel, ANTHONY GOLDSTEIN, ESQ., and
19 good cause appearing,

20 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
21 addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee

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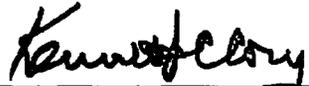
23 SEP 26 2008

24 CLERK OF THE COURT

25 AA0181

1 including testing to determine genetic markers, and \$15,840.81 Restitution, the
2 Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: as
3 to COUNT 1 - to a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a
4 MINIMUM Parole Eligibility of THIRTY-FIVE (35) MONTHS, plus a CONSECUTIVE
5 term of FORTY-EIGHT (48) MONTHS MAXIMUM and TWELVE (12) MONTHS
6 MINIMUM for the Use of a Deadly Weapon; as to COUNT 2 - to a MAXIMUM of ONE
7 HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM Parole Eligibility of THIRTY-
8 FIVE (35) MONTHS, COUNT 2 to run CONCURRENT with COUNT 1, SENTENCE to
9 run CONCURRENT with C244224; with ONE HUNDRED SEVENTY-THREE (173)
10 DAYS credit for time served.
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14 DATED this 24 day of September, 2008
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18 KENNETH C. CORY
19 DISTRICT JUDGE 
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CLERK OF THE COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C244224

-vs-

DEPT. NO. XIV

CASIMIRO VENEGAS
#2666143

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNT 2 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; thereafter, on the 25th day of August, 2008, the Defendant was present in court for sentencing with his counsel, MIKE FELICIANO, Deputy Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee

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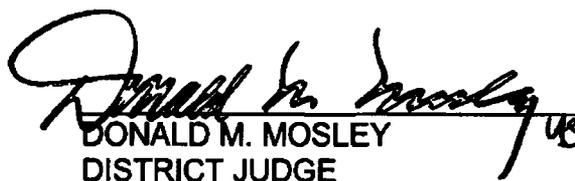
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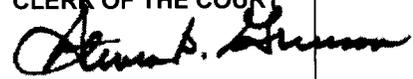
CLERK OF THE COURT

CLERK OF THE COURT

1 including testing to determine genetic markers, the Defendant is sentenced to the
2 Nevada Department of Corrections (NDC) as follows: as to COUNT 1 - to a MAXIMUM
3 of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)
4 MONTHS; as to COUNT 2 - to a MAXIMUM of ONE HUNDRED TWENTY (120)
5 MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, plus a
6 CONSECUTIVE term of FORTY-EIGHT (48) MAXIMUM and TWELVE (12) MONTHS
7 MINIMUM for the Use of a Deadly Weapon, COUNT 2 to run CONSECUTIVE to
8 COUNT 1; with ONE HUNDRED FIFTY-FOUR (154) DAYS credit for time served.
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12 DATED this 27TH day of August, 2008

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15 DONALD M. MOSLEY
16 DISTRICT JUDGE
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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

CASE NO. C313118-1
C313118-2

v.

DEPT. VII

CASIMIRO VENEGAS
JOSE FERNANDO MONAY-PINA,
AKA JOSE FERNANDO MONAYPINA

Defendants.

BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE

MONDAY, MARCH 13, 2017

**RECORDER'S TRANSCRIPT
DESIGNATION OF RECORD
JURY TRIAL DAY 1**

APPEARANCES:

For the Plaintiff: MARY KAY HOLTHUS, ESQ.
RYAN SCHWARTZ, ESQ., ESQ.
Clark County District Attorney's
Office

For the Defendant Venegas: ADAM L. GILL, ESQ.
Aisen, Gill & Associates LLP

For the Defendant Monay-Pina: THOMAS D. BOLEY, ESQ.
Boley & AlDabbagh

RECORDED BY: RENEE VINCENT

1 MONDAY, MARCH 13, 2017 AT 12:03 P.M.

2 MS. HOLTHUS: Can we approach?

3 THE COURT: Uh-huh.

4 MS. HOLTHUS: Are we on the record?

5 MR. SCHWARTZ: Are we on?

6 THE CLERK: Yes.

7 [Bench Conference Begins]

8 THE COURT: Okay.

9 MS. HOLTHUS: Do they usually short pencils, not long
10 pens?

11 MR. GILL: What's that?

12 MS. HOLTHUS: Don't they usually have short pencils that
13 they can't get their hands around?

14 MR. GILL: They can, there is another safety --

15 MS. HOLTHUS: I thought they're not supposed to have a
16 whole pen, but -- and I would prefer -- this guy looking
17 like --

18 MR. GILL: Okay.

19 MS. HOLTHUS: So I'm -- I would just have to -- he's just
20 have something that he can't stab my co-counsel with.

21 MR. SCHWARTZ: Well, you're --

22 MS. HOLTHUS: Or at least can't do as much damage with.

23 MR. GILL: Okay.

24 MR. SCHWARTZ: I told Mary Kay I'd take the first shot
25 though for her, if it came to that --

1 MS. HOLTHUS: Yeah. But invariably --

2 MR. GILL: [Indiscernible] in jail with the bar --

3 MS. HOLTHUS: -- that last time it happened to me, the
4 deputy that was there left.

5 MR. SCHWARTZ: I have no preference on what he writes
6 with.

7 MS. HOLTHUS: I know it's petty, but --

8 THE COURT: All right.

9 MR. SCHWARTZ: Do you want me to move?

10 MR. GILL: No objection to whatever kind of pen --

11 MR. SCHWARTZ: Do you want me to --

12 MR. GILL: -- the State wants.

13 MR. SCHWARTZ: -- to switch places with him?

14 MS. HOLTHUS: No. They just usually --

15 MR. SCHWARTZ: Do you want me to switch places with him,
16 then he can only --

17 MS. HOLTHUS: No. They just --

18 MR. SCHWARTZ: -- stab me.

19 MS. HOLTHUS: -- usually have those golf pencils.

20 THE COURT: All right.

21 MS. HOLTHUS: Those little short ones that -- because I
22 asked before why they can't.

23 MR. GILL: Thank you, Judge.

24 MS. HOLTHUS: Because they aren't supposed -- they can't
25 get the leverage on it.

1 THE COURT: I only have one.

2 MR. GILL: Sharper implement.

3 THE COURT: I do need two short ones just --

4 MS. HOLTHUS: Dull it down and then get lead poison. I
5 don't -- whatever.

6 MR. SCHWARTZ: Do you want me to move him?

7 MS. HOLTHUS: I don't want anybody getting stabbed.

8 MR. SCHWARTZ: If anyone's going to get stabbed, it'll be
9 me.

10 MS. HOLTHUS: Well, I don't want you to get stabbed.

11 THE COURT: All right.

12 MS. HOLTHUS: Like I said, I've never seen -- I've always
13 seen them come in with little short -- like, for miniature
14 golf pencils.

15 MR. GILL: This is fine, Your Honor.

16 THE COURT: I just only have one. Rest of them are --

17 MS. HOLTHUS: No. I know. I don't know why they don't.

18 THE COURT: We'll find another one.

19 MS. HOLTHUS: Okay. Thank you.

20 [Bench Conference ends]

21 [Counsel confer]

22 THE COURT: Okay. So before we bring the jury up, I want
23 to just go through a few things. Are there any scheduling
24 issues that we have that we haven't talked about? I would
25 anticipate starting at 10 tomorrow and Thursday, 9 on

1 Wednesday, 9 on Friday. I have an appointment Friday at lunch
2 time, so we may take a little bit longer lunch on Friday. I
3 was going [indiscernible] unfortunately, so --

4 MR. SCHWARTZ: That's fine with the State.

5 THE COURT: [Indiscernible].

6 MR. SCHWARTZ: That's fine with the State, Your Honor.

7 MR. GILL: Yes, Your Honor.

8 THE COURT: All right. Mr. Boley?

9 MR. BOLEY: I'm sorry. I didn't hear. We were
10 rearranging --

11 THE COURT: Just with respect to scheduling, and I know
12 that you were -- that Mr. Gill made an appearance for both of
13 you last time just so that you -- I catch you up.

14 So today we'll start and go until 5-ish. Tomorrow
15 we'll start 10. Wednesday we'll start at 8:30 or 9, depending
16 on how things are going. Thursday we'll start at 10. Friday,
17 again, 8:30 or 9, depending on how things are going. I would
18 anticipate breaking from 11:30 to about 1:30 Friday at lunch.
19 It won't be longer than that.

20 MR. BOLEY: Could I ask that we take a break at 1:45
21 today? I've got one very, very brief matter to deal with in
22 muni court?

23 THE COURT: All right. Just remind me. I'll forget.

24 We do a modified Arizona selection in here, so I
25 will do an initial question of all of the jurors. Then we'll

1 start with Juror Number 1, who will be seated in the top right
2 seat, and I will have them introduce themselves with sort of
3 the preliminary information. They'll have a card with the
4 questions on it. They will introduce themselves. I will ask
5 questions of Juror Number 1, followed by the State, and then
6 by the defense.

7 Once that person has been asked all of the questions
8 and passed for cause, we'll go on to Juror Number 2. When all
9 of the jurors have been passed for cause, then you will pass
10 back and forth the sheet to exercise peremptory challenges.
11 The sheet says very clearly that the -- or the fifth challenge
12 is used for the alternate, which is in seat 21 through -- okay
13 -- 21 through 24, which will be those four seats in the front
14 row.

15 The other four peremptory challenges can be used for
16 any of the jurors in the actual jury box proper. The Defense
17 has to pool its challenges pursuant to statute.

18 MR. SCHWARTZ: Okay.

19 THE COURT: Got it?

20 MR. BOLEY: Yes.

21 MR. GILL: Got it.

22 THE COURT: Any questions about that?

23 MR. BOLEY: No, ma'am.

24 THE COURT: Please make your for-cause challenges as we
25 go. If we do pass the juror, and I -- we don't say we pass

1 for cause specifically, I'm going to assume that you do not
2 have a challenge -- a cause-challenge, so I don't want to get
3 to the end and have somebody say, oh, I had a challenge for
4 cause for Juror Number 2.

5 MR. GILL: Do you want us to voice them at the bench
6 or --

7 THE COURT: Absolutely.

8 MR. GILL: Okay. So stand up for cause --

9 THE COURT: Just ask to --

10 MR. GILL: Approach?

11 THE COURT: No. Just stand up and ask to approach and
12 then come up, and then we'll do the cause challenge up here
13 because we don't need to embarrass any of the jurors or make
14 things difficult for them.

15 I'm going to ask if you can stay at your respective
16 tables during voir dire. Once we start the trial, I really
17 don't mind if you move around a little bit. It just makes
18 voir dire go a little bit faster if everybody stays put.

19 If you waive one peremptory challenge when you're
20 passing the sheet back and forth, you do not waive them all.

21 I record absolutely everything, so bench conferences
22 are part of the record. Please keep that in mind. But that
23 being said, sometimes there are transcription issues, so to
24 have the best possible likelihood of having a good transcript,
25 if you can please stand in the same place every time you come

1 up for a bench conference, I'd appreciate it. If you happen
2 to remember to say who you are, it's very strange and awkward,
3 and most people don't remember, that is helpful to the person
4 transcribing because the cameras don't catch your face, so the
5 transcriber can't see who's talking during a bench conference
6 who among the lawyers is talking.

7 Also, if there is something of significance that's
8 discussed during a bench conference, I generally try to make a
9 note so that we can make an additional record at a break just
10 in case there is an issue with transcribing the record at the
11 bench conference. If I do forget, please remind me because I
12 want to make sure that anything important is in the record,
13 and I just know sometimes the transcribing of the bench
14 conferences is problematic.

15 Can I get a list of witnesses from each side?
16 Because I'll read that list when I get to that question for
17 the jurors, so you don't have to when you introduce yourselves

18 MR. SCHWARTZ: Yes, Your Honor.

19 THE COURT: Yeah. Just go ahead -- oh, do you have it
20 already?

21 MR. SCHWARTZ: I have a -- our notice of witness list if
22 you'd like it. Or I could write out just kind of the ones
23 we're intending on calling.

24 THE COURT: Yeah. Either way. Or do -- I have it on
25 here, too. I think you have first names. That might be

1 helpful just because I'm -- if you know them.

2 MR. SCHWARTZ: Okay.

3 THE COURT: And then are you -- will you have any
4 additional witnesses beyond what's on the list from the State?

5 MR. GILL: No likely, Your Honor.

6 MR. BOLEY: No, Judge.

7 THE COURT: Okay. So, Mr. Schwartz, just -- if you can
8 get that to me in the next couple minutes?

9 MR. SCHWARTZ: Okay.

10 THE COURT: Then are there any stipulated exhibits?

11 MR. GILL: You know, Your Honor, I haven't had a chance
12 to review them, but I know there will be if we can maybe --
13 during the break, I'll take a look --

14 THE COURT: Okay.

15 MR. GILL: -- and there -- I'm sure there will be,
16 especially some of the photographs.

17 MR. SCHWARTZ: I was -- I told your clerk, I was going to
18 bring in the photographs tomorrow with a numbered list that I
19 had made an exhibit list and have the Defense look at it and
20 see what we can stipulate to.

21 MR. GILL: There --

22 THE COURT: All right. So --

23 MR. GILL: -- should be, Your Honor.

24 THE COURT: -- just so you know, the only items you can
25 publish to the jury are admitted exhibits, anything that you

1 agree upon, or anything approved by the Court. So you really
2 don't need to ask me if you can publish it to the jury if it
3 meets one of those criteria, and if it doesn't meet one of
4 those criteria, it cannot be published to the jury. Does that
5 make sense?

6 MR. SCHWARTZ: Yes, Your Honor.

7 THE COURT: If you are doing a PowerPoint, you need to
8 not show slides that are, in essence, an outline of your
9 argument, but you do need to run by any slide that would be an
10 exhibit, you know, part of a -- I guess we don't really have
11 depositions here, but exhibits -- you know, quote from a
12 police report, anything like that. Anything that's not, in
13 essence, an outline of your argument that would be an exhibit
14 that's not admitted already. That needs to be run by the
15 other side. I probably don't need to tell you all this. I
16 just had to mis-try a case, though, like two months ago
17 because of that one. So --

18 All right. Is there anything else we need to take
19 care of outside the presence of the jury?

20 MR. SCHWARTZ: No, Your Honor. We don't have any
21 witnesses planned for today. We were planning to open and
22 start with witnesses tomorrow, if that's okay with the Court.

23 THE COURT: No. I think we'll be lucky to get through
24 getting a jury today.

25 MR. BOLEY: Does Your Honor have a --

1 THE COURT: And we have -- oh, and I just wanted to make
2 a record on this. So I know that there is a habitual criminal
3 allegation, but that does not increase the number of
4 peremptory challenges.

5 MR. SCHWARTZ: Okay.

6 THE COURT: I'm just putting that on the record. That's
7 my understanding of the state of the law.

8 MS. HOLTHUS: That's mine, as well. We were discussing
9 that before. I just did one a couple weeks ago, and it wasn't
10 an issue, so -- and my understanding is because it's the
11 enhancement --

12 THE COURT: I've looked up the case, and I've forgotten
13 the name of the case already. There's a case that seems to
14 still be good law. Unless --

15 MR. GILL: Does Sharon have a list of the jurors for
16 either party?

17 THE CLERK: You'll bring it up [indiscernible].

18 MR. GILL: Thank you.

19 MR. SCHWARTZ: And we did file an amended information
20 this morning, Your Honor. I -- we emailed a copy to the
21 defense counsel this morning. It's not changing any of the
22 substantive charges. It's just correcting some of the barren-
23 plead -- pled language that was -- always gets kind of mixed
24 up, but I did inform the Defense of that.

25 THE COURT: All right. And --

1 MR. GILL: And he emailed it to us this morning.

2 THE COURT: -- no objection to that?

3 MR. GILL: No.

4 MR. SCHWARTZ: And, Your Honor, if I could approach? I
5 do have a list of our witnesses for you here.

6 THE COURT: Right. Yeah. Come on up, please.

7 MR. SCHWARTZ: I crossed out a couple.

8 THE COURT: Okay. Great. Thank you.

9 [Counsel confer]

10 THE COURT: All right. I also am going to remand Mr.
11 Venegas to the Clark County Detention Center for the duration
12 of the trial.

13 MR. GILL: I'm sorry, Your Honor? You're going to have
14 to --

15 THE COURT: Remand Mr. Venegas for the duration of the
16 trial. So, sir, you're just going to be staying here instead
17 of having the prison take you back and forth every day. As
18 soon as the trial is over, then I'll have you sent back to the
19 Department of Corrections.

20 DEFENDANT VENEGAS: Yes, ma'am.

21 THE COURT: All right.

22 MR. GILL: Thank you.

23 THE COURT: I think you all are stuck here today till he
24 can get booked into the jail, but at least you won't have to
25 come back tomorrow.

1 [Pause]

2 THE MARSHAL: They're getting lined up right now, Your
3 Honor.

4 THE COURT: All right.

5 [Counsel confer]

6 THE MARSHAL: Please rise for the jury. Right up here,
7 all the way to the far back seats.

8 [Pause]

9 THE COURT: Everybody can go ahead and have a seat.

10 [Pause]

11 THE COURT: If you want to you can stand up. At least
12 you don't have to keep standing up.

13 [Designation concluded]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above entitled case to the best of my ability.



DEBRA FARMER
Transcriber



C. Vanecko
P.O. Box 650 #1024172
Indian Springs NV 89070

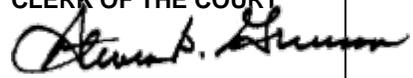
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WRIT

1 JOSEPH Z. GERSTEN, ESQ.
2 Nevada Bar No.: 13876
3 The Gersten Law Firm PLLC
4 9680 W Tropicana Avenue # 146
5 Las Vegas, NV 89147
6 Telephone (702) 857-8777
7 joe@thegerstenlawfirm.com
8 *Attorney for Petitioner*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

9 CASIMIRO VENEGAS,

Petitioner,

12 vs.

13 CALVIN JOHNSON, WARDEN and
14 THE STATE OF NEVADA,

Respondents.

Case No.: A-19-791881-W

Dept. No.: 7

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

19 COMES NOW, the Petitioner, CASIMIRO VENEGAS, by and through
20 his attorney, JOSEPH Z. GERSTEN, ESQ., of THE GERSTEN LAW FIRM
21 PLLC, and hereby submits this SUPPLEMENTAL PETITION FOR WRIT
22 OF HABEAS CORPUS (POST-CONVICTION). This Writ is made and based
23 upon the pleadings attached hereto, the papers and pleadings on file herein,
24 together with arguments of counsel adduced at the time of hearing on this
25 matter.
26
27

28 ///

THE GERSTEN LAW FIRM PLLC
9680 W Tropicana Avenue # 146
Las Vegas, NV 89147
Tel (702) 857-8777 | Fax (702) 857-8767

1 DATED this 7th day of October 2020.

2 By Joseph Z. Gersten
3 JOSEPH Z. GERSTEN, ESQ.
4 Nevada Bar No.: 13876
5 9680 W Tropicana Avenue # 146
6 Las Vegas, NV 89147
7 Telephone (702) 857-8777
8 joe@thegerstenlawfirm.com
9 Attorney for Petitioner

- 10 1. Name of institution and county in which you are presently imprisoned or
11 where and how you are presently restrained of your liberty: **High Desert State**
12 **Prison, Clark County, Nevada**
- 13 2. Name and location of court which entered the judgment of conviction under
14 attack: **Eighth District Judicial Court, Department VII**
- 15 3. Date of judgment of conviction: **09/21/2017**
- 16 4. Case number: **C-16-313118**
- 17 5. (a) Length of sentence: **22 – 55 Years**
18 (b) If sentence is death, state any date upon which execution is scheduled:
19 N/A
- 20 6. Are you presently serving a sentence for a conviction other than the
21 conviction under attack in this motion? Yes No **X**
22 If “yes,” list crime, case number and sentence being served at this time:
- 23 7. Nature of offense involved in conviction being challenged:

24 **Conspiracy to Commit Robbery**
25 **Burglary While in Possession of a Firearm**
26 **Robbery with Use of a Deadly Weapon**
27 **Burglary While in Possession of a Firearm**
28 **Robbery with Use of a Deadly Weapon**
Battery with Use of a Deadly Weapon
Attempt Murder with Use of a Deadly Weapon
Battery with Use of a Deadly Weapon
Battery with Use of a Deadly Weapon
Battery with Use of a Deadly Weapon
Aiming a Firearm at a Human Being
Coercion with Use of a Deadly Weapon
Battery with Intent to Commit a Crime

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8. What was your plea? (check one)
- (a) Not guilty **X**
 - (b) Guilty
 - (c) Guilty but mentally ill
 - (d) Nolo contendere
9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: **N/A**
10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)
- (a) Jury **X**
 - (b) Judge without a jury
11. Did you testify at the trial? Yes No **X**
12. Did you appeal from the judgment of conviction? Yes **X** No
13. If you did appeal, answer the following:
- (a) Name of court: **Nevada Supreme Court**
 - (b) Case number or citation: **74241**
 - (c) Result: **Affirmed (COA)**
 - (d) Date of result: **10/22/2018**
- (Attach copy of order or decision, if available.) **ATTACHED HERETO AS EXHIBIT A**
14. If you did not appeal, explain briefly why you did not:
15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes **X** No
16. If your answer to No. 15 was “yes,” give the following information:
- (a) (1) Name of court: **EJDC**
 - (2) Nature of proceeding: **Motion to Modify Sentence**
 - (3) Grounds raised: **Inaccurate PSI, Stockmeier v. State**
 - (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes **X** No
 - (5) Result: **Denied**

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- (6) Date of result: **03/05/2019**
- (7) If known, citations of any written opinion or date of orders entered pursuant to such result: **Decision and Order, 03/07/2019**

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

- (1) Name of court:
- (2) Nature of proceeding:
- (3) Grounds raised:
- (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No
- (5) Result:
- (6) Date of result:
- (7) If known, citations of any written opinion or date of orders entered pursuant to such result:

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

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

- (1) First petition, application or motion? Yes No
Citation or date of decision:
- (2) Second petition, application or motion? Yes No
Citation or date of decision:
- (3) Third or subsequent petitions, applications or motions?
Yes No
Citation or date of decision:

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

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify: **No**

- (a) Which of the grounds is the same:
- (b) The proceedings in which these grounds were raised:
- (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give

1 your reasons for not presenting them. (You must relate specific facts in response
2 to this question. Your response may be included on paper which is 8 1/2 by 11
3 inches attached to the petition. Your response may not exceed five handwritten
or typewritten pages in length.) **N/A**

4 19. Are you filing this petition more than 1 year following the filing of the
5 judgment of conviction or the filing of a decision on direct appeal? If so, state
6 briefly the reasons for the delay. (You must relate specific facts in response to
7 this question. Your response may be included on paper which is 8 1/2 by 11
inches attached to the petition. Your response may not exceed five handwritten
or typewritten pages in length.) **No**

8 20. Do you have any petition or appeal now pending in any court, either state
9 or federal, as to the judgment under attack? Yes No **X**
10 If yes, state what court and the case number:

11 21. Give the name of each attorney who represented you in the proceeding
12 resulting in your conviction and on direct appeal:

13 **Adam Gill, Esq.**
14 **723 South Third Street**
Las Vegas, NV 89101

15 **Travis Akin, Esq.**
16 **8275 S. Eastern Ave., Suite 200**
17 **Las Vegas, NV 89123**

18 22. Do you have any future sentences to serve after you complete the sentence
19 imposed by the judgment under attack? Yes No **X**
20 If yes, specify where and when it is to be served, if you know:

21 23. State concisely every ground on which you claim that you are being held
22 unlawfully. Summarize briefly the facts supporting each ground. If necessary,
23 you may attach pages stating additional grounds and facts supporting same.
EACH CLAIM IS PRESENTED BELOW.

INTRODUCTION

FACTS

1
2
3 On March 15, 2017, a jury found Petitioner guilty of: 1) Conspiracy to
4 Commit Robbery, to which Mr. Venegas was sentenced to a minimum of twenty-
5 four months and a maximum of sixty months; 2) Burglary While in Possession of
6 a Firearm to which Mr. Venegas was sentenced to, under the Mandatory
7 Habitual Felon Enhancement Statute, to a minimum of ten years and a
8 maximum of twenty-five to run concurrent with Count 1; 3) Robbery with Use of
9 a Deadly Weapon to which Mr. Venegas was sentenced to, under the Mandatory
10 Habitual Felon Enhancement Statute, to a minimum of ten years and a
11 maximum of twenty-five years to run concurrent with Counts 1 and 2; 4)
12 Burglary While in Possession of a Firearm to which Mr. Venegas was sentenced
13 to, under the Mandatory Habitual Felon Enhancement Statute, to a minimum of
14 ten years and a maximum of twenty-five years to run consecutive with Counts 1,
15 2, and 3; 5) Robbery with Use of a Deadly Weapon to which Mr. Venegas was
16 sentenced to, under the Mandatory Habitual Felon Enhancement Statute, to a
17 minimum of ten years and a maximum of twenty-five years to run consecutive
18 with Counts 1, 2, and 3 and concurrent with Count 4; 6) Battery with Use of a
19 Deadly Weapon Resulting in Substantial Bodily Harm to which Mr. Venegas
20 was sentenced to a minimum of twenty-four months and a maximum of 120
21 months concurrent with Counts 1, 2, 3, 4, and 5; 7) Attempt Murder with Use of
22 a Deadly Weapon to which Mr. Venegas was sentenced to, under the Mandatory
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1 Habitual Felon Enhancement Statute, to a minimum of ten years and a
2 maximum of twenty-five years to run consecutive to Counts 1, 2, and 3 and
3 concurrent with 4, 5, and 6; 8) Battery with Use of a Deadly Weapon Resulting
4 in Substantial Bodily Harm to which Mr. Venegas was sentenced to a minimum
5 of twenty-four months and a maximum of 120 months, concurrent with Counts
6 1, 2, 3, 4, 5, 6, and 7; 9) Battery with Use of a Deadly Weapon to which Mr.
7 Venegas was sentenced to a minimum of twenty-four months and a maximum of
8 sixty months, concurrent with Counts 1, 2, 3, 4, 5, 6, 7, and 8; 10) Battery with
9 Use of a Deadly Weapon to which Mr. Venegas was sentenced to a minimum of
10 twenty-four months and a maximum of sixty months, concurrent with Counts 1,
11 2, 3, 4, 5, 6, 7, 8, and 9; 11) Aiming a Firearm at a Human Being to which Mr.
12 Venegas was sentenced to 364 days, concurrent with Counts 1, 2, 3, 4, 5, 6, 7, 8,
13 9, and 10; 12) Coercion with Use of a Deadly Weapon to which Mr. Venegas was
14 sentenced to a minimum of twenty-four months and a maximum of sixty months,
15 consecutive to Counts 1, 2, 3, 4, 5, and 7, and concurrent with Counts 6, 8, 9, 10,
16 and 11; 13) Battery with Intent to Commit a Crime to which Mr. Venegas was
17 sentenced to a minimum of twenty-four months and a maximum of sixty months,
18 concurrent to Count 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.
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23 The sentences, ordered on September 7, 2017, gave an aggregate total of a
24 minimum of 264 months and a maximum of 660 months, with 476 days credit for
25 time served.
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1 During the trial, Petitioner’s trial counsel failed to present contradictory
2 and exculpatory evidence. This created an ineffective assistance of counsel
3 situation on the part of defense counsel.

4 Mr. Venegas filed a direct appeal which was affirmed by the Nevada
5 Supreme Court on November 20, 2018. Thereafter, Petitioner filed a Motion to
6 Modify his sentence on February 1, 2019. Said motion was denied on March 7,
7 2020. An original Writ of Habeas Corpus was filed on March 18, 2019. This
8 Supplemental Writ of Habeas Corpus follows.

9 As Mr. Venegas was not effectively represented by counsel his conviction
10 is unconstitutional and must be vacated. Mr. Venegas requests an evidentiary
11 hearing.

12 **STANDARD**

13 The purpose of the Writ of Habeas Corpus is to seek relief from a
14 Judgment of Conviction or sentence in a criminal case. See NRS 34.720. Writs
15 may issue “on petition by . . . any person . . . who has suffered a criminal
16 conviction in their respective districts and has not completed the sentence
17 imposed pursuant to the judgment of conviction.” NEV. CONST. ART. 6 § 6(1); NRS
18 34.724(1). Habeas corpus is a special statutory remedy that cannot be classified
19 as either civil or criminal for all purposes. Hill v. Warden, 96 Nev. 38, 39, 604
20 P.2d 807, 808 (1980). Habeas corpus appeals generally follow the rules of
21 criminal appellate procedure rather than civil appellate procedure, unless
22 otherwise specified. See Klein v. Warden, 118 Nev. 305, 310, 43 P.3d 1029, 1033
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1 (2002) (“[R]ules of civil appellate procedure are not applicable to appeals from
2 statutory post-conviction habeas corpus proceedings.”).

3
4 **ARGUMENT**

5
6 **A. MR. VENEGAS’ CONVICTION AND SENTENCE ARE INVALID**
7 **UNDER THE 6TH AND 14TH FEDERAL CONSTITUTIONAL**
8 **AMENDMENT GUARANTEES OF DUE PROCESS AND EQUAL**
9 **PROTECTION AND UNDER THE LAW OF ARTICLE 1 OF THE**
10 **NEVADA CONSTITUTION BECAUSE PRIOR COUNSEL’S**
11 **PERFORMANCE FELL BELOW AN OBJECTIVE STANDARD OF**
12 **REASONABLENESS AS IS MANDATED BY STRICKLAND, 466**
13 **U.S. 668, 104 S. CT. 2052 (1984), BY FAILING TO INVESTIGATE,**
14 **INTERVIEW, AND/OR INTRODUCE TESTIMONY FROM**
15 **CERTAIN FAVORABLE WITNESSES.**

16
17 Mr. Venegas’ conviction and sentence are invalid under the 6th and 14th
18 federal constitutional amendment guarantees of Due Process and Equal
19 Protection and under the law of Article 1 of the Nevada Constitution because
20 prior counsel’s performance fell below an objective standard of reasonableness as
21 is mandated by Strickland, 466 U.S. 668, 104 S. Ct. 2052 (1984), by failing to
22 investigate, interview, and/or introduce testimony from certain favorable
23 witnesses. The Sixth Amendment of the U.S. Constitution guarantees the
24 accused “the Assistance of Counsel for his defense.” “That a person who happens
25 to be a lawyer is present at trial alongside the accused, however, is not enough to
26 satisfy the constitutional command.” Strickland v. Washington, 466 U.S. 668,
27 685, 104 S. Ct. 2052, 2063 (1984). “[T]he right to counsel is the right to the
28 effective assistance of counsel.” McMann v. Richardson, 397 U.S. 759, 771, 90 S.
Ct. 1441, n. 14 (1970).

1 Under Strickland v. Washington, a conviction must be reversed due to
2 ineffective counsel if first, “counsel’s performance was deficient,” and second,
3 “the deficient performance prejudiced the defense.” Strickland v. Washington,
4 466 U.S. at 687. The deficient performance prejudiced the defense if “there is a
5 reasonable probability that, but for counsel’s unprofessional errors, the result of
6 the proceeding would have been different. A reasonable probability is a
7 probability sufficient to undermine confidence in the outcome.” Strickland, 466
8 U.S. at 698. “The ultimate focus of the inquiry must be on the fundamental
9 fairness of the proceeding. . .” Id. at 696. Nevada adopts the Strickland
10 standards for the effective assistance of counsel. See Hurd v. State, 114 Nev.
11 182, 188, 953 P.2d 270, 274 (1998).

12 Here, Mr. Venegas’ counsel failed to investigate, interview, and/or
13 introduce evidence witnesses. An attorney must reasonably investigate in
14 preparing for trial or reasonably decide not to. Strickland, 466 U.S. at 691;
15 Kirksey v. State, 112 Nev. 980, 992, 923 P.2d 1102, 1110 (1996). In this case the
16 investigation and introduction of these individual’s statements would have been
17 critical in Petitioner’s defense yet were completely ignored by trial counsel. The
18 introduction of these witness statements would have led to a reasonable
19 probability of a different outcome, showing both good cause and actual prejudice.
20

21 In this case, Mr. Venegas’ counsel made errors which fell below minimum
22 standards of representation, undermined confidence in the adversarial outcome,
23 and deprived Mr. Venegas of fundamentally fair proceedings.
24

1 **B. MR. VENEGAS’ CONVICTION AND SENTENCE ARE INVALID**
2 **UNDER THE 6TH AND 14TH FEDERAL CONSTITUTIONAL**
3 **AMENDMENT GUARANTEES OF DUE PROCESS AND EQUAL**
4 **PROTECTION AND UNDER THE LAW OF ARTICLE 1 OF THE**
5 **NEVADA CONSTITUTION BECAUSE PRIOR COUNSEL’S**
6 **PERFORMANCE FELL BELOW AN OBJECTIVE STANDARD OF**
7 **REASONABLENESS AS IS MANDATED BY STRICKLAND, 466**
8 **U.S. 668, 104 S. CT. 2052 (1984), BY FAILING FULLY**
9 **INVESTIGATE AND PROSECUTE PETITIONER’S APPEAL.**

10 Mr. Venegas’ conviction and sentence are invalid under the 6th and 14th
11 federal constitutional amendment guarantees of Due Process and Equal
12 Protection and under the law of Article 1 of the Nevada Constitution because
13 prior counsel’s performance fell below an objective standard of reasonableness as
14 is mandated by Strickland, 466 U.S. 668, 104 S. Ct. 2052 (1984), by failing to
15 fully investigate and prosecute Petitioner’s Appeal. The Sixth Amendment of
16 the U.S. Constitution guarantees the accused “the Assistance of Counsel for his
17 defense.” “That a person who happens to be a lawyer is present at trial
18 alongside the accused, however, is not enough to satisfy the constitutional
19 command.” Strickland v. Washington, 466 U.S. 668, 685, 104 S. Ct. 2052, 2063
20 (1984). “[T]he right to counsel is the right to the effective assistance of counsel.”
21 McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441, n. 14 (1970).

22 Under Strickland v. Washington, a conviction must be reversed due to
23 ineffective counsel if first, “counsel’s performance was deficient,” and second,
24 “the deficient performance prejudiced the defense.” Strickland v. Washington,
25 466 U.S. at 687. The deficient performance prejudiced the defense if “there is a
26 reasonable probability that, but for counsel’s unprofessional errors, the result of
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1 the proceeding would have been different. A reasonable probability is a
2 probability sufficient to undermine confidence in the outcome.” Strickland, 466
3 U.S. at 698. “The ultimate focus of the inquiry must be on the fundamental
4 fairness of the proceeding. . .” Id. at 696. Nevada adopts the Strickland
5 standards for the effective assistance of counsel. See Hurd v. State, 114 Nev.
6 182, 188, 953 P.2d 270, 274 (1998).

8 Here, Mr. Venegas’ counsel failed to fully investigate and prosecute
9 Petitioner’s appeal. An attorney must reasonably investigate in preparing for
10 trial or reasonably decide not to. Strickland, 466 U.S. at 691; Kirksey v. State,
11 112 Nev. 980, 992, 923 P.2d 1102, 1110 (1996). Here, Appellate Counsel’s
12 representation of Mr. Venegas during his appeal was inadequate.

15 In this case, Mr. Venegas’ Appellate Counsel made errors which fell
16 below minimum standards of representation, undermined confidence in the
17 adversarial outcome, and deprived Mr. Venegas of fundamentally fair
18 proceedings.

20 **WHEREFORE**, Petitioner prays that this Court grant Petitioner relief to
21 which Petitioner may be entitled in this proceeding to include an evidentiary
22 hearing.

24 DATED this 7th day of October 2020.

25 By Joseph Z. Gersten
26 JOSEPH Z. GERSTEN, ESQ.
27 Nevada Bar No.: 13876
28 9680 W Tropicana Avenue # 146
Las Vegas, NV 89147
Telephone (702) 857-8777
joe@thegerstenlawfirm.com
Attorney for Petitioner

THE GERSTEN LAW FIRM PLLC
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Las Vegas, NV 89147
Tel (702) 857-8777 | Fax (702) 857-8767

VERIFICATION

1
2 Pursuant to N.R.S. 34.730(1) I, Joseph Gersten, Esq. swear under penalty
3 of perjury that the pleading is true except as to those matters stated on
4 information and belief and as to such matters, counsel believes them to be true.
5

6 I am counsel for **CASIMIRO VENEGAS** and have his authorization to
7 commence this action.
8

9 DATED this 7th day of October 2020.
10

11 By Joseph Z. Gersten
12 JOSEPH Z. GERSTEN, ESQ.
13 Nevada Bar No.: 13876
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15 Las Vegas, NV 89147
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18 *Attorney for Petitioner*
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CERTIFICATE OF SERVICE BY MAIL

1
2 I, Joseph Gersten, Esq., hereby certify, pursuant to N.R.C.P. 5(b), that on
3 this 7th day of the month of October of the year 2020, I mailed a true and correct
4 copy or submitted through the electronic system, the foregoing
5
6 **SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS**
7 addressed to:

8 CALVIN JOHNSON, Warden
9 P.O. Box 650
10 Indian Springs, Nevada 89070-0650
11 22010 Cold Creek Road
12 Indian Springs, Nevada 89070

13 STEVEN WOLFSON
14 Clark County District Attorney
15 200 Lewis Ave
16 Las Vegas, NV 89101

17 AARON FORD
18 Nevada Attorney General
19 100 North Carson Street
20 Carson City, Nevada 89701

21 By Joseph Z. Gersten
22 An Employee of the Gersten Law Firm PLLC
23
24
25
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EXHIBIT A

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CASIMIRO VENEGAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74241

FILED

OCT 22 2018

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

ORDER OF AFFIRMANCE

Casimiro Venegas appeals from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery, two counts of burglary while in possession of a firearm, two counts of robbery with use of a deadly weapon, two counts of battery with use of a deadly weapon resulting in substantial bodily harm, attempted murder with use of a deadly weapon, two counts of battery with use of a deadly weapon, coercion with use of a deadly weapon, battery with intent to commit a crime, and aiming a firearm at a human being. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

At trial, the State presented evidence demonstrating that Venegas and an accomplice robbed a 7-Eleven store using BB-guns and then robbed and severely battered Javier Colon in his home not far from the store using the BB-guns and an axe.¹ Colon's sister, Adriana, and her three children also lived in the home. When she discovered what was happening, Adriana yelled at the attackers to stop, and her eldest

¹We do not recount the facts except as necessary to our disposition.

daughter called 9-1-1. Police apprehended Venegas and his accomplice in a backyard they were hiding in close to Colon's home.

On appeal, Venegas argues that (1) the district court abused its discretion in failing to grant a mistrial on grounds that the State improperly shifted the burden of proof during its rebuttal closing argument, (2) the district court erred in allowing Adriana's children to testify regarding what they heard during the incident, and (3) cumulative error warrants reversal. We disagree.

We first consider whether the district court abused its discretion in denying Venegas' motion for a mistrial. Venegas argues that the State improperly shifted the burden of proof during its rebuttal closing argument and that the district court should have granted a mistrial rather than giving a curative instruction.

Whether to deny a motion for a mistrial is within the district court's discretion, and this court will not reverse such a decision "absent a clear showing of abuse." *Ledbetter v. State*, 122 Nev. 252, 264, 129 P.3d 671, 680 (2006) (internal quotation marks omitted).

During the State's rebuttal closing argument, the prosecutor made the following statement:

I do think it's interesting that we go through all these different pictures, all this evidence, all these things. The defense gets up and talks to you about their closing, right? Their case -- they don't show you any of the pictures, right? They don't go through any of the evidence.

Venegas objected on grounds that the State was improperly shifting the burden of proof to the defendant and moved for a mistrial. The district court sustained the objection, but it declined to grant a mistrial, instead opting to instruct the jury that the State bore the burden of proof and the

defense was not required to present any evidence. Assuming without deciding that the prosecutor's comments were improper, we conclude that the district court did not abuse its discretion in failing to grant a mistrial. In light of the district court sustaining his objection and giving a curative instruction, as well as the overwhelming evidence of guilt presented at trial, the supposedly improper comments did not prejudice Venegas. See *Valdez v. State*, 124 Nev. 1172, 1192, 196 P.3d 465, 478 (2008). Accordingly, we conclude that a mistrial was unwarranted.

We next consider whether the district court erred in allowing Adriana's children to testify regarding what they heard during the incident. Venegas challenges the admissibility of Adriana's children's testimony on grounds of relevancy and unfair prejudice.²

District courts have "considerable discretion in determining the relevance and admissibility of evidence," and this court will not

²Venegas also hints at prosecutorial misconduct and hearsay. Regarding prosecutorial misconduct, Venegas cites only to cases that broadly discuss a prosecutor's duty to refrain from using improper methods to obtain a conviction. As for hearsay, Venegas never uses the term "hearsay" in his brief, but instead, simply states that the children "only testified as to what they heard their mother describe about the incident" and that "the testimony was strictly based off of what the mother saw and said during the incident." Accordingly, this court need not entertain these arguments. See *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court."). Even so, we note that the district court properly admitted the children's testimony under the excited-utterance exception to the hearsay rule after the State laid a proper foundation. See NRS 51.095.

disturb such decisions unless they are manifestly wrong.³ *Archanian v. State*, 122 Nev. 1019, 1029, 145 P.3d 1008, 1016 (2006). Evidence is relevant if it “ha[s] any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.” NRS 48.015. But evidence, even if relevant, “is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.” NRS 48.035(1).

Here, the children’s testimony was relevant. It supported the fact that Colon was beaten and that Adriana observed the incident. Moreover, aside from implying that the State elicited the children’s testimony solely to appeal to the jurors’ emotions, Venegas fails to demonstrate how he was unfairly prejudiced by the children’s testimony. Accordingly, we conclude that the district court did not abuse its discretion or plainly err in allowing Adriana’s children to testify about what they heard during the incident.

³It appears from the record that Venegas never objected to the challenged testimony below on grounds of relevance, and he only objected to one of the children’s testimony on grounds of unfair prejudice. Accordingly, in the absence of a proper objection below, we review the district court’s admission of the evidence for plain error. *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003). When conducting such review, this court must consider whether there was error, whether it was plain or clear, and whether it affected the defendant’s substantial rights. *Id.* It is the defendant’s burden to demonstrate actual prejudice. *Id.*

Finally, we conclude that cumulative error does not warrant reversal, as there is no error to cumulate. *See Watson v. State*, 130 Nev. 764, 790 n.11, 335 P.3d 157, 175 n.11 (2014).

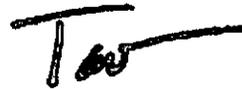
Based on the foregoing, we

ORDER the judgment of conviction AFFIRMED.



Silver

C.J.



Tao

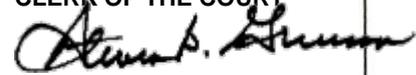
J.



Gibbons

J.

cc: Hon. Linda Marie Bell, Chief Judge
Aisen Gill & Associates LLP
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk



1 **RSPN**
STEVEN B. WOLFSON
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6 Attorney for Plaintiff

7
8 DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 CASIMIRO VENEGAS,
13 #2666143

14 Defendant.

CASE NO: A-19-791881-W

C-16-313118-1

DEPT NO: VII

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

17 DATE OF HEARING: DECEMBER 17, 2020
18 TIME OF HEARING: 10:30 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through JOHN NIMAN, Deputy District Attorney, and hereby submits the
21 attached Points and Authorities in Response to Defendant's Supplemental Petition for Writ of
22 Habeas Corpus (Post-Conviction).

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

26 //

27 //

28 //

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On March 4, 2016, Casimiro Venegas (Hereinafter "Petitioner") was charged by way
4 of Information with one count CONSPIRACY TO COMMIT ROBBERY (Category B
5 Felony - NRS 200.380, 199.480 - NOC 50147); two counts BURGLARY WHILE IN
6 POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426); two
7 counts ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS
8 200.380, 193.165 - NOC 50138); four counts BATTERY WITH USE OF A DEADLY
9 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS
10 200.481 - NOC 50226); one count ATTEMPT MURDER WITH USE OF A DEADLY
11 WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031);
12 one count COERCION WITH USE OF A DEADLY WEAPON (Category B Felony - NRS
13 207.190, 193.165 - NOC 53160); two counts BATTERY WITH INTENT TO COMMIT A
14 CRIME (Category B Felony - NRS 200.400.2 - NOC 50151) and one count AIMING A
15 FIREARM AT A HUMAN BEING (Gross Misdemeanor - NRS 202.290 - NOC 51447) for
16 acts that occurred on or about January 12, 2019. On March 7, 2016, Petitioner plead not guilty
17 to the charges.

18 Petitioner's jury trial began on March 13, 2017. That same day, the State filed an
19 Amended Information and Second Amended Information. On March 15, 2017, the State filed
20 a Third Amended Information. That same day, Petitioner's jury trial ended and the jury found
21 him guilty of all charges.

22 On September 7, 2017, Petitioner was sentenced as to Count 1 to a minimum of twenty
23 four (24) months and a maximum of sixty (60) months in the Nevada Department of
24 Corrections (NDC); and under the mandatory habitual felon enhancement statute in Count 2
25 to a maximum term of twenty five (25) years with a minimum parole eligibility of ten (10)
26 years in the NDC, concurrent with Count 1; and under the mandatory habitual felon
27 enhancement statute in Count 3 to a maximum term of twenty five (25) years with a minimum
28 parole eligibility of ten (10) years in the NDC, concurrent with Count 1 and Count 2; and under

1 the mandatory habitual felon enhancement statute in Count 4 to a maximum term of twenty
2 five (25) years with a minimum parole eligibility of ten (10) years in the NDC, consecutive
3 Counts 1 through 3; and under the mandatory habitual felon enhancement statute in Count 5
4 to a maximum term of twenty five (25) years with a minimum parole eligibility of ten (10)
5 years in the NDC, consecutive Counts 1 through 3 and concurrent to Count 4; and in Count 6
6 to a minimum of twenty four (24) months and a maximum of one hundred twenty (120) months
7 in the NDC, concurrent with Counts 1 through 5; and under the mandatory habitual felon
8 enhancement statute in Count 7 to a maximum term of twenty five (25) years with a minimum
9 parole eligibility of ten (10) years in the NDC, consecutive to Counts 1 through 3 and
10 concurrent to Counts 4 through 6; and in Count 8 to a minimum of twenty four (24) months
11 and a maximum of one hundred twenty (120) months in the NDC, concurrent with Counts 1
12 through 7; and in Count 9 to a minimum of twenty four (24) months and a maximum of sixty
13 (60) months in the NDC, concurrent with Counts 1 through 8; and in Count 10 to a minimum
14 of twenty four (24) months and a maximum of sixty (60) months in the NDC, concurrent with
15 Counts 1 through 9; and in Count 11 to Clark County Detention Center (CCDC) for three
16 hundred sixty four (364) days, concurrent with Counts 1 through 10; and in Count 12 to a
17 minimum of twenty four (24) months and a maximum of sixty (60) months in the NDC,
18 consecutive to Counts 1 through 5, and Count 7, concurrent to Count 6, Count 8, and Counts
19 9 through 11; and in Count 13 to a minimum of twenty four (24) months and a maximum of
20 sixty (60) months in the NDC, concurrent with all counts. The aggregate total sentence was a
21 minimum of two hundred sixty-four (264) months and a maximum of six hundred sixty (660)
22 months in the NDC, with four hundred seventy-six (476) days credit for time served. The
23 Judgement of Conviction was filed September 21, 2017.

24 On October 10, 2017, Petitioner filed a Notice of Appeal. On October 22, 2018, the
25 Nevada Court of Appeals affirmed the Judgement of Conviction; Remittitur issued on
26 November 16, 2018.

27 On February 1, 2019, Petitioner filed a Motion for Modification of Sentence. On
28 March 5, 2019, the Court denied the motion. The Decision and Order was filed March 7, 2019.

1 On March 18, 2019, Petitioner filed a Petition for Writ of Habeas Corpus and Motion
2 to Appoint Counsel. The State filed a response on June 27, 2019. On July 16, 2019, the Court
3 granted Petitioner’s Motion for Appointment of Counsel, as unopposed. On September 3,
4 2019, a briefing schedule was set as requested by Mr. Travis Akin, who accepted the
5 appointment of counsel on July 23, 2019. On January 28, 2020, another briefing schedule was
6 requested by defense counsel. On March 1, 2020, counsel filed a Motion to Withdraw;
7 accordingly, Mr. Joseph Gersten confirmed as counsel for Petitioner.

8 On October 7, 2020, Petitioner filed the instant Supplemental Petition for Writ of
9 Habeas Corpus (“Supplemental”). The State responds herein.

10 **ARGUMENT**

11 **I. PETITIONER FAILED TO SHOW THAT HIS TRIAL COUNSEL WAS**
12 **INEFFECTIVE**

13 Petitioner claims counsel was ineffective for “failing to investigate, interview, and/or
14 introduce testimony from certain favorable witnesses.” Supplemental at 9. According to
15 Petitioner, “the investigation and introduction of these individual’s statements would have
16 been critical in Petitioner’s defense yet were completely ignored by trial counsel.”
17 Supplemental at 10. In Petitioner’s “Facts” section, he claims that counsel failed to present
18 “contradictory and exculpatory evidence.” Supplemental at 8.

19 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
20 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
21 defense.” The United States Supreme Court has long recognized that “the right to counsel is
22 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,
23 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
24 (1993).

25 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove
26 he was denied “reasonably effective assistance” of counsel by satisfying the two-prong test of
27 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063–64. See also Love, 109 Nev. at 1138, 865
28 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's

1 representation fell below an objective standard of reasonableness, and second, that but for
2 counsel's errors, there is a reasonable probability that the result of the proceedings would have
3 been different. 466 U.S. at 687–88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison
4 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).
5 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the
6 inquiry in the same order or even to address both components of the inquiry if the defendant
7 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

8 The court begins with the presumption of effectiveness and then must determine
9 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
10 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
11 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
12 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
13 537 P.2d 473, 474 (1975).

14 Counsel cannot be ineffective for failing to make futile objections or arguments. See
15 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
16 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
17 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
18 (2002).

19 Based on the above law, the role of a court in considering allegations of ineffective
20 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
21 whether, under the particular facts and circumstances of the case, trial counsel failed to render
22 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
23 (1978). This analysis does not mean that the court should “second guess reasoned choices
24 between trial tactics nor does it mean that defense counsel, to protect himself against
25 allegations of inadequacy, must make every conceivable motion no matter how remote the
26 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
27 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
28

1 cannot create one and may disserve the interests of his client by attempting a useless charade.”
2 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

3 “There are countless ways to provide effective assistance in any given case. Even the
4 best criminal defense attorneys would not defend a particular client in the same way.”
5 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
6 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
7 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
8 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel's
9 challenged conduct on the facts of the particular case, viewed as of the time of counsel's
10 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

11 Even if a defendant can demonstrate that his counsel's representation fell below an
12 objective standard of reasonableness, he must still demonstrate prejudice and show a
13 reasonable probability that, but for counsel's errors, the result of the trial would have been
14 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
15 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
16 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
17 694, 104 S. Ct. at 2064-65, 2068).

18 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
19 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
20 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
21 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
22 be supported with specific factual allegations, which if true, would entitle the petitioner to
23 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
24 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
25 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
26 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
27 petition to be dismissed.” (emphasis added).

1 Here, Petitioner claimed that his counsel failed to investigate, interview, and/or
2 introduce evidence from witnesses, but Petitioner failed to explain who these individuals are,
3 what their statements would be, and how any additional testimony would be beneficial to his
4 case. See Supplemental at 10. Instead, Petitioner has offered nothing more than bare and naked
5 assertions that are suitable only for summary denial pursuant to Hargrove, 100 Nev. 498, 502,
6 686 P.2d 222, 225. As stated *supra*, Petitioner failed to indicate who these witnesses were and
7 what evidence should have been investigated or presented. In fact, the instant petition does not
8 contain any allegations about what specific investigation should have been done but was not
9 completed. When a defendant contends that his attorney was ineffective because he did not
10 adequately investigate the case, he must show how a better investigation would have rendered
11 a more favorable outcome probable. Molina v. State, 120 Nev. 185, 192, 87 P.3d 533, 538
12 (2004).

13 Finally, Petitioner failed to show that, but for counsel's alleged ineffectiveness, there is
14 a reasonable probability that the result of the proceedings would have been different.
15 Strickland, 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068. As stated *supra*, counsel was
16 not ineffective. Moreover, the Court of Appeals noted, when finding that a mistrial was
17 unwarranted, that there was "overwhelming evidence of guilt presented at trial[.]" Order of
18 Affirmance, NSC 74241 dated October 22, 2018 p. 3. After robbing a 7-Eleven, Petitioner and
19 his co-defendant went to a house approximately one (1) mile away from the crime. Jury Trial
20 Transcript Day 2, March 14, 2017 ("JTT") at 17-18, 32, 46, 102. Inside the home was Javier
21 Colon, his sister, and her three (3) children. JTT at 105, 150. Petitioner and his co-defendant
22 started attacking Javier-beating him, pistol whipping him, and robbing him. JTT 108-09. They
23 also took Javier's wallet, some collectible knives, and other items. JTT at 116. Additionally,
24 they picked up an axe and started swinging it at Javier's head and hitting him. JTT at 110-11.
25 Testimony established that Javier's sister, woke up from hearing his screams and yelled at the
26 defendants to stop; the defendants then pointed their guns at her and threatened to kill her and
27 her family. JTT at 150-51. After 9-1-1 was called, the defendants fled. JTT at 112. Petitioner
28 was found in the "shed area" of a yard, while his co-defendant was found, in the same yard,

1 hiding in bushes. JTT at 74, 79-80. In that same vicinity, items relating to the crime scenes
2 were found. JTT at 74-77. Accordingly, there is no possibility that any additional statements
3 could rebut multiple eyewitnesses and the fact that officers found Petitioner hiding nearby with
4 items from both crimes. For these reasons, Petitioner failed to establish that trial counsel was
5 ineffective, and his claim must be denied.

6 **II. PETITIONER FAILED TO SHOW THAT HIS APPELLATE COUNSEL**
7 **WAS INEFFECTIVE**

8 According to Petitioner, his appellate counsel failed to “fully investigate and prosecute”
9 his appeal. Supplemental at 12. Therefore, Petitioner claims that counsel’s representation was
10 inadequate. Id.

11 There is a strong presumption that appellate counsel's performance was reasonable and
12 fell within “the wide range of reasonable professional assistance.” See United States v.
13 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
14 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
15 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
16 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
17 have had a reasonable probability of success on appeal. Id.

18 The professional diligence and competence required on appeal involves “winnowing
19 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
20 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In
21 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
22 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
23 For judges to second-guess reasonable professional judgments and impose on appointed
24 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very
25 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

26 Here, Petitioner failed to indicate what appellate counsel should have investigated and
27 how this would have led to any non-futile claims. Petitioner only offered bare and naked
28 allegations that are suitable only for summary denial pursuant to Hargrove, 100 Nev. 498, 502,

1 686 P.2d 222, 225. Additionally, Petitioner failed to argue how he would have had a reasonable
2 possibility of success on appeal. For these reasons, his claim fail.

3 **III. PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING**

4 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

5 1. The judge or justice, upon review of the return, answer and all
6 supporting documents which are filed, shall determine whether
7 an evidentiary hearing is required. A petitioner must not be
8 discharged or committed to the custody of a person other than the
9 respondent *unless an evidentiary hearing is held*.

10 2. If the judge or justice determines that the petitioner is not
11 entitled to relief and an evidentiary hearing is not required, he
12 shall dismiss the petition without a hearing.

13 3. If the judge or justice determines that an evidentiary hearing
14 is required, he shall grant the writ and shall set a date for the
15 hearing.

16 The Nevada Supreme Court has held that if a petition can be resolved without
17 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
18 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
19 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
20 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
21 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. 498,
22 503, 686 P.2d 222, 225 (holding that “[a] defendant seeking post-conviction relief is not
23 entitled to an evidentiary hearing on factual allegations belied or repelled by the record”). “A
24 claim is ‘belied’ when it is contradicted or proven to be false by the record as it existed at the
25 time the claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002).

26 It is improper to hold an evidentiary hearing simply to make a complete record. *See*
27 State v. Eighth Judicial Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The
28 district court considered itself the ‘equivalent of . . . the trial judge’ and consequently wanted
‘to make as complete a record as possible.’ This is an incorrect basis for an evidentiary
hearing.”). Further, the United States Supreme Court has held that an evidentiary hearing is
not required simply because counsel’s actions are challenged as being unreasonable strategic
decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not indulge
post hoc rationalization for counsel’s decision making that contradicts the available evidence

1 of counsel's actions, neither may they insist counsel confirm every aspect of the strategic basis
2 for his or her actions. Id. There is a "strong presumption" that counsel's attention to certain
3 issues to the exclusion of others reflects trial tactics rather than "sheer neglect." Id. (*citing*
4 Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls for an inquiry in the
5 *objective* reasonableness of counsel's performance, not counsel's *subjective* state of mind. 466
6 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994).

7 In this case, there is no need to expand the record because Petitioner failed to allege
8 specific facts that would entitle him to any relief. Accordingly, an evidentiary hearing is not
9 required nor necessary for the instant matter.

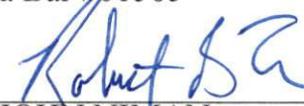
10 **CONCLUSION**

11 For all the foregoing, the State respectfully requests that Defendant's Supplemental
12 Petition for Writ of Habeas Corpus (Post-Conviction) be DENIED.

13 DATED this 4th day of November, 2020.

14 Respectfully submitted,

15 STEVEN B. WOLFSON
16 Clark County District Attorney
17 Nevada Bar #01565

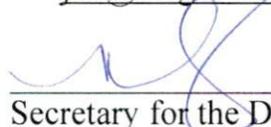
18 BY 

19 JOHN NIMAN
20 Deputy District Attorney
21 Nevada Bar #014408

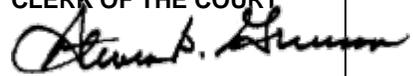
22 **CERTIFICATE OF ELECTRONIC FILING**

23 I hereby certify that service of the following, was made this 3rd day of November,
24 2020, by Electronic Filing to:

25 JOSEPH Z. GERSTEN, ESQ.
26 joe@thegerstenlawfirm.com

27 
28 Secretary for the District Attorney's Office

JN/mah/L3



1 **RPLY**
2 JOSEPH Z. GERSTEN, ESQ.
3 Nevada Bar No.: 13876
4 The Gersten Law Firm PLLC
5 9680 W Tropicana Avenue # 146
6 Las Vegas, NV 89147
7 Telephone (702) 857-8777
8 joe@thegerstenlawfirm.com
9 *Attorney for Petitioner*

6
7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 CASIMIRO VENEGAS,

10 *Petitioner,*

11 vs.

12
13 CALVIN JOHNSON, WARDEN and
14 THE STATE OF NEVADA,

15 *Respondents.*

Case No.: A-19-791881-W

Dept. No.: VII

16
17 **PETITIONER'S REPLY TO STATE'S RESPONSE TO**
18 **DEFENDANT'S SUPPLEMENTAL PETITION FOR WRIT OF**
19 **HABEAS CORPUS (POST-CONVICTION)**

20 COMES NOW, the Petitioner, CASIMIRO VENEGAS, by and through
21 his attorney, JOSEPH Z. GERSTEN, ESQ., of THE GERSTEN LAW FIRM
22 PLLC, and hereby submits this REPLY TO STATE'S RESPONSE TO
23 DEFENDANT'S SUPPLEMENTAL PETITION FOR WRIT OF HABEAS
24 CORPUS (POST-CONVICTION). This Reply is made and based upon the
25 pleadings attached hereto, the papers and pleadings on file herein, together with
26 arguments of counsel adduced at the time of hearing on this matter.
27
28

DATED this 3rd day of May 2021.

By _____
JOSEPH Z. GERSTEN, ESQ.
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ARGUMENT

A. MR. VENEGAS HAS SHOWN HIS TRIAL COUNSEL WAS INNEFFECTIVE.

Mr. Venegas has shown his Trial Counsel was ineffective. The State argues that Mr. Venegas has not shown any instances of a Strickland violation. This is not accurate. Mr. Venegas has shown multiple instances of error, which, taken cumulatively, deprived Mr. Venegas of his right to a fair trial. See DeChant v. State, 116 Nev. 918, 10 P.3d 108 (2000). Thus, because of Trial Counsel's deficiencies in failing to present available evidence to show reasonable doubt regarding several counts of the Information, Mr. Venegas suffered prejudice such that the result of the trial would have been different because the jury would not have convicted him on all of the charged counts. For these reasons, the errors were cumulative, and this Court should reverse Mr. Venegas' conviction and grant him a new trial.

B. MR. VENEGAS HAS SHOWN HIS APPELLATE COUNSEL WAS INNEFFECTIVE.

Mr. Venegas has shown his Appellate Counsel was ineffective. The State argues that Mr. Venegas has not shown any instances of a Strickland violation. This is not accurate. Mr. Venegas has shown multiple instances of error, which, taken cumulatively, deprived Mr. Venegas of his right to a fair appeal. See DeChant v. State, 116 Nev. 918, 10 P.3d 108 (2000). Thus, because of Appellate Counsel's deficiencies in failing to investigate and present available evidence and arguments, Mr. Venegas suffered prejudice such that the result of the

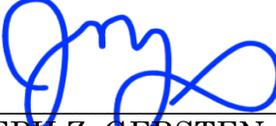
1 appeal would have been different. Additionally, the outcome of the appeal would
2 have been different had Counsel properly investigated, preserved, and presented
3 these issues. For these reasons, the errors were cumulative, and this Court
4 should reverse Mr. Venegas' conviction and grant him a new trial.
5

6 **C. MR. VENEGAS HAS SHOWN HIS APPELLATE COUNSEL WAS**
7 **INNEFFECTIVE.**

8 The State argues that Mr. Venegas should not receive an evidentiary
9 hearing because his request does not meet the statutory criteria. Again, this
10 argument is mistaken. Mr. Venegas has raised claims that, if true, require
11 reversal of his conviction. Because he has raised "colorable" claims of ineffective
12 assistance, Mr. Venegas is entitled to an evidentiary hearing. Smith v.
13 McCormick, 914 F.2d 1153, 1170 (9th Cir. 1990); Hendricks v. Vasquez, 974 F.2d
14 1099, 1103, 1109-10 (9th Cir. 1992).
15
16

17 **WHEREFORE**, Petitioner prays that this Court grant Petitioner relief to
18 which Petitioner may be entitled in this proceeding to include an evidentiary
19 hearing.
20

21 DATED this 3rd day of May 2021.

22 By 
23 JOSEPH Z. GERSTEN, ESQ.
24 Nevada Bar No.: 13876
25 9680 W Tropicana Avenue # 146
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27 Telephone (702) 857-8777
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CERTIFICATE OF SERVICE

I, Joseph Gersten, Esq., hereby certify, pursuant to N.R.C.P. 5(b), that on this 3RD day of the month of May of the year 2021, I mailed a true and correct copy or submitted through the electronic system, the foregoing **PETITIONER'S REPLY TO STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

addressed to:

CALVIN JOHNSON, Warden
P.O. Box 650
Indian Springs, Nevada 89070-0650
22010 Cold Creek Road
Indian Springs, Nevada 89070

STEVEN WOLFSON
Clark County District Attorney
200 Lewis Ave
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AARON FORD
Nevada Attorney General
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Carson City, Nevada 89701

By 
An Employee of the Gersten Law Firm PLLC

1 **FCL**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
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6 Deputy District Attorney
7 Nevada Bar #014408
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 CASIMIRO VENEGAS,
13 #2666143
14 Defendant.

CASE NO: A-19-791881-W
C-16-313118-1
DEPT NO: VII

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 DATE OF HEARING: DECEMBER 1, 2021
18 TIME OF HEARING: 10:00 AM

19 THIS CAUSE having come before the Honorable LINDA MARIE BELL, District
20 Judge, on the 1st day of December, 2021, and the Court having considered the matter,
21 including briefs, transcripts, and documents on file herein, now therefore, the Court makes the
22 following findings of fact and conclusions of law:

23 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

24 **PROCEDURAL HISTORY**

25 On March 4, 2016, Casimiro Venegas (hereinafter "Petitioner") was charged by way of
26 Information with one count CONSPIRACY TO COMMIT ROBBERY (Category B Felony -
27 NRS 200.380, 199.480 - NOC 50147); two counts BURGLARY WHILE IN POSSESSION
28 OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426); two counts ROBBERY
WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC

1 50138); four counts BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
2 SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226); one
3 count ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony -
4 NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); one count COERCION WITH USE
5 OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC 53160); two
6 counts BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS
7 200.400.2 - NOC 50151) and one count AIMING A FIREARM AT A HUMAN BEING
8 (Gross Misdemeanor - NRS 202.290 - NOC 51447) for acts that occurred on or about January
9 12, 2019. On March 7, 2016, Petitioner plead not guilty to the charges.

10 Petitioner's jury trial began on March 13, 2017. That same day, the State filed an
11 Amended Information and Second Amended Information. On March 15, 2017, the State filed
12 a Third Amended Information. That same day, Petitioner's jury trial ended and the jury found
13 him guilty of all charges.

14 On September 7, 2017, Petitioner was sentenced as to Count 1 to a minimum of twenty
15 four (24) months and a maximum of sixty (60) months in the Nevada Department of
16 Corrections (NDC); and under the mandatory habitual felon enhancement statute in Count 2
17 to a maximum term of twenty five (25) years with a minimum parole eligibility of ten (10)
18 years in the NDC, concurrent with Count 1; and under the mandatory habitual felon
19 enhancement statute in Count 3 to a maximum term of twenty five (25) years with a minimum
20 parole eligibility of ten (10) years in the NDC, concurrent with Count 1 and Count 2; and under
21 the mandatory habitual felon enhancement statute in Count 4 to a maximum term of twenty
22 five (25) years with a minimum parole eligibility of ten (10) years in the NDC, consecutive
23 Counts 1 through 3; and under the mandatory habitual felon enhancement statute in Count 5
24 to a maximum term of twenty five (25) years with a minimum parole eligibility of ten (10)
25 years in the NDC, consecutive Counts 1 through 3 and concurrent to Count 4; and in Count 6
26 to a minimum of twenty four (24) months and a maximum of one hundred twenty (120) months
27 in the NDC, concurrent with Counts 1 through 5; and under the mandatory habitual felon
28 enhancement statute in Count 7 to a maximum term of twenty five (25) years with a minimum

1 parole eligibility of ten (10) years in the NDC, consecutive to Counts 1 through 3 and
2 concurrent to Counts 4 through 6; and in Count 8 to a minimum of twenty four (24) months
3 and a maximum of one hundred twenty (120) months in the NDC, concurrent with Counts 1
4 through 7; and in Count 9 to a minimum of twenty four (24) months and a maximum of sixty
5 (60) months in the NDC, concurrent with Counts 1 through 8; and in Count 10 to a minimum
6 of twenty four (24) months and a maximum of sixty (60) months in the NDC, concurrent with
7 Counts 1 through 9; and in Count 11 to Clark County Detention Center (CCDC) for three
8 hundred sixty four (364) days, concurrent with Counts 1 through 10; and in Count 12 to a
9 minimum of twenty four (24) months and a maximum of sixty (60) months in the NDC,
10 consecutive to Counts 1 through 5, and Count 7, concurrent to Count 6, Count 8, and Counts
11 9 through 11; and in Count 13 to a minimum of twenty four (24) months and a maximum of
12 sixty (60) months in the NDC, concurrent with all counts. The aggregate total sentence was a
13 minimum of two hundred sixty-four (264) months and a maximum of six hundred sixty (660)
14 months in the NDC, with four hundred seventy-six (476) days credit for time served. The
15 Judgment of Conviction was filed September 21, 2017.

16 On October 10, 2017, Petitioner filed a Notice of Appeal. On October 22, 2018, the
17 Nevada Court of Appeals affirmed the Judgement of Conviction. Remittitur issued on
18 November 16, 2018.

19 On February 1, 2019, Petitioner filed a Motion for Modification of Sentence. On March
20 5, 2019, the Court denied the motion. The Decision and Order was filed March 7, 2019.

21 On March 18, 2019, Petitioner filed a Petition for Writ of Habeas Corpus and Motion
22 to Appoint Counsel. The State filed a response on June 27, 2019. On July 16, 2019, the Court
23 granted Petitioner's Motion for Appointment of Counsel, as unopposed. On September 3,
24 2019, a briefing schedule was set as requested by Mr. Travis Akin, who accepted the
25 appointment of counsel on July 23, 2019. On January 28, 2020, another briefing schedule was
26 requested by defense counsel. On March 1, 2020, counsel filed a Motion to Withdraw;
27 accordingly, Mr. Joseph Gersten confirmed as counsel for Petitioner.

28 //

1 On October 7, 2020, Petitioner filed the instant Supplemental Petition for Writ of
2 Habeas Corpus (“Supplemental”). On December 1, 2021, this Court denied the Petition.

3 **ANALYSIS**

4 This Court sat through Petitioner’s trial and reviewed his original petition for writ of
5 habeas corpus, the supplemental writ, the State’s response, and Petitioner’s reply. In his
6 original petition, Mr. Venegas raises claims that are waived or are belied by the record. In the
7 supplemental petition, his attorney raises bare assertions without specific factual support that
8 would sustain a meritorious post-conviction claim.

9 **I. PETITIONER’S SUBSTANTIVE CLAIMS ARE WAIVED**

10 Petitioner claims he was denied his right to a speedy trial, that the court abused its
11 discretion, and he was denied a public trial. Petition at 5-9; 12-17. These are substantive claims
12 independent of ineffective assistance of counsel which could have been raised on direct appeal.

13 Substantive challenges must be first raised on direct appeal. Franklin v. State, 110 Nev.
14 750, 751, 877 P.2d 1058, 1058 (1994), disapproved on other grounds by Thomas v. State, 115
15 Nev. 148, 979 P.2d 222 (1999). Post-conviction habeas claims that are independent of
16 ineffective assistance allegations and that could have been raised on direct appeal are waived.
17 NRS 34.724(2)(a); NRS 34.810(1)(a); Evans v. State, 117 Nev. 609, 617, 28 P.3d 498, 505
18 (2001).

19 Petitioner failed to raise these claims on direct appeal, and therefore these claims are
20 waived absent good cause and prejudice for the delay. Petitioner fails to address good cause
21 and prejudice, nor can he, as the facts and law necessary to assert these claims were available
22 on direct appeal. Accordingly, this Court finds these claims are waived.

23 **II. PETITIONER FAILED TO SHOW TRIAL COUNSEL WAS INEFFECTIVE**

24 This Court finds Petitioner’s claim of ineffective assistance of trial counsel lacks merit.
25 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
26 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
27 defense.” The United States Supreme Court has long recognized that “the right to counsel is
28 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,

1 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
2 (1993).

3 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove
4 he was denied “reasonably effective assistance” of counsel by satisfying the two-prong test of
5 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063–64. See also Love, 109 Nev. at 1138, 865
6 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's
7 representation fell below an objective standard of reasonableness, and second, that but for
8 counsel's errors, there is a reasonable probability that the result of the proceedings would have
9 been different. 466 U.S. at 687–88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison
10 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).
11 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the
12 inquiry in the same order or even to address both components of the inquiry if the defendant
13 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

14 The court begins with the presumption of effectiveness and then must determine
15 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
16 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
17 does not mean errorless counsel, but rather counsel whose assistance is “[w]ithin the range of
18 competence demanded of attorneys in criminal cases.” Jackson v. Warden, 91 Nev. 430, 432,
19 537 P.2d 473, 474 (1975).

20 Counsel cannot be ineffective for failing to make futile objections or arguments. See
21 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
22 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
23 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
24 (2002).

25 Based on the above law, the role of a court in considering allegations of ineffective
26 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
27 whether, under the particular facts and circumstances of the case, trial counsel failed to render
28 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711

1 (1978). This analysis does not mean that the court should “second guess reasoned choices
2 between trial tactics nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
5 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
6 cannot create one and may disserve the interests of his client by attempting a useless charade.”
7 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

8 “There are countless ways to provide effective assistance in any given case. Even the
9 best criminal defense attorneys would not defend a particular client in the same way.”
10 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
11 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
12 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
13 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel's
14 challenged conduct on the facts of the particular case, viewed as of the time of counsel's
15 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

16 Even if a defendant can demonstrate that his counsel's representation fell below an
17 objective standard of reasonableness, he must still demonstrate prejudice and show a
18 reasonable probability that, but for counsel's errors, the result of the trial would have been
19 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
20 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
21 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
22 694, 104 S. Ct. at 2064–65, 2068).

23 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
24 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
25 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
26 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
27 be supported with specific factual allegations, which if true, would entitle the petitioner to
28 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”

1 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
2 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
3 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
4 petition to be dismissed.” (emphasis added).

5 In his original petition, Mr. Venegas alleges his jury was not sworn in, though he fails
6 to provide any evidence of this claim. This claim is denied as a bare and naked assertion
7 suitable only for summary denial pursuant to Hargrove, 100 Nev. 498, 502, 686 P.2d 222, 225.
8 Further, this claim is belied by the court minutes which show the jury was sworn in. Court
9 Minutes: Jury Trial (3/13/2017), at 2. It would have been futile for Petitioner’s trial counsel to
10 object on this basis. Counsel cannot be deemed ineffective for failing to make futile objections.
11 Ennis v. State, 122 Nev. 694, 137 P.3d 1095 (2006).

12 As to Petitioner’s claim that counsel was ineffective for not objecting to court appointed
13 attorney fees, any objection would have been futile. Pursuant to NRS 178.3975, the court has
14 the jurisdiction to order a defendant to pay attorney’s fees if they are able to do so. Petitioner
15 has made no indication he cannot pay the fees, or he would suffer hardship if required to pay
16 the fees. Therefore, counsel cannot be ineffective for not objecting to the imposition of
17 attorney fees. Ennis, 122 Nev. 694, 137 P.3d 1095.

18 As to Petitioner’s claim that his sentence should be concurrent with the sentence he is
19 serving in his other case, neither the court minutes from sentencing nor the Judgment of
20 Conviction indicate this sentence is to be served concurrent to his sentence in any other case.
21 Thus, his claim is meritless.

22 Petitioner next claims counsel was ineffective for failing to investigate certain favorable
23 witnesses. Supplemental at 9. He also alleges counsel failed to present “contradictory and
24 exculpatory evidence.” Supplemental at 8. When a defendant contends that his attorney was
25 ineffective because he did not adequately investigate the case, he must show how a better
26 investigation would have rendered a more favorable outcome probable. Molina v. State, 120
27 Nev. 185, 192, 87 P.3d 533, 538 (2004).

28 //

1 Petitioner has failed to explain what witnesses should have been interviewed, what their
2 statements would have been, or how any additional testimony would have been beneficial to
3 his case. Petitioner also failed to allege what specific investigation should have been
4 undertaken. Because there are no specific claims, there is no basis for this Court to hold an
5 evidentiary hearing on this issue. These claims are denied. Given the “overwhelming evidence
6 of guilt presented at trial,” additional witness statements are unlikely to have rebutted the
7 multiple eyewitnesses and the fact that officers found Petitioner hiding nearby with items from
8 both crimes. Order of Affirmance, NSC 74241 dated October 22, 2018, at 3.

9 Petitioner also claims his attorney failed to object that his sentence exceeded the
10 statutory penalties. The habitual criminal sentences do exceed the statutory penalties for the
11 offenses charged, which is legal under the habitual criminal statute. Because Petitioner was
12 sentenced within the applicable statutory schemes, his contention is belied by the record.

13 **III. PETITIONER FAILED TO SHOW APPELLATE COUNSEL WAS**
14 **INEFFECTIVE**

15 This Court finds Petitioner’s claim of ineffective assistance of appellate counsel lacks
16 merit. There is a strong presumption that appellate counsel's performance was reasonable and
17 fell within “the wide range of reasonable professional assistance.” See United States v.
18 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
19 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
20 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
21 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
22 have had a reasonable probability of success on appeal. Id.

23 The professional diligence and competence required on appeal involves “winnowing
24 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
25 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In
26 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
27 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
28 For judges to second-guess reasonable professional judgments and impose on appointed

1 counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very
2 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314.

3 Petitioner argues his appellate counsel failed to investigate and prosecute his appeal.
4 His counsel did file an appeal which raised three issues as well as cumulative error. Petitioner
5 has failed to indicate what else appellate counsel should have investigated. These bare and
6 naked allegations must be denied pursuant to Hargrove, 100 Nev. 498, 502, 686 P.2d 222, 225.

7 Petitioner alleges appellate counsel was ineffective for not raising the issue of the jury
8 swearing-in, but as this claim is unsupported by any evidence, counsel cannot be ineffective
9 for failing to raise it. Ennis, 122 Nev. 694, 137 P.3d 1095.

10 Because Petitioner raises no claims supported by evidence that would entitle him to
11 relief, these claims are denied.

12 **IV. PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING**

13 The Nevada Supreme Court has held that if a petition can be resolved without
14 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
15 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
16 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
17 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
18 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. 498,
19 503, 686 P.2d 222, 225 (holding that “[a] defendant seeking post-conviction relief is not
20 entitled to an evidentiary hearing on factual allegations belied or repelled by the record”). “A
21 claim is ‘belied’ when it is contradicted or proven to be false by the record as it existed at the
22 time the claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002).

23 It is improper to hold an evidentiary hearing simply to make a complete record. *See*
24 State v. Eighth Judicial Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The
25 district court considered itself the ‘equivalent of . . . the trial judge’ and consequently wanted
26 ‘to make as complete a record as possible.’ This is an incorrect basis for an evidentiary
27 hearing.”). Further, the United States Supreme Court has held that an evidentiary hearing is
28 not required simply because counsel’s actions are challenged as being unreasonable strategic

1 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not indulge
2 post hoc rationalization for counsel’s decision making that contradicts the available evidence
3 of counsel’s actions, neither may they insist counsel confirm every aspect of the strategic basis
4 for his or her actions. Id. There is a “strong presumption” that counsel’s attention to certain
5 issues to the exclusion of others reflects trial tactics rather than “sheer neglect.” Id. (*citing*
6 Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls for an inquiry in the
7 *objective* reasonableness of counsel’s performance, not counsel’s *subjective* state of mind. 466
8 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994).

9 In this case, there is no need to expand the record because Petitioner has failed to allege
10 specific facts that would entitle him to relief. Accordingly, an evidentiary hearing is
11 unnecessary.

12 **ORDER**

13 THEREFORE, IT IS HEREBY ORDERED that Defendant’s Petition and
14 Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) are DENIED.

15 FURTHER, IT IS HEREBY ORDERED that Defendant’s Request for an Evidentiary
16 Hearing is DENIED.

Dated this 11th day of December, 2021

17 

18 _____
19 DISTRICT JUDGE
20 CAS 03F AD47 8545
21 Linda Marie Bell
22 District Court Judge

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

23 BY  for
24 JOHN NIMAN
25 Deputy District Attorney
26 Nevada Bar #014408

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this _____ day of
December, 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CASIMIRO VENEGAS, BAC #1024122
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV, 89070

BY _____
C. Garcia
Secretary for the District Attorney's Office

JN/sr/cg/L2

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Casimiro Venegas, Plaintiff(s)

CASE NO: A-19-791881-W

7 vs.

DEPT. NO. Department 7

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 12/11/2021

15 Joseph Gersten

joe@thegerstenlawfirm.com

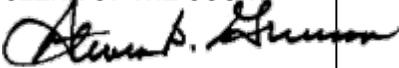
16 Steve Wolfson

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2 JOSEPH Z. GERSTEN, ESQ.
3 Nevada Bar No.: 13876
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5 9680 W Tropicana Avenue, #146
6 Las Vegas, NV 89147
7 Telephone (702) 857-8777
8 joe@thegerstenlawfirm.com
9 *Attorney for Petitioner*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

8 CASIMIRO VENEGAS,
9
10 *Petitioner,*
11
12 vs.
13 CALVIN JOHNSON, WARDEN and
14 THE STATE OF NEVADA,
15
16 *Respondents.*

Case No.: A-19-791881-W
Dept. No.: 7

NOTICE OF APPEAL

17 Notice is hereby given that **CASIMIRO VENEGAS**, Petitioner above
18 named, hereby appeals to the Supreme Court of Nevada from the Order denying
19 his **PETITION FOR WRIT OF HABEAS CORPUS**, entered in this action on
20 the 1st day of December 2021.

21 ///
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25 ///
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27 ///
28 ///

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DATED this 15th day of December 2021.

Submitted by:



By _____
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CERTIFICATE OF SERVICE

1
2 I hereby certify that on the 15th day of December 2021, I filed a
3 true and correct copy of the **NOTICE OF APPEAL** using the Eighth Judicial
4 District's electronic filing system and/or deposited a true and correct copy in the
5 United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first class
6 mail, postage prepaid, addressed as follows:
7

8
9 CALVIN JOHNSON, Warden
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12 22010 Cold Creek Road
13 Indian Springs, Nevada 89070

14 STEVEN B. WOLFSON, ESQ.
15 Clark County District Attorney
16 200 Lewis Avenue, 3rd Floor
17 Las Vegas, NV 89101

18 AARON FORD, ESQ.
19 Nevada Attorney General
20 100 North Carson Street
21 Carson City, Nevada 89701-4717



22 _____
23 JOSEPH Z. GERSTEN, ESQ.
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26
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I. CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **APPELANT'S INDEX** with the Clerk of the Court by using the electronic filing system on the 2nd day of May 2022.

The following participants in this case are registered electronic filing system users and will be served electronically:

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