

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ALAN DEMETRIUS DANIELS,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: 99C156246

Docket No: 83186

RECORD ON APPEAL VOLUME 1

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INDIAN SPRINGS, NV 89070

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St. J. Higgins

JAN 27 12 39 PM '99

ORIGINAL

FILED

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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #747918

13 Defendant(s).

Case No. C156246
Dept. No. XIV
Docket T

INDICTMENT

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

17 The Defendant(s) above named, ALAN DEMETRIUS DANIELS, accused by the Clark
18 County Grand Jury of the crimes of BURGLARY WHILE IN POSSESSION OF A
19 FIREARM (Felony - NRS 205.060, 193.165); ROBBERY WITH USE OF A DEADLY
20 WEAPON (Felony - NRS 200.380, 193.165); and CONSPIRACY TO COMMIT
21 ROBBERY (Felony - NRS 199.480, 200.380), committed at and within the County of Clark,
22 State of Nevada, on or between February 20, 1998 and April 12, 1998, as follows:

23 COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM

24 did, on or about February 20, 1998, then and there wilfully, unlawfully, and feloniously
25 enter, while in possession of a firearm, with intent to commit a felony, to-wit: robbery, that
26 certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las Vegas,
27 Clark County, Nevada.

28 //

1 COUNT II - ROBBERY WITH USE OF A DEADLY WEAPON

2 did, on or about February 20, 1998, then and there wilfully, unlawfully, and feloniously
3 take personal property, to-wit: \$40,000.00 in lawful money of the United States, from the person
4 of VIRGINIA THOMPSON, or in her presence, by means of force or violence, or fear of injury
5 to, and without the consent and against the will of the said VIRGINIA THOMPSON, said
6 Defendant using a deadly weapon, to-wit: a firearm, during the commission of said crime.

7 COUNT III - ROBBERY WITH USE OF A DEADLY WEAPON

8 did, on or about February 20, 1998, then and there wilfully, unlawfully, and feloniously
9 take personal property, to-wit: \$40,000.00 in lawful money of the United States, from the person
10 of WILLIAM COZBY, or in his presence, by means of force or violence, or fear of injury to, and
11 without the consent and against the will of the said WILLIAM COZBY, said Defendant using
12 a deadly weapon, to-wit: a firearm, during the commission of said crime, the Defendant using
13 force or fear to obtain or retain possession of the property, and/or to prevent or overcome
14 resistance to the taking of the property, and/or to facilitate escape with the property.

15 COUNT IV - CONSPIRACY TO COMMIT ROBBERY

16 did, on or about April 12, 1998, then and there meet with an unnamed individual and
17 between themselves, and each of them with the other, wilfully, unlawfully and feloniously
18 conspire and agree to commit a crime, to-wit: robbery, and in furtherance of said conspiracy,
19 did commit the acts as set forth in Counts V and VI, said acts being incorporated by this
20 reference as though fully set forth herein.

21 COUNT V - BURGLARY WHILE IN POSSESSION OF A FIREARM

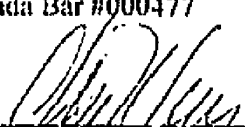
22 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously
23 enter, while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or
24 larceny, that certain building occupied by ELLIS ISLAND HOTEL AND CASINO, located at
25 4178 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an
26 unnamed individual by counsel and encouragement and by entering into a course of conduct
27 whereby Defendant drove said unnamed individual to said location, waited outside and acted as
28 a lookout while the unnamed individual directly committed said act and fled the scene together.

1 COUNT VI - ROBBERY WITH USE OF A DEADLY WEAPON

2 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
3 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
4 RICHARD COLACINO, or in his presence, by means of force or violence, or fear of injury to,
5 and without the consent and against the will of the said RICHARD COLACINO, said Defendant
6 using a deadly weapon, to-wit: a firearm, during the commission of said crime, said Defendant
7 aiding or abetting an unnamed individual by counsel and encouragement and by entering into
8 a course of conduct whereby Defendant drove said unnamed individual to said location, waited
9 outside and acted as a lookout while the unnamed individual directly committed said act and fled
10 the scene together.

11 DATED this 27 day of January, 1999.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
14 Nevada Bar #000477

15 BY 
16 BERNARD ZADROWSKI
17 Deputy District Attorney
Nevada Bar #006545

18 ENDORSEMENT: A True Bill

19 
20 Foreperson, Clark County Grand Jury
21

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 Names of witnesses testifying before the Grand Jury:

2 VIRGINIA THOMPSON, 4155 KOVAL LANE, LAS VEGAS, NV

3 WILLIAM COZBY, 1901 LAS VEGAS BLVD. NORTH, LAS VEGAS, NV

4 RICHARD J. COLACINO, 4178 KOVAL LANE, LAS VEGAS, NV

5 DET. ANTHONY J. LEW, LVMPD #2031, ROBBERY

6

7 Names of additional witnesses known to the District Attorney at the time of filing of
8 this indictment:

9 CLINTON MALBURG, LVMPD #4002

10 CLIFFORD MOGG, LVMPD #5096

11 LOUISE RENHARD, LVMPD #5223

12 FRANCIE PULLIAM, LMVPD #5412

13 CHRISTOPHER J. LITTLE, LVMPD #5442

14 BRIAN R. MILDEBRANDT, LVMPD #5449

15 JOANN HOLT, 4690 PHEBE AVE., FREMONT, CA

16 PATRICK HATCH, 3875 CAMBRIDGE, LAS VEGAS, NV

17 DARRELL WRIGHT, 100 S. MARTIN LUTHER KING, LAS VEGAS, NV

18 DANE FRANCIS, 4409 CINDERELLA LANE, LAS VEGAS, NV

19 JAMES COYLE, 3875 CAMBRIDGE, LAS VEGAS, NV

20 COR, METRO COMMUNICATIONS

21

22

23

24

25

26

27 98BGJ002X/98F06167X/lg
LVMPD EV#9802200082;9804120119
28 BURG WDW; RWDW; CONSP ROBB - F

DISTRICT COURT
CLARK COUNTY, NEVADA

DISTRICT COURT

CLARK COUNTY, NEVADA

APR 5 6 09 AM '99

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT

THE STATE OF NEVADA,

Case No. C
98BGJ002X

Plaintiff,

vs.

ALAN DEMETRIUS DANIELS
#747918

Defendant.

Burglary While In
Possession Of A
Firearm; Robbery
With Use Of A
Deadly Weapon;
Conspiracy To Commit
Robbery

Taken at Las Vegas, Nevada

Tuesday, January 26, 1999

1:10 P.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Brenda Anne Lee, C.C.R. No. 198

CF.09

GRAND JURORS PRESENT ON JANUARY 26, 1999:

JAMES TREANOR, Foreman

TURESSA RUSSELL, Deputy Foreman

SANDRA LAYTON, Secretary

TERESA ZUPKOFKA, Assistant Secretary

HAROLD BARRETT, JR.

STEPHEN BROWN

MARILYN COWAN

JOAN DiBLASIO

JENNIFER DOLOWAY

SHARON DRISCOLL

SANDRA HEMSTREET

THOMAS ONAHAR

MARCIA PACHECO

CHARLES POTTER

EBONIE RHODES

GENE STORMER

Also present at the request of the Grand Jury:

BERNIE ZADROWSKI,
Deputy District Attorney

LYNDA GUDEMAN,
Secretary, D.A.'s office

INDEX OF WITNESSESExamined

VIRGINIA THOMPSON

9

WILLIAM COZBY

18

RICHARD COLACINO

28

ANTHONY FLEW

38

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1 LAS VEGAS, NEVADA, JANUARY 26, 1999, 1:10 P.M.

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THE FOREMAN: Grand Jury Case Number
98BGJ002X.

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MR. ZADROWSKI: Ladies and gentlemen,
my name is Bernie Zadrowski, Z-a-d-r-o-w-s-k-i, and
I have been assigned to present the case of The
State of Nevada versus Alan Demetrius Daniels in
Case Number 98BGJ002X.

11

12

13

14

Let the record reflect that a
copy of the proposed indictment has been left with
you as Exhibit Number 1. I am assuming that's been
done.

15

16

17

THE FOREMAN: Yes.

MR. ZADROWSKI: All of the members have
a copy of it?

18

19

20

21

22

23

THE FOREMAN: Yes.

MR. ZADROWSKI: The defendant is
charged with two counts of burglary while in
possession of a firearm, two counts of robbery with
use of a deadly weapon, and one count of conspiracy
to commit a robbery.

24

25

The facts of those particular
counts are laid out in the indictment, Exhibit

1 Number 1, for you there. I am required by law to
2 advise you of the elements of these charges. I will
3 attempt to speak slowly here.

4 Every person who, by day or
5 night, enters -- I know you are pretty familiar with
6 these anyway, but I've got to do it.

7 Every person who, by day or
8 night, enters any structure with the intent to
9 commit a larceny and/or an assault and/or a battery
10 and/or a felony therein is guilty of a burglary.

11 Every person who commits the
12 crime of burglary who has in his possession or gains
13 possession of any firearm or deadly weapon at any
14 time during the commission of the crime at any time
15 before leaving the structure or upon leaving the
16 structure is guilty of burglary while in possession
17 of a firearm.

18 Firearm means any device
19 designed to be used as a weapon from which a
20 projectile may be expelled through the barrel
21 through the force of any explosion or any form of
22 combustion.

23 You're instructed that a firearm
24 is a deadly weapon.

25 A deadly weapon is any object,

1 instrument or weapon which is used in such a manner
2 as to be capable of producing and likely to produce
3 death and substantial bodily harm.

4 Robbery is the unlawful taking
5 of personal property from the person of another, or
6 in his presence, against his will, by means of force
7 or violence or fear of injury, immediate or future,
8 to his person or property. Such force or fear must
9 be used to overcome resistance to the taking, in
10 either of which case the degree of force is
11 immaterial.

12 Such taking constitutes robbery
13 whenever it appears that although the taking was
14 fully completed without the knowledge of the person
15 from whom taken, such knowledge was prevented by the
16 use of force or fear.

17 The value of the property or
18 money taken is not an element of the crime of
19 robbery, and it is only necessary that the State
20 prove the taking of some property or money.

21 If more than one person commits
22 a robbery, and one of them uses a deadly weapon in
23 the commission of that robbery, each may be
24 convicted of robbery with use of a deadly weapon
25 even though he did not personally himself use the

1 weapon.

2 Conspiracy is an agreement or
3 mutual understanding between two or more persons to
4 commit a crime. To be guilty of conspiracy a
5 defendant must intend to commit or aid in the
6 commission of the specific crime agreed to. The
7 crime is the agreement to do something unlawful. It
8 doesn't matter whether it was successful or not.

9 Those are the elements of the
10 crimes that are charged. If you folks want to take
11 a look at these elements while you deliberate, I've
12 also included a -- I will leave my book here for you
13 while you deliberate if you need to. I know that
14 you've already been instructed on these elements, so
15 you may not need it.

16 Are there any questions with
17 regard to the elements of the charged offenses?

18 THE FOREMAN: No, sir.

19 MR. ZADROWSKI: I'll call my first
20 witness, Virginia Thompson.

21 THE FOREMAN: Stand over there and
22 raise your right hand.

23 You do solemnly swear that the
24 testimony that you are about to give upon the
25 investigation now pending before this Grand Jury

1 shall be the truth, the whole truth and nothing but
2 the truth, so help you God?

3 MS. THOMPSON: Yes, I do.

4 THE FOREMAN: Please have a seat.

5 You're here today to give
6 testimony in the investigation pertaining to the
7 offenses that occurred on February 20th and April
8 12th, 1998 involving Alan Demetrius Daniels
9 involving two counts of burglary while in possession
10 of a firearm, two counts of robbery with use of a
11 deadly weapon, and conspiracy to commit a robbery.

12 Do you understand?

13 MS. THOMPSON: Yes, but I was only
14 for the one robbery.

15 THE FOREMAN: Okay.

16
17 VIRGINIA THOMPSON,

18 having been first duly sworn by the
19 Foreman of the Grand Jury to testify to
20 the truth, the whole truth and nothing
21 but the truth, testified as follows:

22

23

24

25

EXAMINATION

BY MR. ZADROWSKI:

Q. Miss Thompson, would you please state your name and spell your last name for the record, please?

A. My name is Virginia Thompson,
T-h-o-m-p-s-o-n.

Q. And where are you employed?

A. At the Days Inn, Town Hall Casino.

Q. Would you do me a favor and lean into the microphone or pull it closer to you so we can all hear you?

Now, where was that?

A. Days Inn, Town Hall Casino.

Q. How long have you been so employed?

A. Almost three years.

Q. I want to direct your attention to February 20th, 1998, at approximately 1:20 a.m.

On that date and time were you working there?

A. Yes, I was.

Q. Is that located at 4155 Koval Lane?

A. That's correct.

Q. That's in Clark County, Nevada?

1 A. Yes.

2 Q. On that particular date and time what
3 were your duties?

4 A. I was cage cashier. My main duty at
5 night is just to be in the cage and watch the money.

6 Q. When you say "watch the money," do you
7 dispense money?

8 A. Sure. Anybody that comes up,
9 customers, there's not too many that night.

10 Q. You were in the cage at approximately
11 1:20 a.m. on February 20?

12 A. Yes.

13 Q. Did something significant happen at
14 that date, time and location?

15 A. I was looking down, playing my little
16 poker machine, and all of a sudden some guy says,
17 "Give me all your money." I looked up and said,
18 "What?" He opened his jacket, and he pulled out a
19 gun and cocked it and said, "Give me all your money
20 now."

21 Q. When you say "cocked it," could you
22 describe the action?

23 A. He slid the thing back.

24 Q. He slid it back?

25 A. Right.

1 Q. Are you familiar with weapons?

2 A. Not particularly.

3 Q. Do you know what kind of gun it was?

4 A. I didn't at the time.

5 Q. But you later came to find out it was a
6 particular kind of gun?

7 A. Yes. The policeman said it was this
8 type of gun.

9 MR. ZADROWSKI: Ladies and gentlemen,
10 I want to admonish you right now that she said "the
11 policeman said." I want you to disregard that.
12 That is not offered for the truth of the matter
13 asserted, and you need to disregard anything that
14 she said the policeman said. It's not relevant at
15 this time. Okay.

16 BY MR. ZADROWSKI:

17 Q. What did he do with the weapon?

18 A. He just pointed it at me, cocked it and
19 threw me a bag and told me to fill it which I did.

20 Q. When he cocked it and pointed it at
21 you, were you afraid for your life?

22 A. I was extremely afraid for my life. I
23 knew when he got through he was going to shoot me.
24 I just knew it.

25 Q. What did you do?

1 A. I gave all my money.

2 Q. Do you recall how much money was there?

3 A. Not at the time. Later, I guess, he
4 dropped part of it and what I came out short was
5 \$22,000.

6 Q. Did he threaten to hurt you?

7 A. No. He didn't threaten. He didn't say
8 anything. He just said, "Give me all your money."

9 Q. So you complied?

10 A. Right.

11 Q. How long approximately did that
12 incident take?

13 A. Oh, gosh. It wasn't very long.
14 Probably less than two minutes.

15 Q. Okay. Where did he go after you gave
16 him all the money?

17 A. He went out the door.

18 Q. You watched him?

19 A. I watched him leave the cage. And
20 there were two security guards sitting there, and I
21 screamed, "I've just been robbed." And they took
22 off after him.

23 Q. Do you recall the security guards'
24 names?

25 A. One was Bill Cozby, and the other one

1 was James Coyle (phonetic).

2 Q. Mr. Conby is here to testify today,
3 right?

4 A. Right.

5 Q. Do you recall what the person was
6 wearing when he came up and told you to give him all
7 the money?

8 A. I believe it was in dark clothing. I
9 do know he was wearing a black ski mask.

10 Q. Could you tell what -- did any part of
11 his skin stick out?

12 A. You could see around his eyes and his
13 facial features. I could tell he was black. That
14 was all.

15 Q. Did you look at his hands?

16 A. I don't recall looking at his hands. I
17 saw a gun, but I don't recall seeing his hands.

18 Q. Do you recall how tall he was?

19 A. Five-ten. I don't know.

20 Q. Are you speculating?

21 A. I'm speculating.

22 Q. So you really didn't get a good look?

23 A. All I saw was a gun to tell you the
24 truth.

25 Q. Do you recall what build he was?

1 A. He seemed to be slender.

2 Q. And how did he speak? Did he speak
3 with an accent or --

4 A. Not really. I didn't notice any.

5 Q. But Mr. Cozby and the other gentleman
6 came up and pursued him at that time?

7 A. Correct.

8 Q. Did there ever come a time where you
9 saw that particular person again?

10 A. No.

11 Q. Okay. Now, I'm going to show you
12 what's been previously marked as State's Exhibit
13 Number 2 for identification, and if you don't
14 recognize the person just say so.

15 Do you recognize that person?

16 A. No, I do not. I did not see him.

17 MR. ZADROWSKI: Thank you.

18 I have no other questions for
19 this witness, Mr. Foreman.

20 THE FOREMAN: Does anybody have any
21 questions on the Grand Jury?

22 BY A JUROR:

23 Q. He had a ski mask on?

24 A. Yes, he did.

25 Q. It wasn't apparent to anyone else?

1 A. The gentleman that's going to testify
2 was sitting there playing. He's a cashier from
3 across the street. He said he did look up. Now,
4 being a cashier if I saw somebody walk in a casino
5 with a ski mask on I would do more than look up. He
6 said it was a bad night. He didn't think about it.

7 MR. ZADROWSKI: We're getting into
8 hearsay, and I'd ask you to disregard anything she
9 said about that.

10 THE FOREMAN: Any other questions?

11 (No response.)

12 THE FOREMAN: No further questions.

13 BY A JUROR:

14 Q. I have a question.

15 You said that you came up 22,000
16 short. The money that was dropped and recovered,
17 did they count that back in as not being short?

18 A. Right.

19 Q. How much was that?

20 A. He got away with approximately \$40,000,
21 but I got back, I guess, around 18,000.

22 BY MR. ZADROWSKI:

23 Q. You got that back immediately that
24 night?

25 A. Yes.

1 THE FOREMAN: If there's no further
2 questions, as a witness we have to talk to you about
3 the secrecy.

4 By law, these proceedings are
5 secret, and you're prohibited from disclosing to
6 anyone anything that transpired before us including
7 evidence presented to the Grand Jury, any event
8 occurring or a statement made in the presence of the
9 Grand Jury, or information obtained by the Grand
10 Jury.

11 Failure to comply with this
12 admonition is a gross misdemeanor, punishable by a
13 year in the Clark County Detention Center and a
14 \$2,000 fine. In addition, you may be held in
15 contempt of court punishable by an additional \$500
16 fine and 25 days in the Clark County Detention
17 Center.

18 Thank you for your testimony.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE FOREMAN: Mr. Cozby, would you
22 raise your right hand?

23 You do solemnly swear that the
24 testimony that you are about to give upon the
25 investigation now pending before this Grand Jury

1 shall be the truth, the whole truth and nothing but
2 the truth, so help you God?

3 MR. COZBY: I do, sir.

4 THE FOREMAN: Have a seat and talk into
5 the mike when we ask you questions.

6 You're here today to give
7 testimony in the investigation pertaining to the
8 offenses on February 20th, 1998 involving Alan
9 Demetrius Daniels concerning the crimes of burglary
10 while in possession of a firearm, robbery with use
11 of a deadly weapon, and conspiracy to commit a
12 robbery.

13 Do you understand why you're
14 here?

15 MR. COZBY: I do.

16

17 WILLIAM COZBY,

18 having been first duly sworn by the
19 Foreman of the Grand Jury to testify to
20 the truth, the whole truth and nothing
21 but the truth, testified as follows:

22

23

24

25

EXAMINATION

BY MR. ZADROWSKI:

Q. Mr. Cozby, would you please state your name and spell your last name for the record, please?

A. My name is William Leslie Cozby, C-o-z-b-y.

Q. Mr. Cozby, what is your occupation?

A. At this point I work for a truck company, McCandless International Truck.

Q. Back on February 20th, 1998, what was your occupation?

A. I was a security person or supervisor at night from 11:00 to 7:00.

Q. Where were you employed?

A. Days Inn Town Hall Casino.

Q. And is that at 4155 Koval Lane here in Clark County, Nevada?

A. Yes.

Q. Were you an armed security guard?

A. Yes.

Q. I want to direct your attention to that date, February 20th, 1998, at approximately 1:20 a.m.

1 Did something significant happen
2 there at the Town Hall Casino at 4155 Koval Lane?

3 A. Yes, an armed robbery.

4 Q. And could you please give the Grand
5 Jury some details about what happened that
6 particular night?

7 A. I was standing in front of the cage
8 talking with Cole which was another security person,
9 and the lady that was in the cage which is the
10 cashier, she started yelling at me, "He just robbed
11 me."

12 And as she said that, I could
13 just catch the back of this man as he cleared a
14 corner which was probably 12 foot from me. And at
15 that time I pursued this individual on her claim
16 that she had just been robbed.

17 Q. And you said you were about 12 feet
18 from him. Is that when you initially gave chase?

19 A. Yes.

20 Q. How close did you get to him during
21 this entire chase?

22 A. Eight foot, ten foot.

23 Q. That's as close as you got?

24 A. Yeah.

25 In the pursuit, in the foot

1 pursuit. I initially after the foot pursuit as we
2 entered the parking lot south of that property, I
3 had got into a physical confrontation with him down
4 on the pavement of the parking lot.

5 Q. At that point how close to him were
6 you?

7 A. Right on top of him.

8 Q. Okay. This was at approximately 1:20
9 in the morning, right? What were the lighting
10 conditions like?

11 A. It was standard lighting in our parking
12 area. The weather was extremely bad that night. It
13 was pouring rain and really bad. It was raining
14 really bad. Our gutters were gushing. Koval was
15 really flooding.

16 Q. So did you get a good look at this
17 particular person, what he was wearing?

18 A. Yes.

19 Q. And what was he wearing?

20 A. He was wearing Levi's and a jacket, the
21 one like I've got on except it was gray. The light,
22 you know, you use them in a gym for athletics. Same
23 type of jacket with a hood. And he had a red --
24 looked like maybe even out of silk mask that he had
25 pulled up. He didn't get it. He just rolled it up

1 above his eyebrows.

2 Q. What color was it?

3 A. Red.

4 Q. Did you get a good look at his face
5 then?

6 A. Yes, I did. That's -- I got a very
7 good look at his face. It was very distinct.
8 Something that I -- that I wouldn't forget.

9 Q. What did he have in his hands when you
10 were chasing him? Did you see anything in his
11 hands?

12 A. The only thing he had in his hand when
13 I was pursuing him was a plastic bag. He had it in
14 his right hand, a heavy duty bag that -- like the
15 ziploc type bag.

16 Q. Could you see what was in the bag?

17 A. Well, to me it looked like money from
18 the, you know, but I -- there again, I couldn't
19 identify it but, you know, beyond a reasonable
20 doubt.

21 Q. Okay. When you got right up on top of
22 him -- how did it come to pass that you got right up
23 on top of him?

24 A. Well, the door to the end of the
25 hallway that he went down had an electric eye. When

1 he hit it running so fast it didn't release. When
2 it did release he went out. He stumbled over a
3 parking curb that the cars pull up against, and he
4 tripped. And when he tripped, he dropped his money.
5 And then I come out the door, and I was right on
6 him.

7 And then I -- he was trying to
8 pick his money up. I knocked him over into a car,
9 and he was scrambling along the side of the car,
10 along the hood, and then I tried to grab him again
11 and he fell. And that's when I landed on top of him
12 that time.

13 Q. Did he make any statements to you
14 during this pursuit?

15 A. The only comments he was making to me
16 when I was down on top of him, I was trying to make
17 him stay down. I was going to try to handcuff him,
18 and he was telling -- he kept -- I hate to use
19 profanity here, but he kept telling me, "Fucking
20 shoot me. Fucking shoot me."

21 And well, it's apparent that
22 that didn't happen because he had scuffled. He
23 started scuffling across the parking lot on his --
24 on his left side trying to get back up on his feet,
25 and then I pursued him again into the -- across

1 Koval and into an apartment complex.

2 Q. Which way is that from the doors? What
3 direction; north, south, east or west?

4 A. It's southeast.

5 Q. Southeast.

6 What is in the direction of
7 southeast?

8 A. The Grand View Apartments, Grand Plaza.
9 Grand something like that.

10 Q. Okay. Mr. Corby, I want to show you
11 what's been previously marked as Exhibit Number 2.

12 If you would please take a look
13 at that photo and tell me if you recognize the
14 individual.

15 A. That's the man that I scuffled with.

16 Q. This is the person?

17 A. That's right.

18 Q. Did you ever come to know his identity?

19 A. I did later on through the appearance
20 in court. His name was Alan Daniels.

21 MR. ZADROWSKI: May the record
22 reflect that the witness has identified Alan
23 Daniels.

24 BY MR. ZADROWSKI:

25 Q. Did you recover any money at that time?

1 A. He personally, no.

2 I was over there in the parking
3 lot. I was over there trying to find him in the
4 shrubs and under the cars and stuff. The money was
5 recovered by two other people, Cole and the floorman
6 that worked that night. I think his name was Jimmy
7 Keegans (phonetic).

8 Q. Did you pursue him into the apartment
9 complex?

10 A. I certainly did at all costs. I made
11 an extreme effort to locate him in the dark.

12 Q. Did the police officers later come and
13 interview you about this incident?

14 A. Yeah.

15 Metropolitan was -- they talked
16 to me. The detective -- I didn't get his name. He
17 was wearing a tan trench coat and maybe light brown
18 hair and had glasses. I remember that very
19 distinctly.

20 Q. Did you give a description of the
21 person at that time?

22 A. I give him a written statement. Their
23 conversation with me personally was very brief.
24 They kept standing by some video machines talking so
25 I figured if they had anything to say to me they

1 would contact me. So like I say, it was very, very
2 short physical contact, personal contact.

3 MR. ZADROWSKI: If I can have the Grand
4 Jury's indulgence for just a moment?

5 No further questions for this
6 witness, Mr. Foreman.

7 THE FOREMAN: Anybody have any
8 questions for this witness?

9 BY A JUROR:

10 Q. Did the guy try to pull a gun on you,
11 or did he threaten you with a gun?

12 A. Sir, I never ever saw a weapon at all.
13 Like I said earlier to another person that asked me
14 something like that, he would have never have been
15 able to pull a weapon on me. I was right on top of
16 him. I think that was the only reason that he
17 didn't display it with me, personally. I don't know
18 if that's out of line or not, but that's -- I only
19 want to tell the truth, you know.

20 THE FOREMAN: That's all we ask.

21 Before you leave, sir, by law,
22 these proceedings are secret, and you are prohibited
23 from disclosing to anyone anything that transpired
24 before us including evidence presented to the Grand
25 Jury, any event occurring or a statement made in the

1 presence of the Grand Jury, or information obtained
2 by the Grand Jury.

3 Failure to comply with this
4 admonition is a gross misdemeanor, punishable by a
5 year in the Clark County Detention Center and a
6 \$2,000 fine. In addition, you may be held in
7 contempt of court punishable by an additional \$500
8 fine and 25 days in the Clark County Detention
9 Center.

10 In other words, this is a secret
11 proceeding.

12 Thank you for your testimony.

13 THE WITNESS: I will not say one word,
14 sir, to nobody.

15 THE FOREMAN: That's all.

16 (Witness excused.)

17 THE FOREMAN: Would you state your
18 name, sir?

19 MR. COLACINO: Richard Colacino.

20 THE FOREMAN: Mr. Colacino, would you
21 raise your right hand?

22 Do you solemnly swear that the
23 testimony that you are about to give upon the
24 investigation now pending before this Grand Jury
25 shall be the truth, the whole truth and nothing but

1 the truth, so help you God?

2 MR. COLACINO: I do.

3 THE FOREMAN: Would you be seated?

4 Sir, you're here today to give
5 testimony in an investigation pertaining to the
6 offenses on February 20th, 1998 and April 12th, 1998
7 involving Alan Demetrius Daniels for burglary while
8 in possession of a firearm, robbery with use of a
9 deadly weapon, and conspiracy to commit robbery.

10 Do you understand why you're
11 here to give testimony?

12 MR. COLACINO: Yes.

13

14 RICHARD COLACINO,

15 having been first duly sworn by the
16 Foreman of the Grand Jury to testify to
17 the truth, the whole truth and nothing
18 but the truth, testified as follows:

19

20 EXAMINATION

21

22 BY MR. ZADROWSKI:

23 Q. Would you please state your name and
24 spell your last name for the record, please?

25 A. Richard J. Colacino, C-o-l-a-c-i-n-o.

1 Q. Mr. Colacino, how are you employed?

2 A. Cage cashier.

3 Q. And where is that at?

4 A. Ellis Island.

5 Q. Is that located at 4178 Koval Lane?

6 A. Right.

7 Q. Clark County, Nevada?

8 A. Yes.

9 Q. I want to direct your attention to
10 April 12th of 1998 or thereabouts.

11 On that particular day, where
12 were you working?

13 A. Where was I working?

14 Q. Yes.

15 A. At Ellis Island.

16 Q. What was your shift?

17 A. Swing shift.

18 Q. And what time is that?

19 A. At that time I think I was getting off
20 at either 2:00 or 4:00 in the morning. It's changed
21 since then, so I can't remember exactly which day it
22 changed on.

23 Q. I want to ask you where is this in
24 relation to -- are there other casinos in the area?

25 A. Town Hall is right across the street.

1 Q. Across the street?

2 A. Right.

3 Q. Directing your attention to
4 approximately 1:15 a.m. on that date and location.

5 Did something significant
6 happen?

7 A. I believe that was the night I cashed
8 my check across the street at Town Hall, my
9 paycheck, and then stopped to play a poker machine.

10 Q. Are we talking about February 20th or
11 are we talking about April 12th?

12 A. I don't know which day you're talking
13 about. We're involved with two different things
14 here.

15 Q. Specifically referring to April 12th,
16 1998.

17 Were you employed that day at
18 Ellis Island Casino?

19 A. Was that a Saturday?

20 Q. It would have been a Saturday or early
21 Sunday morning, 1:15 in the morning.

22 A. Right. I was employed, right.

23 Q. And you were doing what on that date?

24 A. I was working as cage cashier.

25 Q. On that date at that location did

1 something significant happen?

2 A. That I believe was the night I was held
3 up.

4 Q. If you could explain to the Grand Jury
5 what occurred that night?

6 A. We were about to change shifts, and my
7 partner was in the back with the girl that they were
8 exchanging shifts with. I was the only one up
9 front, and a guy came up with a revolver and held me
10 up.

11 Q. You say -- are you familiar with guns?

12 A. No, I'm not.

13 Q. When you say "a revolver," do you know
14 specifically what that means?

15 A. What I describe probably as a .45, what
16 I seen in the movies, a large square gun.

17 Q. What did it look like?

18 A. Like a seven shape. You know, square,
19 flat. Not a -- what do you call it?

20 Q. A wheel?

21 A. Yeah.

22 Q. No wheel?

23 A. No, flat. Square, flat.

24 Q. Possibly a semi-automatic?

25 A. I guess, yeah.

1 Q. Do you recall what color it was?

2 A. Either gray, or it was silver, or
3 something like that.

4 Q. Okay. Now, what happened? Give us
5 details of when you were robbed.

6 A. Well, he just came up to the window.
7 He was standing back a bit by one of the blackjack
8 tables and waited until I finished with the last
9 customer and then came up and put the revolver or
10 the gun rather on the counter and threw a plastic
11 bag at me and told me what he wanted me to do.

12 Q. What exactly did he say to you?

13 A. Do you want the exact words including
14 profanity?

15 Q. Yes.

16 A. He said, "Put it all in hundreds,
17 twenties and tens. Make it fast before I blow your
18 fucking ass off."

19 Q. Did you comply?

20 A. Yes, I did.

21 Q. Approximately how much money do you
22 recall giving him?

23 A. I think they said he got about 3600 is
24 all.

25 Q. You don't know for sure?

1 A. No.

2 We counted the drawer down. I
3 had all the big money in the back so he only got
4 what was in front.

5 Q. Did you alert security at this point?

6 A. Yes. As soon as he left the window.

7 Q. Did you ever see the person again?

8 A. Only in court.

9 Q. Did there come a time later when a
10 representative from the Metropolitan Police
11 Department asked you to review a photo line-up?

12 A. Yes.

13 Q. And at that time were you able to
14 identify anybody?

15 A. Not really.

16 Q. Sir, I want to direct your attention
17 back to February 20th at 1:20.

18 Do you recall where you were on
19 that date and time?

20 A. I'm not sure, but I would say if that's
21 in question probably the robbery across the street
22 at Town Hall.

23 Q. That was at 4155 Koval Lane?

24 A. I'm not sure of the address, but if
25 that's it, right.

1 Q. Town Hall Casino?

2 A. Yes.

3 Q. What were you doing that night?

4 A. Cashing my paycheck and then I stopped
5 to play.

6 Q. Did something significant happen that
7 night?

8 A. She was held up. Gini was held up.

9 Q. Do you know this particular person?

10 A. The cage cashier?

11 Q. Yeah.

12 A. Only by going in there.

13 Q. Did you see any of the events that took
14 place that night?

15 A. I was playing. Not too many people.
16 It was kind of a nasty night out. It was late, and
17 I saw a figure move. I was playing a table top
18 machine. I looked up when I saw the figure come in,
19 and I went back to playing.

20 Q. At that time did you recognize anything
21 about --

22 A. No. Only the fact that the person had
23 a ski mask on. I thought it was unusual. It was
24 cold and rainy out so, you know.

25 Q. When you say it was -- "he had a ski

1 mask on," was it pulled over his face?

2 A. Except for his eyes and nose were
3 showing.

4 Q. Do you recall what color the person
5 was?

6 A. Black.

7 Q. No question in your mind?

8 A. No. Very light, but definitely black.

9 Q. Then what happened?

10 A. I went back to playing, and then I
11 heard Gini yell she'd been robbed. I looked up, and
12 he was leaving, but that was just the back of him
13 going out.

14 Q. Did you see if he had anything in his
15 hands?

16 A. Looked like a revolver in his left
17 hand. I just saw it shine as he was going out the
18 door.

19 Q. When you say "revolver" --

20 A. A gun.

21 Q. A gun?

22 A. Yeah.

23 Q. You don't know exactly what kind?

24 A. No.

25 Q. It was shiny?

1 A. Yeah. I just picked up light.

2 MR. ZADROWSKI: If I could have the
3 Grand Jury's indulgence for a moment?

4 I have no further questions for
5 the witness, Mr. Foreman.

6 THE FOREMAN: Does any member have a
7 question?

8 BY A JUROR:

9 Q. The night of April 12th when you were
10 robbed, was that person's face concealed?

11 A. No, it wasn't.

12 BY A JUROR:

13 Q. What color ski mask was he wearing?

14 A. Black or blue. It was dark. I mean a
15 dark color.

16 BY MR. ZADROWSKI:

17 Q. Which particular night are we talking
18 about here?

19 A. There was only one ski mask involved
20 and that was the one across the street.

21 Q. I just wanted to make sure we get all
22 on the same page here.

23 I have one final question.

24 Were you afraid for your life on
25 April 12th when these events happened?

1 A. Yes, I was. After it happened I got
2 more angry than I was scared.

3 THE FOREMAN: Before you leave, we have
4 to talk to you about the secrecy of these
5 proceedings.

6 By law, these proceedings are
7 secret, and you are prohibited from disclosing to
8 anyone anything that transpired before us including
9 evidence presented to the Grand Jury, any event
10 occurring or a statement made in the presence of the
11 Grand Jury, or information obtained by the Grand
12 Jury.

13 Failure to comply with this
14 admonition is a gross misdemeanor, punishable by a
15 year in the Clark County Detention Center and a
16 \$2,000 fine. In addition, you may be held in
17 contempt of court punishable by an additional \$500
18 fine and 25 days in the Clark County Detention
19 Center.

20 Thank you for your testimony.

21 THE WITNESS: Okay. Thank you.

22 (Witness excused.)

23 MR. ZADROWSKI: Detective Tony Plew.

24 THE FOREMAN: Would you please raise
25 your right hand, Detective.

1 You do solemnly swear that the
2 testimony that you are about to give upon the
3 investigation now pending before this Grand Jury
4 shall be the truth, the whole truth and nothing but
5 the truth, so help you God?

6 DETECTIVE PLEW: I do.

7 THE FOREMAN: Please be seated.

8 You're here today to give
9 testimony in the investigation pertaining to the
10 offenses on February 20th and April 12, 1998
11 involving Alan Demetrius Daniels with two counts of
12 burglary while in possession of a firearm, two
13 counts of robbery with use of a deadly weapon, and
14 conspiracy to commit robbery.

15 Do you understand?

16 DETECTIVE PLEW: Yes, sir.

17
18 ANTHONY PLEW,

19 having been first duly sworn by the
20 Foreman of the Grand Jury to testify to
21 the truth, the whole truth and nothing
22 but the truth, testified as follows:
23
24
25

EXAMINATION

BY MR. ZADROWSKI:

Q. Detective Plew, would you state your name and spell your last name for the record?

A. My name is Anthony Joseph Plew. P as in Paul l-e-w.

Q. Detective -- would you prefer to be called Detective?

A. Tony is fine.

Q. Tony, where are you employed?

A. Las Vegas Metropolitan Police Department Robbery Division.

Q. How long have you been so employed?

A. In Robbery or with Metro?

Q. Robbery.

A. Approximately five years.

Q. Prior to that, where were you employed?

A. I was assigned to the General Investigations Section of the Detective Bureau.

Q. Okay. Approximately how long have you been employed in law enforcement?

A. 25 years.

Q. I want to direct your attention to this particular case.

1 During the course and scope of
2 your duties of investigation, did you come into
3 contact with one Alan Daniels?

4 A. Yes, I did.

5 Q. And if you could, please describe for
6 the Grand Jury how it was that you came to
7 investigate this particular person.

8 A. I had received information from an
9 employee at one of the casinos that many -- they had
10 seen a green Lincoln acting suspicious in their
11 parking lot, and that Security had found a matchbook
12 cover that had been wedged into the locking
13 mechanism to defeat which had been the signature of
14 the robberies that occurred at the locations on
15 earlier times.

16 I put that vehicle on our ATL
17 sheet, attempt to locate sheet, and Patrol stopped a
18 vehicle matching that description occupied by a
19 subject named Meroz and Balenco (phonetic).

20 NR. ZADROWSKI: I'm going to stop you
21 for a moment.

22 Ladies and gentlemen, I want to
23 admonish you that the witness' testimony regarding
24 information from another person is not admissible to
25 prove the truth of the matter asserted. It's merely

1 being offered at this point for probable cause and
2 that is to show why the officer -- why Detective
3 Plew did what he did next.

4 BY MR. ZADROWSKI:

5 Q. Please continue.

6 A. Anyway, I told Merez to come down to
7 the Detective Bureau or asked if he would come on
8 his own freewill. He wasn't under arrest. I wanted
9 to talk to him about the activities. I did not tell
10 him anything about any robberies or any locations.
11 He came down, and it was at that time that he began
12 to recount meeting a subject known to him as Alan
13 who checked in at the Santa Fe Hotel on Easter
14 Sunday.

15 During the interview with him he
16 told how Alan had bragged about doing a robbery
17 prior at the Town Hall Casino and that upon exiting
18 that casino it had been raining and he slipped and
19 fell and a bunch of the money had fell out in the
20 parking lot.

21 MR. ZADROWSKI: Let me stop you.

22 I want to admonish you once
23 again that the testimony regarding information from
24 another person is not offered for the truth of the
25 matter asserted. It's not offered to show a robbery

1 occurred, but only to show what Detective Plew did
2 next in his investigation.

3 BY MR. ZADROWSKI:

4 Q. Please continue.

5 A. And that during the confrontation with
6 security officers, the subject pointed a firearm at
7 him but did not shoot. The subject Al also told
8 Merez and Balenco that he had defeated the locking
9 mechanism by sticking a matchbook cover into the
10 lock, and that's how they would gain access and exit
11 the casino.

12 The investigation continued, and
13 I learned that a Room Number 502 at the Santa Fe
14 Hotel had been comped to a person that was known as
15 Alan Daniels. I got ahold of the Civil
16 Identification Bureau and received a photograph of
17 Alan Daniels and went back to Merez and Balenco and
18 showed them that photo and asked if that was the
19 person that they partied with, and if that was the
20 person that had bragged about committing the
21 robberies. They stated it was.

22 It was at that time that I
23 contacted Alan Daniels and asked him to come down to
24 the Detective Bureau for an interview.

25 Q. Was that April 30th, 1998?

1 A. Yes, it was.

2 Q. I'm showing you what's been marked as
3 State's Exhibit Number 2 for identification.

4 Would you look at the photo and
5 tell me if you recognize the person in it?

6 A. Yes. It's a photograph of Alan
7 Daniels.

8 MR. ZADROWSKI: May the record
9 reflect that the witness identified Alan Daniels?
10 BY MR. ZADROWSKI:

11 Q. He came down of his own freewill?

12 A. Yes, he did.

13 Q. And did you Mirandize him before you
14 interviewed him?

15 A. Yes, I did.

16 Q. Did he indicate that he understood his
17 rights?

18 A. Yes, he did.

19 Q. Did he waive them?

20 A. Yes, he did.

21 Q. What did he say to you during the
22 course of that interview?

23 A. We began to discuss the robberies that
24 I was investigating. He denied any knowledge or
25 involvement in them. Based upon being involved in

1 robberies now for several years, many times when
2 you -- when you come to grips with a suspect they
3 deal in facts, not hearsay or your supposition.
4 They want hard, cold facts. That tends to make them
5 more cooperative with you.

6 I could see that was going to be
7 the case with Mr. Daniels. It was at that time that
8 I told him about the party he had with Merez and
9 Balenco at the Santa Fe and the information that
10 they relayed to me that he told them reference the
11 great detail about the robbery in which he slipped
12 and fell because it was raining. He pointed the gun
13 at the security guard and about defeating the
14 locking mechanism.

15 I told Daniels, You told them
16 too much. Only someone involved in the robberies
17 that heavy would have that kind of information. And
18 it was at that time --

19 Q. This is your tactic through your
20 training and experience of dealing with people like
21 this?

22 A. Yes.

23 Q. You deal with people like this every
24 day?

25 A. Every day.

1 Q. Continue.

2 A. It was based upon revealing those facts
3 to him that he then gave a full and complete
4 confession.

5 Q. And when he gave that confession what
6 did he say?

7 A. He stated that it was him that had
8 robbed the Town Hall Casino, and that it was him
9 that had run out the door defeating the locking
10 mechanism. He had run out and dropped the money and
11 was chased by security. He pointed the gun at him.
12 He did not intend to hurt anybody was his statement.

13 He also stated that in a later
14 incident he was the get-away driver for another
15 subject and that was at the Eureka Casino or, I'm
16 sorry, Ellis Island, Ellis Island Casino. And that
17 they had taken the proceeds from that robbery and
18 gone back to the Santa Fe and gambled it away.

19 Q. Just so we're clear on dates. The
20 Ellis Island Casino, that was from the incident from
21 April 12th of '98?

22 A. Yes, I believe it was.

23 Q. And the incident from the Town Hall
24 Casino was February 20th, 1998?

25 A. Yes, that's correct.

1 Q. What did he say that he did with the
2 proceeds from that?

3 A. He stated that he had a severe gambling
4 problem and that each time he'd receive moneys from
5 the robberies he'd gone to the Santa Fe and gambled
6 them away.

7 Q. You said he received moneys. Did he
8 indicate to you whether or not there was a
9 pre-arranged agreement as to how much he would get
10 from the robberies?

11 A. On the one at the Town Hall Casino he
12 said that he acted solely alone. On the Ellis
13 Island robbery he stated that he had done that with
14 another subject. He stated that he was there, that
15 he drove the car, that his friend merely wanted a
16 ride to the casino. And a short time later he came
17 running out breathing hard and jumped in the car
18 with a sack of money and told him to get out of
19 there.

20 Daniels stated he knew at that
21 time it was a robbery. I asked him if he then
22 decided to kick the other subject out of the car or
23 to notify the police. He stated no, and he stated
24 that the guy was a relative of his, and that the guy
25 gave him \$2,000 for helping him at which time he

1 took that \$2,000 to the Santa Fe and gambled it
2 away.

3 Q. And after you -- was this interview
4 that you conducted audiotaped?

5 A. It was videotaped.

6 Q. You have a copy of that if anybody
7 wanted to see it?

8 A. Yes.

9 Q. A copy of that videotape has remained
10 in your full care, custody, and control?

11 A. Yes, it has.

12 MR. ZADROWSKI: I have no further
13 questions for this witness, Mr. Foreman.

14 THE FOREMAN: Does anybody have any
15 questions?

16 BY A JUROR:

17 Q. Yes.

18 What does "defeated the locking
19 mechanism" mean?

20 A. The lock at the Town Hall Casino,
21 patrons can exit by pushing a bar, but they can't
22 enter from that direction. So when they did the
23 robbery, they parked outside. They needed to get in
24 the door. When they come around and the corner, the
25 cage area, they took a matchbook cover and stuck it

1 in the locking mechanism where it closes and it
2 won't go completely and close it so they could come
3 in as well as out.

4 THE FOREMAN: We can look at the film
5 later during the deliberations. If you want to look
6 at the film we can look at it when we're
7 deliberating.

8 Thank you.

9 Before you leave, I have to read
10 you an admonishment.

11 By law, these proceedings are
12 secret, and you are prohibited from disclosing to
13 anyone anything that transpired before us including
14 evidence presented to the Grand Jury, any event
15 occurring or statement made in the presence of the
16 Grand Jury, or information obtained by the Grand
17 Jury.

18 Failure to comply with this
19 admonition is a gross misdemeanor, punishable by a
20 year in the Clark County Detention Center and a
21 \$2,000 fine. In addition you may be held in
22 contempt of court punishable by an additional \$500
23 fine and 25 days in the Clark County Detention
24 Center.

25 Thank you.

1 (Witness excused.)

2 THE FOREMAN: Are we going to leave the
3 tape as evidence or not? Have we put it into
4 evidence?

5 MR. ZADROWSKI: If you need it.

6 THE FOREMAN: It's not marked.

7 By chance, is anybody going to
8 want to look at this?

9 A JUROR: Sure.

10 THE FOREMAN: Let's mark it and put it
11 in evidence.

12 BY MR. ZADROWSKI:

13 Q. Actually, Tony, did you make a copy of
14 that and give it to our office?

15 A. No. That's the original. That is the
16 only existing one.

17 Q. How long is it?

18 A. It's relatively long. I'd say it's
19 probably at least 30 minutes to an hour.

20 MR. ZADROWSKI: Let the record reflect
21 that the videotape confession is being marked as
22 Exhibit Number 3 for identification.

23 Ladies and gentlemen, this
24 concludes the State's presentation of evidence in
25 this matter.

1 Are there any questions?

2 THE FOREMAN: We have a question.

3 A JUROR: No. I want to wait until
4 after we've deliberated and that way it does not
5 interfere.

6 THE FOREMAN: This has been to court
7 and he made a confession. Why is it coming to the
8 Grand Jury?

9 MR. ZADROWSKI: This case has been to
10 Justice Court once. The reason why we're back here
11 at Grand Jury is because of the absence of a
12 particular witness, that being Detective Tony Plew
13 for the other two counts. I should let you know
14 then that the original case which we took to the
15 Justice of the Peace was bound over to District
16 Court on all of the counts with the exception of the
17 Ellis Island counts and that was because Detective
18 Plew was unavailable at that time.

19 THE FOREMAN: Thank you.

20 MR. ZADROWSKI: Is that the question
21 you wanted answered?

22 THE FOREMAN: Yes.

23 MR. ZADROWSKI: And I will -- do you
24 want me to hang around outside, or are you going to
25 deliberate for a while?

1 THE FOREMAN: I assume we're going to
2 look at it. I don't see us being here more than 10
3 minutes.

4 MR. ZADROWSKI: Thank you.

5
6 (All persons other than members
7 of the Grand Jury left the room at 1:55
8 p.m. and returned at 2:25 p.m.)
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1 THE FOREMAN: Mr. District Attorney, by
2 a vote of 12 or more Grand Jurors a true bill has
3 been returned against the defendant, Alan Demetrius
4 Daniels, charging the crimes of burglary while in
5 possession of a firearm, robbery with use of a
6 deadly weapon, and conspiracy to commit robbery on
7 all counts in Grand Jury Case Number 98BGJ002X.

8 We instruct you to prepare an
9 indictment in conformance with the proposed
10 indictment previously submitted to us with the
11 amendment and the spelling of Cozby's name.

12
13 (End of proceedings.)

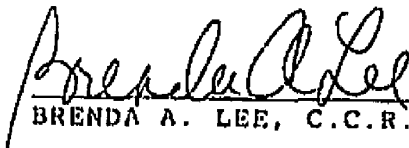
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15 ---o0o---

REPORTER'S CERTIFICATE

STATE OF NEVADA)
 : ss
COUNTY OF CLARK)

I, Brenda A. Lee, C.C.R. 198, do hereby
certify that I took down in Shorthand (Stenotype)
all of the proceedings had in the before-entitled
matter at the time and place indicated and
thereafter said shorthand notes were transcribed at
and under my direction and supervision and that the
foregoing transcript constitutes a full, true and
accurate record of the proceedings had.

Dated at Las Vegas, Nevada, March 30th, 1999.


BRENDA A. LEE, C.C.R. No. 198

9

9

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

FILED

OCT 19 4 35 PM '99

Shirley M. Riggins
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9
10 Plaintiff,
11
12 -vs-
13 ALAN DEMETRIUS DANIELS,
14 #0747918
15 Defendant.

Case No. C156246
Dept. No. XIV
Docket T

NOTICE OF EXPERT WITNESSES
[NRS 174.234 (2)]

17 TO: ALAN DEMETRIUS DANIELS, Defendant; and
18 TO: STANLEY A. WALTON, Esquire, Counsel of Record:
19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
20 NEVADA intends to call expert witnesses in its case in chief as follows:
21 ERRICHETTO, LINDA, or Designee, P#1471, Director of Lab Services, Las Vegas
22 Metropolitan Police Department; will testify as to the fingerprint analysis.
23 BOYD, FRED M., P#5216, Latent Fingerprint Examiner, Las Vegas Metropolitan Police
24 Department;
25 HANSELL, RICHARD, P#5054, Latent Print Examiner, Las Vegas Metropolitan Police
26 Department;
27 REES, ROBERT J., P#2332, Latent Print Examiner, Las Vegas Metropolitan Police
28 Department;

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1 SCARBOROUGH, STEVEN J., P#2160, Latent Print Examiner, Las Vegas Metropolitan
2 Police Department.

3 The substance of each expert witness' testimony and a copy of all reports made by or at
4 the direction of the expert witness has been provided in discovery.

5 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

6 STEWART L. BELL
7 DISTRICT ATTORNEY
8 Nevada Bar #000477

9 BY 
10 JAMES R. SWEETIN
11 Deputy District Attorney
12 Nevada Bar #005144
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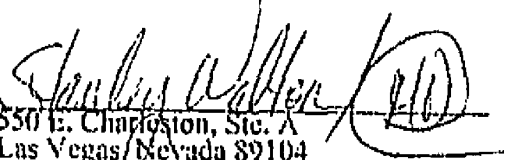
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RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing NOTICE OF EXPERT WITNESSES

[NRS 174.089(2)] is hereby acknowledged this _____ day of October, 1999.

STANLEY A. WALTON, ESQUIRE
ATTORNEY FOR DEFENDANT

BY 
550 E. Charleston, Ste. A
Las Vegas, Nevada 89104

da

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

FORENSIC LABORATORY

STATEMENT OF QUALIFICATIONS

Date: 08-15-97

Name: Linda T. Errichetto P#: 1471 Classification: Director of Lab Services

Current Discipline of Assignment: Management/Administrative

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)

Controlled Substances	X	Blood Alcohol	X
Toolmarks		Breath Alcohol	
Trace Evidence - hairs	X	Arson Analysis	
Toxicology	X	Firearms	
Latent Prints		Crime Scene Investigations	
Serology	X	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	

EDUCATION

<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
Thiel College, Greenville, PA	9/72 → 5/76	Chemistry	BA
University of Pittsburgh	9/76 → 6/77	Forensic Chemistry	MS

ADDITIONAL TRAINING / SEMINARS

<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Northeast Association of Forensic Scientists	New York	10/76
Beckman Infrared Seminar	Las Vegas	8/75
American Academy of Forensic Sciences	San Diego	2/77
American Academy of Forensic Sciences	Las Vegas	2/85, 2/89
American Academy of Forensic Sciences	Anaheim	2/91
American Academy of Forensic Sciences	Seattle	2/95
California Association of Criminalists	Irvine	10/87
Toxicology Workshop	Orange County Sheriff's Office	5/80
Semen Identification Course	Serological Research Institute Emeryville, CA	10/85
Rofin Polilight Training	Las Vegas	4/91
Isoelectric Focusing	Analytical Genetic Testing Center, Inc. Denver, CO	3/92
American Society of Crime Lab Directors	FBI FSRTC, Quantico, VA	9/93, 9/95, 9/96
CA Association Crime Lab Directors	Las Vegas	4/96
CA Association of Crime Lab Directors	San Diego, CA	4/97

COURTROOM EXPERIENCE

<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Clark County District Court	All above disciplines	•
Justice Court of Las Vegas Township, Clark County, Nevada	All above disciplines	•
Municipal Court of Las Vegas	Blood Alcohol, Controlled Substances	•
Municipal Court of Henderson	Blood Alcohol	•
Municipal Court of Boulder City	Blood Alcohol	•
Justice Court of Beatty, Nye County, Nevada	Blood Alcohol, Controlled Substances and	•

	Serology	
Nye County District Court	Controlled Substances	•
United States Federal Court	Blood Alcohol, Controlled Substances and Serology	•
Nellis A.F.B. Adjutant General's Office	Serology, Controlled Substances	•
		*Qualified as an Expert Witness over 300 times.
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Criminalist	8/77 → 8/93
Las Vegas Metropolitan Police Department	Director of Lab Services	8/93 → present
University of Nevada at Las Vegas	guest lecturer/instructor	88 →
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>		<i>Date(s)</i>
American Society of Crime Lab Directors		94 → present
California Association of Crime Lab Directors		95 → present
American Academy of Forensic Sciences		86 → present
California Association of Criminalists		87 → present
Norwest Association of Forensic Scientists		96 → present

PUBLICATIONS / PRESENTATIONS:

"Detection of Drugs in Bloodstains, II: Morphine" *Journal of Forensic Science* , Vol 25, No. 2, April 1980.

"Victims, Suspects, and Aids" California Association of Crime Lab Directors 1, 1990

"DNA: Meaningful - Not Magical" Western States Sexual Assault Seminar, May, 1991.

OTHER QUALIFICATIONS:

Governor's Committee on Testing for Intoxication, member, 1984, 1993 → present

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

FORENSIC LABORATORY

STATEMENT OF QUALIFICATIONS

Date: August 19, 1997

Name: Fred M. Boyd P#: 5216 Classification: Latent Fingerprint Examiner

Current Discipline of Assignment: Latent Fingerprints

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)

Controlled Substances		Blood Alcohol
Toolmarks		Breath Alcohol
Trace Evidence		Arson Analysis
Toxicology		Firearms
Latent Prints	X	Crime Scene Investigations
Serology		Clandestine Laboratory Response Team
Document Examination		DNA Analysis

EDUCATION

<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
Mt. San Antonio College	2/88	Police Science	A.A.
University of Maryland	1971	Business Law Class	
Central Texas College	1973 - 1974	Police Science Classes	
Los Angeles City College	1975	Police Science Classes	

ADDITIONAL TRAINING / SEMINARS

<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
-------------------------	-----------------	--------------

U.S. Army Military Police Course	Ft. Gordon, GA	7/68
Georgia State Police Academy	Atlanta, GA	1969
U.S. Army Criminal Investigation Course	Ft. Gordon, GA	11/69
U.S. Army Criminal Investigation Logistic Course	Ft. Lee, VA	2/74
U.S. Army Criminal Investigation Latent Print Examiners Course	Ft. Gordon, GA	9/78 - 5/80
IAS - Scientific Crime Detection Course	Syracuse, NY	1/79
FBI Fingerprint Classification	Augusta, GA	3/79
FBI - Advanced Fingerprint Technique	Augusta, GA	4/79
FBI - Administrative Advanced Latent Fingerprint	Quantico, VA	12/79
FBI - International Symposium on Latent Prints	Quantico, VA	7/87
FBI - International Symposium on the Forensic Aspects of Footwear and Tire Impression Evidence	Quantico, VA	6/94
Northwestern University Traffic Institute, Crime Scene Technology II Course	Las Vegas, NV	9/96
IAI - "Advanced Ridgeology Comparison Techniques Course"	Mesa, AZ	4/97
FBI - "Digital Imaging Seminar For Law Enforcement"	Las Vegas, NV	5/97
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Military Courts - Department of Defense	Fingerprints	15
Military Courts - Department of Defense	Footwear	3
State Courts of Florida	Fingerprints	75
State Courts of Florida	Footwear	4
State Court of North Carolina	Fingerprints	1
State Court of New York	Fingerprints	1
State Court of Nevada	Fingerprints	1

EMPLOYMENT HISTORY

<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Fingerprint Examiner	7/96 - present
Broward County Sheriff's Office, Florida	Fingerprint Examiner	2/88 - 7/96
U.S. Army - Criminal Investigation Command	Special Agent Fingerprint Examiner	2/68 - 2/88
Nova University Law School, Ft. Lauderdale, FL	Guest lecturer on latent print identification	90 - 92
Barry University Law School, Miami, FL	Guest lecturer on latent print identification	90 - 92

PROFESSIONAL AFFILIATIONS

<i>Organization</i>	<i>Dates</i>
Fingerprint Society of Great Britain	1969 - present
International Association for Identification (IAI), National Chapter	1968 - present
International Association for Identification (IAI), Florida Division	1988 - present
Member and former Vice President of the South Florida Forensic Association (SFFA)	1988 - present
Former member of the Florida State Sub Committee for Footwear and Tire Track Identification (IAI)	1991

PUBLICATIONS / PRESENTATIONS:

"How Plaster of Paris Affects Latent Impressions," published in Identification News, by the International Association for Identification, April 1980.

"Chemical Enhancement of Bloody Footwear Impressions," presented at the Florida Division IAI, Ft. Myers, Florida, 1990 Annual Conference. Published in the Florida Division IAI Identification News, January 1990.

"Shoe box and Side Labeling . . . A Most Valuable Piece of Evidence When Shoes are Missing," presented at the International Symposium on the Forensic Aspect of Footwear and Tire Impression Evidence, FBI Academy, 1994. Published in Symposium Handbook, 1994.

Numerous lectures to various law enforcement groups and associations on latent print identification and footwear and tire print identification, 1980 to present.

OTHER QUALIFICATIONS:

Certified by U.S. Army as Latent Print Examiner 4/80

Completed Automated Fingerprint Identification System (AFIS) Eligibility Test, State of Florida and FCIC requirements. (9/88)

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

FORENSIC LABORATORY

STATEMENT OF QUALIFICATIONS

Date: 8-15-97

Name: Richard Hansell P# 5054 Classification: Latent Print Examiner

Current Discipline of Assignment: Criminalist - Latent Print Section

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)

Controlled Substances	Blood Alcohol
Toolmarks	Breath Alcohol
Trace Evidence	Atson Analysis
Toxicology	Firearms
Latent Prints	X Crime Scene Investigations
Serology	Clandestine Laboratory Response Team
Document Examination	DNA Analysis

EDUCATION

<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
Community College, Philadelphia, PA	1991 - 1994	Management	A.A.S
Community College, Philadelphia, PA	1986 - 1990	Management	Certificate
Thomas A. Edison H.S., Philadelphia, PA	1961 - 1964	Academic	Diploma

ADDITIONAL TRAINING / SEMINARS

<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
LAI Seminar	Mesa, AZ	4-96
FBI Advanced Latent Fingerprints	Philadelphia, PA	10-83

COURTROOM EXPERIENCE

<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Justice & District Courts of Eighth Judicial Court of Clark County, NV	Latent Fingerprint Identifications	12
Municipal & Common Pleas Courts of Philadelphia, PA	Latent & 10 Print Fingerprint Identifications	> 100

EMPLOYMENT HISTORY

<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Dept.	Latent Fingerprint Examiner	11/95 - present
Philadelphia, PA Police Department	Evidence Technician	4/68 - 11/95

PROFESSIONAL AFFILIATIONS

<i>Organization</i>	<i>Date(s)</i>
International Association for Identification	1/95 - present

PUBLICATIONS / PRESENTATIONS**OTHER QUALIFICATIONS:**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

FORENSIC LABORATORY

STATEMENT OF QUALIFICATIONS

Date: August 18, 1997

Name: Robert J. Rees, P#: 2332, Classification: Latent Print Examiner

Current Discipline of Assignment: Latent Prints

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)

Controlled Substances		Blood Alcohol	
Toolmarks		Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	
Latent Prints	X	Crime Scene Investigations	X
Serology		Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	

EDUCATION

<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
University of Nevada, Las Vegas	Graduated 1986	Criminal Justice	BA

ADDITIONAL TRAINING / SEMINARS

<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Fingerprint Classification	Las Vegas	6/81
Advanced Fingerprint Techniques	Las Vegas	3/82
Advanced Crime Scene Techniques	Las Vegas	11/82
Advanced Palm Print Symposium	Denver, CO	10/94

Advanced Ridgeology Comparison	Mesa, AZ	1996
Advanced Ridgeology Comparison	Mesa, AZ	1997

COURTROOM EXPERIENCE

<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Clark County Justice Court	Crime Scene Analyst	~ 150
Clark County District Court	Crime Scene Analyst	~ 50
Clark County Justice Court	Latent Fingerprint Examiner	~ 30
Clark County District Court	Latent Fingerprint Examiner	~ 15

EMPLOYMENT HISTORY

<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
LVMPD	Latent Fingerprint Examiner	10/93 - present
LVMPD	Senior Crime Scene Analyst	1986 - 10/93
LVMPD	Crime Scene Analyst	1/81 - 1986

PROFESSIONAL AFFILIATIONS

<i>Organization</i>	<i>Date(s)</i>
California Division, International Association for Identification	

PUBLICATIONS / PRESENTATIONS:**OTHER QUALIFICATIONS:**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

FORENSIC LABORATORY

STATEMENT OF QUALIFICATIONS

Date: August 19, 1997

Name: Steven J. Scarborough, PH; 2160 Classification: Latent Print Examiner

Current Discipline of Assignment: Latent Prints

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)

Controlled Substances		Blood Alcohol	
Toolmarks		Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	
Latent Prints	X	Crime Scene Investigations	X
Serology		Claudestine Laboratory Response Team	
Document Examination		DNA Analysis	

EDUCATION

Institution	Dates Attended	Major	Degree Completed
Long Beach Community College	1971 - 1973	Police Science	A.A.
State University of California at Los Angeles	1973 - 1976	Criminal Justice	B.S.

ADDITIONAL TRAINING / SEMINARS

Course / Seminar	Location	Dates
Crime Scene Search Techniques	Las Vegas, NV	8/80
Fingerprint Classification	Las Vegas, NV	6/81

Advanced Latent Fingerprint Comparison	Las Vegas, NV	10/81
Latent Print Photography	Quantico, VA	3/87
Latent Print Symposium	San Diego, CA	10/91
Advanced Latent Print & Processing	Las Vegas, NV	3/92
Admin. Advanced Latent Print	Quantico, VA	10/92
Printak AFIS Conference	Anaheim, CA	9/94
L.A.I. Annual Seminar	Boston, MA	7/97
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Justice Court	Latent Prints	- 75
Eighth Judicial District	Latent Prints	- 98
U. S. Federal Court	Latent Prints	- 9
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
F.B.I.	Support Personnel	9/73 - 4/80
Las Vegas Metropolitan Police Department	Identification Specialist	4/80 - 2/84
Las Vegas Metropolitan Police Department	Latent Print Examiner	2/84 - present
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>		<i>Date(s)</i>
L.A.I. International Association for Identification		1987 - present
PUBLICATIONS / PRESENTATIONS:		
Poster Presentation at the Disaster Investigation Symposium in Quantico, VA 4/91		
OTHER QUALIFICATIONS:		
L.A.I. certified as Latent Print Examiner on 10/88		

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Shirley S. Rungius
CLERK

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

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

13 Defendant.

Case No. C156246
Dept. No. XIV
Docket T

15 NOTICE OF WITNESSES
16 [NRS 174.234 (1)(b)]

17 TO: ALAN DEMETRIUS DANIELS, Defendant; and

18 TO: STANLEY A. WALTON, Esquire, Counsel of Record;

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
20 NEVADA intends to call the following witnesses in its case in chief:

21 NAME	ADDRESS
22 BELINKO, BRIAN	7417 Alpine Ridge Las Vegas, Nevada
24 COLE, OFFICER	c/o Town Hall Casino 4155 Koval Lane Las Vegas, Nevada
26 CRUZ, OFFICER	c/o Santa Fe Hotel & Casino 4949 N. Rancho Drive Las Vegas, Nevada

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COUNTY CLERK

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1	CUSTODIAN OF RECORDS	Clark County Detention Center
2	CUSTODIAN OF RECORDS	Ellis Island Casino
3		4178 Koval Lane
		Las Vegas, Nevada
4	CUSTODIAN OF RECORDS	LVMPD Gun Registration
5	CUSTODIAN OF RECORDS	LVMPD Records
6	CUSTODIAN OF RECORDS	Santa Fe Hotel & Casino
7		4949 N. Rancho Drive
		Las Vegas, Nevada
8	CUSTODIAN OF RECORDS	Town Hall Casino
9		4155 Koval Lane
		Las Vegas, Nevada
10	JOHNSON, DOROTHY	c/o Elks Lodge
11		1236 Blankenship
		Las Vegas, Nevada
12	JORDAN, MR.	c/o Town Hall Casino
13		4155 Koval Lane
		Las Vegas, Nevada
14	KEEGANS, JIMMY	c/o Town Hall Casino
15		4155 Koval Lane
		Las Vegas, Nevada
16	MAREZ, ANTHONY	8201 W. Charleston, #2041
17		Las Vegas, Nevada
18	McNETT, MARK J.	LVMPD P#3550
19	RAULSON, DAVE	c/o Ellis Island Casino
20		4178 Koval Lane
		Las Vegas, Nevada
21	SILBAUGH, JOHN D.	LVMPD P#354
22	SPLOND, CHARLES E.	929 Mezpah
23	///	Las Vegas, Nevada
24	///	
25	///	
26	///	
27	///	
28	///	

1 These witnesses are in addition to those witnesses endorsed on the Information and any
2 other witness for which a separate Notice has been filed.

3 STEWART L. BELL
4 DISTRICT ATTORNEY
5 Nevada Bar #000477

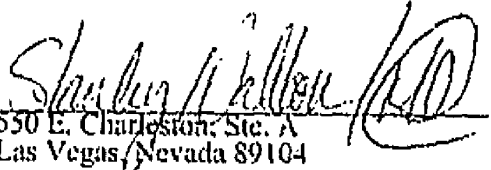
6 

7 BY JAMES R. SWEETIN
8 Deputy District Attorney
9 Nevada Bar #005144

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing NOTICE OF WITNESSES [NRS
174.089(1)(b)] is hereby acknowledged this _____ day of October, 1999.

STANLEY A. WALTON, ESQUIRE
ATTORNEY FOR DEFENDANT

BY 
550 E. Charleston, Ste. A
Las Vegas, Nevada 89104

da

12

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

FILED

JUN 19 8 43 PM '00

Shirley L. Williams
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALAN DANIELS.
12 #0747918

13 Defendant.

Case No. C156246
Dept. No. XIV
Docket T

ORDER FOR PRODUCTION OF INMATE
ALAN DANIELS, BAC #63982

DATE OF HEARING: 07-18-00
TIME OF HEARING: 9:00 A.M.

18 TO: SHERMAN HATCHER, Warden of the Southern Desert Correctional Center;

19 TO: JERRY KELLER, Sheriff of Clark County, Nevada

20 Upon the ex parte application of THE STATE OF NEVADA, Plaintiff, by STEWART
21 L. BELL, District Attorney, through SCOTT S. MITCHELL, Chief Deputy District Attorney,
22 and good cause appearing therefor,

23 IT IS HEREBY ORDERED that SHERMAN HATCHER, Warden of the Southern Desert
24 Correctional Center shall be, and is, hereby directed to produce ALAN DANIELS, Defendant
25 in Case No. C156246, on charges of BURGLARY WHILE IN POSSESSION OF A WEAPON
26 (Felony); and ROBBERY WITH USE OF A DEADLY WEAPON (Felony), wherein THE
27 STATE OF NEVADA is the Plaintiff, inasmuch as the said Defendant is currently incarcerated
28 in the Southern Desert Correctional Center located in Indian Springs, Nevada and his presence

COUNTY CLERK

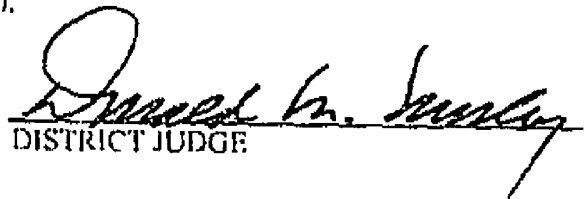
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1 will be required in Las Vegas, Nevada commencing on Tuesday, the 18th day of July, 2000, at
2 the hour of 9:00 o'clock A.M. and continuing until completion of the prosecution's case against
3 the said Defendant.

4 IT IS FURTHER ORDERED that JERRY KELLER, Sheriff of Clark County, Nevada,
5 shall accept and retain custody of the said Defendant in the Clark County Detention Center, Las
6 Vegas, Nevada, pending completion of said matter in Clark County, or until the further Order
7 of this Court; or in the alternative shall make all arrangements for the transportation of the said
8 Defendant to and from the Nevada State Prison facility which are necessary to insure the
9 Defendant's appearance in Clark County pending completion of said matter, or until further
10 Order of this Court.

11 DATED this 16th day of June, 2000.

12
13 
14 DISTRICT JUDGE

15 STEWART L. BELL
16 DISTRICT ATTORNEY
16 Nevada Bar #000477

17
18 BY 
19 SCOTT S. MITCHELL
19 Chief Deputy District Attorney
20 Nevada Bar #000346

21
22
23
24
25
26
27
28 da

ORIGINAL

0026
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED IN OPEN COURT
February 6 2001
SHIRLEY B. PARRAGUIRRE, CLERK
38. L. Nevada State
LINDA SKINNER DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DEMETRIUS DANIELS,
#747918

Defendant.

Case No. C156246
Dept. No. XIV
Docket T

NOTICE OF MOTION AND MOTION TO CONTINUE

DATE OF HEARING: 2/6/01
TIME OF HEARING: 9:00 A.M.

TO: ALAN DEMETRIUS DANIELS, Defendant; and

TO: STANLEY A. WALTON, ESQUIRE, Attorney for Defendant

YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the State respectfully
moves this Court to continue the above entitled case.

This Motion, which will be heard in District Court on the 6th day of February, 2001, at

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RECORDED

1 9:00 o'clock, A.M., is based upon Hill v. Sheriff of Clark County, 85 Nev. 234 (1969), and is
2 supported by the following Affidavit.

3 DATED this 5 day of February, 2001.

4 STEWART L. BELL
5 District Attorney
6 Nevada Bar #000477

7 BY Robert B. Turner
8 ROBERT B. TURNER
9 Deputy District Attorney
10 Nevada Bar #006526

11 AFFIDAVIT

12 STATE OF NEVADA)
13 COUNTY OF CLARK) ss:

14 ROBERT B. TURNER, being first duly sworn, deposes and says:

15 1. That Det. Anthony Plew is a witness for the State of Nevada in this matter; that his
16 present address is the Las Vegas Metropolitan Police Department;

17 2. That the following efforts were made to procure the attendance of this witness at the
18 trial scheduled in this matter for February 6, 2001; that a subpoena was issued on January 8,
19 2001;

20 3. That Det. Anthony Plew is an essential witness in that he Mirandized the defendant
21 and the defendant admitted to his involvement in the robberies; that to affiant's present
22 knowledge there is no other witness who could so testify;

23 4. That said witness will be available to testify in approximately two (2) months; that it
24 will be necessary to seek a continuance in this matter due to the unavailability of this witness;
25 that affiant first learned on February 5, 2001, that this witness would not be available to testify

26 ///

27 ///

28 ///

1 at the scheduled trial in that the witness is retiring and will be in Bezize, South America for
2 approximately two months building his home;

3 5. That this Motion is made in good faith and not for the purpose of delay.

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

5

6 Executed on 2/5/01
7 (Date)

Robert B. Turner
(Signature)

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28 99-156246X/jj

FILED

20 JUN -5 PM 1:26

Shirley L. Linder
CLERK

NOTICE
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DEMETRIUS DANIELS,
#747918

Defendant.

Case No. C156246
Dept. No. XIV
Docket T

NOTICE OF EXPERT WITNESSES
[NRS 174.234 (2)]

TO: ALAN DEMETRIUS DANIELS, Defendant; and

TO: STANLEY A. WALTON, ESQUIRE, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call expert witnesses in its case in chief as follows:

SCARBOROUGH, STEVEN J, LVMPD #2160, Latent Print Examiner, who will testify
as to the fingerprint analysis lifted under Event Numbers 9804120119 and 9802200082.

///

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RECEIVED

JUN 5 2001

CLERK

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1 The substance of each expert witness' testimony and a copy of all reports made by or at
2 the direction of the expert witness has been provided in discovery.

3 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

4 STEWART L. BELL
5 DISTRICT ATTORNEY
6 Nevada Bar #000477

7 BY Robert B. Turner
8 ROBERT B. TURNER
9 Deputy District Attorney
10 Nevada Bar #006526

11 CERTIFICATE OF FACSIMILE TRANSMISSION

12 I hereby certify that service of Notice of Expert Witness, was made this 7 day of
13 June, 2001, by facsimile transmission to:

14 STANLEY A. WALTON, ESQUIRE
15 383-8245

16 BY Jack Johnson
17 Employee of the District Attorney's Office
18
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28 RBT/jj

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
STATEMENT OF QUALIFICATIONS**

Date January 17, 1997

Name William J. Smith, Jr. ID# 11141 Classification Latent Print Examiner

Current Division of Assignment Latent Prints

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Blood Alcohol	
Toxicology		Breath Alcohol	
Trace Evidence		Arson Analysis	
Footprints		Firearms	
Latent Prints	X	Crime Scene Investigations	X
Surveillance		Wanderlust Laboratory Response Team	
Document Examination		DNA Analysis	
EDUCATION			
Institution	Dates Attended	Major	Degree Completed
Long Beach Community College	1971 - 1973	Police Science	A.A.
State University of California at Los Angeles	1973 - 1976	Criminal Justice	B.S.
ADDITIONAL TRAINING / SEMINARS			
Course / Seminar	Location	Dates	
Crime Scene Search Techniques	Las Vegas, NV	8/80	
Fingerprint Classification	Las Vegas, NV	5/81	
Advanced Latent Fingerprint Comparison	Las Vegas, NV	10/81	
Latent Print Photography	Quantico, VA	3/87	
Print Print Symposium	San Diego, CA	10/91	
Advanced Latent Print & Processing	Las Vegas, NV	3/92	
Admin. Advanced Latent Print	Quantico, VA	10/92	
Printex AFIS Conference	Anaheim, CA	9/94	
IAI Annual Seminar	Boston, MA	7/97	

COURTROOM EXPERIENCE		
Court	Discipline	Number of Trials
Justice Court	Latent Prints	75
Eighth Judicial District	Latent Prints	98
U.S. Federal Court	Latent Prints	9
EMPLOYMENT HISTORY		
Employer	Job Title	Date
FE	Support Personnel	9/79 - 4/80
Las Vegas Metropolitan Police Department	Identification Specialist	4/80 - 2/84
Las Vegas Metropolitan Police Department	Latent Print Examiner	2/84 - Present
PROFESSIONAL AFFILIATIONS		
Organization	Date	
IAI International Association for Identification	1987 - Present	
PUBLICATIONS / PRESENTATIONS:		
Poster Presentation at the Disaster Investigation Symposium in Quantico, VA 4/91		
OTHER QUALIFICATIONS:		
IAI certified as Latent Print Examiner on 10/88		

16

FILED

2001 JUN -5 PM 1:26

Shirley G. Higgins
CLERK

NOTICE
STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477
200 S. Third Street
Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALAN DEMETRIUS DANIELS,
#747918

Defendant.

Case No. C156246
Dept. No. XIV
Docket T

NOTICE OF WITNESSES
[NRS 174.234 (1)(b)]

TO: ALAN DEMETRIUS DANIELS, Defendant; and

TO: STANLEY A. WALTON, ESQUIRE, Counsel of Record;

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

<u>NAME</u>	<u>ADDRESS</u>
SCARBOROUGH, STEVEN	LYMPD P#2160

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JUN 05 2001

COUNTY CLERK

S20

1 These witnesses are in addition to those witnesses endorsed on the Information and any
2 other witness for which a separate Notice has been filed.

3 STEWART L. BELL
4 DISTRICT ATTORNEY
5 Nevada Bar #000477

6 BY Robert B. Turner
7 ROBERT B. TURNER
8 Deputy District Attorney
9 Nevada Bar #006526

10 CERTIFICATE OF FACSIMILE TRANSMISSION

11 I hereby certify that service of Notice of Witnesses, was made this 4 day of June,
12 2001, by facsimile transmission to:

13 Stanley A. Walton, Esquire
14 383-8245

15 BY [Signature]
16 Employee of the District Attorney's Office
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28 RBT/ij

ORIGINAL

FILED IN OPEN COURT
APR - 2 2002

SHIRLEY B. PARRAGUIRRE, CLERK
BY Connie Kalsch
CONNIE KALSCH DEPUTY

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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

-vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

Defendant.

Case No. C156246
Dept No. XIV
Docket T

AMENDED
INDICTMENT

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

17 The Defendant above named, ALAN DEMETRIUS DANIELS, is accused by the Clark
18 County Grand Jury of the crimes of BURGLARY WHILE IN POSSESSION OF A
19 FIREARM (Felony - NRS 205.060); and ROBBERY (Felony - NRS 200.380), committed at
20 and within the County of Clark, State of Nevada, on or between February 20, 1998, and April
21 12, 1998, as follows:

22 COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did, on or about April 12, 2002, then and there wilfully, unlawfully, and feloniously enter,
24 while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or larceny,
25 that certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las
26 Vegas, Clark County, Nevada, and/or ELLIS ISLAND HOTEL AND CASINO, located at 4178
27 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an unnamed
28 individual by counsel and encouragement and by entering into a course of conduct whereby

52

1 Defendant drove said unnamed individual to said location, waited outside and acted as a lookout
2 while the unnamed individual directly committed said act and fled the scene together.

3 COUNT II - ROBBERY

4 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
5 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
6 RICHARD COLACINO, or in their presence, by means of force or violence, or fear of injury
7 to, and without the consent and against the will of the said RICHARD COLACINO, said
8 Defendant aiding or abetting an unnamed individual by counsel and encouragement and by
9 entering into a course of conduct whereby Defendant drove said unnamed individual to said
10 location, waited outside and acted as a lookout while the unnamed individual directly committed
11 said act and fled the scene together.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
Nevada Bar #000477

14 BY B.B. Zadrowski
15 BERNARD B. ZADROWSKI
16 Deputy District Attorney
17 Nevada Bar #006545

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26 DA#99-156246X/mmww
27 LVMPD EV#9804120119;9802200082
28 BURG W/W; ROBB - F
(TK5)

APR - 2 2002

APR - 2 2002

SHIRLEY B. PARRAGUIRE, CLERK
BY Connie Kalski
CONNIE KALSKY

Case No. C156246
Dept. No. XIV
Docket T

I hereby agree to plead guilty to: COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060); and COUNT II - ROBBERY (Category B Felony - NRS 200.380), as more fully alleged in the charging document attached hereto as Exhibit "1".

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

The State is not opposed to concurrent time with Case No. C160684, but will retain the right to argue at rendition of sentence.

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

I understand that as a consequence of my plea of guilty as to Count I, the Court must sentence me to imprisonment in the Nevada State Prison for a minimum term of not less than

1 two (2) year(s) and a maximum term of not more than fifteen (15) years. The minimum term
2 of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.
3 I understand that I may also be fined up to \$10,000.00; as to Count 11, the Court must sentence
4 me to imprisonment in the Nevada State Prison for a minimum term of not less than two (2)
5 year(s) and a maximum term of not more than fifteen (15) years for Robbery. The minimum
6 term of imprisonment may not exceed forty percent (40%) of the maximum term of
7 imprisonment. I understand that the law requires me to pay an Administrative Assessment Fee.

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

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

15 I understand as to Count II, I understand that I am not eligible for probation for the
16 offense to which I am pleading guilty.

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

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

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

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

26 I understand that if the State of Nevada has agreed to recommend or stipulate a particular
27 sentence or has agreed not to present argument regarding the sentence, or agreed not to oppose
28 a particular sentence, such agreement is contingent upon my appearance in court on the initial

1 sentencing date (and any subsequent dates if the sentencing is continued). I understand that if
2 I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior to
3 sentencing the State of Nevada would regain the full right to argue for any lawful sentence.

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

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

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

17 WAIVER OF RIGHTS

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

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

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

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

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

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

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

VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

24 *ii*

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DATED this 2nd day of August, 2001.

AGREED TO BY:

Deputy District Attorney

1 CERTIFICATE OF COUNSEL:

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

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

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

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

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

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

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

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

18 Dated: This 2nd day of April 2002.

19 Stanley M. Dalton
20 ATTORNEY FOR DEFENDANT
21
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26
27
28

mmw

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

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

13 Defendant.

Case No. C156246
Dept No. XIV
Docket T

AMENDED
INDICTMENT

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

17 The Defendant above named, ALAN DEMETRIUS DANIELS, is accused by the Clark
18 County Grand Jury of the crimes of BURGLARY WHILE IN POSSESSION OF A
19 FIREARM (Felony - NRS 205.060); and ROBBERY (Felony - NRS 200.380), committed at
20 and within the County of Clark, State of Nevada, on or between February 20, 1998, and April
21 12, 1998, as follows:

22 COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did, on or about April 12, 2002, then and there wilfully, unlawfully, and feloniously enter,
24 while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or larceny,
25 that certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las
26 Vegas, Clark County, Nevada, and/or ELLIS ISLAND HOTEL AND CASINO, located at 4178
27 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an unnamed
28 individual by counsel and encouragement and by entering into a course of conduct whereby

EXHIBIT "1"

1 Defendant drove said unnamed individual to said location, waited outside and acted as a lookout
2 while the unnamed individual directly committed said act and fled the scene together.

3 COUNT II - ROBBERY

4 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
5 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
6 RICHARD COLACINO, or in their presence, by means of force or violence, or fear of injury
7 to, and without the consent and against the will of the said RICHARD COLACINO, said
8 Defendant aiding or abetting an unnamed individual by counsel and encouragement and by
9 entering into a course of conduct whereby Defendant drove said unnamed individual to said
10 location, waited outside and acted as a lookout while the unnamed individual directly committed
11 said act and fled the scene together.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
14 Nevada Bar #000477

15 BY B.B. Zadrowski
16 BERNARD B. ZADROWSKI
17 Deputy District Attorney
18 Nevada Bar #0006575

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26 DA#99-156246X/mmww
27 LVMPD EV#9804120119;9802200082
28 BURG W/W; ROBB - F
(TK5)

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DOCUMENT,
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100 - 105
WILL FOLLOW VIA
U.S. MAIL

ORIGINAL

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

FILED
MAY 28 11 35 AM '02

Shirley A. Thompson
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,
12
13 -vs-
14 ALAN DEMETRIUS DANIELS,
15 #0747918
16
17 Defendant.

Case No. C156246
Dept. No. XIV

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

18 The Defendant previously appeared before the Court herein with counsel and entered a
19 plea of guilty to the crime(s) of COUNT I - BURGLARY WHILE IN POSSESSION OF A
20 FIREARM (Category B Felony) and COUNT II - ROBBERY (Category B Felony), in violation
21 of NRS 200.380; thereafter, on the 14th day of May, 2002, the Defendant was present in court
22 for sentencing with his counsel, STANLEY A. WALTON, ESQUIRE, and good cause
23 appearing.

24 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition
25 to the \$25.00 Administrative Assessment Fee and \$3,400.00 Restitution, the Defendant is
26 sentenced as to COUNT I - to the Nevada Department of Corrections for a MAXIMUM term
27 of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of
28 THIRTY-FIVE (35) MONTHS and on COUNT II - a MAXIMUM term of ONE HUNDRED

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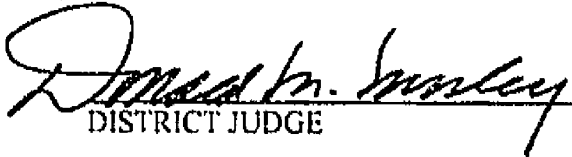
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1 EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35)
2 MONTHS. COUNT II to run CONCURRENT to COUNT I; this sentence to run
3 CONSECUTIVE to the sentence the defendant is currently serving. Defendant to receive
4 THIRTY-SIX (36) DAYS credit for time served.

5 DATED this 24TH day of May, 2002.

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8 DISTRICT JUDGE 8

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FILED

Dec 18 11 09 AM '02

Shirley J. Longine
CLERK

ALAN D DANIELS

NDOP NO. 13992, SDCC
Post Office Box 208
Indian Springs, Nevada 89070

Defendant- In Propria Persona

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
ALAN D. DANIELS
Defendant.

CASE NO. C156246
DEPT NO. XIV
DOCKET T

01/07/03 @ 9:00 AM

MOTION TO DISCHARGE ATTORNEY OF RECORD AND
FOR THE PRODUCTION OF ALL PAPERS, DOCUMENTS
PLEADINGS AND OTHER TANGIBLE PROPERTY OF DEFENDANT

Date of Hearing: _____

Time of Hearing: _____

COMES NOW the Defendant, ALAN D. DANIELS,

in and through his proper person, pursuant to NRS 7-055 and
E.D.C.R. 7.40(b), and respectfully moves this Honorable Court
for an Order discharging the attorney of record, STANLEY
WALTON 550 E CHARLSTANT
WALTON LV, NV, 89104, and requiring said attorney to
forthwith transfer all papers, documents, pleadings, and other
tangible property pertaining to the above-entitled action to the
Defendant, so that a proper person WRIT AND/OR

MOTION, can be prepared.

COUNTY CLERK

DEC 17 2002

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1 This Motion is made and based upon the above referenced
2 Statute, attached Memorandum of Points and Authorities, and
3 attached Exhibit(s) submitted herewith.

4 DATED this 11th day of DECEMBER, 2002.

5 Respectfully Submitted By:

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8 NDOP NO. 63982, SP00
9 Post Office Box 208
Indian Springs, Nevada 89307

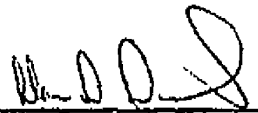
10 Defendant- In Propria Persona

11 NOTICE OF MOTION

12 TO: THE STATE OF NEVADA, Plaintiff;
13 TO: DAVID ROGER, District Attorney, Its Attorney; and
14 TO:

15 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE THAT
16 Undersigned will bring the above and foregoing Motion on for
17 hearing before the Court at the Courthouse of the above-entitled
18 Court on the _____ day of _____, at
19 _____ o'clock _____ M. of said day, in Department _____
20 of said Court.

21 Respectfully Submitted By:

22
23 

24 Defendant- In Propria Persona

25 MEMORANDUM OF POINTS AND AUTHORITIES

26 On or about the 10 day of July,
27 2002, the Defendant notified STANLEY WATSON,
28 _____, in writing of his desire to end the attorney

1 client relationship. Also, the Defendant requested that said
2 attorney of record appear forthwith before the Court to be
3 formally withdrawn as attorney of record, thereby reducing the
4 possibility of any ancillary Court action being delayed.

5 At the same time, Defendant requested that said attorney
6 of record deliver all papers, documents, pleadings, and other
7 tangible property that either belonged to the Defendant, or that
8 originated during the course of the case. (See Exhibit "_____".

9 More than Thirty (30) days has elapsed and said attorney
10 of record has failed to respond to Defendant's request in any
11 manner whatsoever.

12 A casual reading of NRS 7.055 will show that the language
13 contained therein, is mandatory. Thus, the only acceptable
14 reason for an attorney's refusal to comply with its provisions
15 and/or relinquish possession of any items belonging to the
16 Defendant-client, should be when said defendant-client has an
17 outstanding balance with the attorney's office. Id. In the
18 instant case, the Defendant has no such balance with said
19 attorney of record, nor with his/her office.

20 Therefore, the exception provisions to this statute is
21 inapplicable and the enforcement provision comes into play,
22 which states in relevant part:

23 A client who, after demand therefor and
24 payment of the fee due from him, does not
25 receive from his discharged attorney all
26 papers, documents, pleadings and items of
27 tangible personal property may, by a motion
28 filed after at least 5 days' notice to the
attorney, obtain an order for the production
of his papers, documents, pleadings and other
property. NRS 7.055(2).

.....

WHEREFORE, based upon the above, it is hereby respectfully requested that this Court issue an Order discharging
STANLEY WALTON, as attorney of record herein and ordering that said attorney forthwith transfer to Defendant all papers, documents, pleadings, transcripts and other tangible property pertaining to the above-entitled case in the possession of said attorney within ten (10) days of that Order.

DATED this _____ day of _____, _____

Respectfully Submitted By:

W. D. French

NDOP NO. 63982, SECC
Post Office Box 208
Indian Springs, Nevada SECCO

Defendant- In Propria Persona

CERTIFICATE OF SERVICE BY MAIL

I, The Undersigned, hereby certify, pursuant to N.R.C.P.
5(b), that on this 16th day of DECEMBER, 2022
I served the foregoing MOTION TO DISCHARGE ATTORNEY OF RECORD
AND FOR THE PRODUCTION OF ALL PAPERS, DOCUMENTS, PLEADINGS, AND
OTHER TANGIBLE PROPERTY OF DEFENDANT by mailing a true and
correct copy thereof in a sealed envelope, upon which first
class postage was fully prepaid, addressed to:

DAVID ROGER, District Attorney
District Attorney's Office
Clark County Courthouse
200 South Third Street, Floor 7th
Post Office Box 552212
Las Vegas, Nevada 89155-2212

Attorney of Record

that there is regular communication by mail between the place of
mailing and the places so addressed.

Alan O. Daniels
DECLARANT

1 NDOP NO. 63982, SDCC
2 Post Office Box 208
3 Indian Springs, Nevada 89070

4 Defendant- In Propria Persona

5
6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA
9

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

16 ORDER DISCHARGING ATTORNEY OF RECORD
17 AND THE PRODUCTION OF ALL PAPERS, DOCUMENTS,
18 PLEADINGS AND OTHER TANGIBLE PROPERTY OF DEFENDANT

18 The Proper person Motion of ALAN DANIELS,
19 Defendant above named, for an Order discharging the attorney of
20 record and requiring said attorney to forthwith produce all
21 papers, documents, pleadings and other tangible property of
22 Defendant, having come before the Court this day, and the Court
23 being fully advised, and good cause appearing, now therefore;

24 IT IS HEREBY ORDERED that STANLEY WALTON,
25 attorney of record be, and he/she is discharged as attorney of
26 record herein and in its stead, Defendant is placed in his proper
27 person. Further service of process will hereafter be made upon
28 the Defendant at the following address:

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ALAN D. DANIELS
NDOP NO. 63982, SDCC
Post Office Box 208
Indian Springs, Nevada 89070

IT IS FURTHER ORDERED that STANLEY WALTON,
the last assigned attorney of record in this case, forthwith
transfer to the Defendant all papers, documents, pleadings, and
other tangible proeprty arising out of, or pertaining to the
above-entitled action within ten (10) days of this Order, so that
Defendant can prepare a proper person _____

DATED AND DONE: _____

DISTRICT COURT JUDGE

Submitted By:

ALAN D. DANIELS
NDOP NO. 63982, SDCC
Post Office Box 208
Indian Springs, Nevada 89070
Defendant- In Propria Persona

ORIGINAL

9

1 **ORDR**

2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **LINDA LEWIS**
6 **Deputy District Attorney**
7 **Nevada Bar #006541**
8 **200 South Third Street**
9 **Las Vegas, NV 89155-2211**
10 **(702) 455-4711**
11 **Attorney for Plaintiff**

FILED

JAN 16 9 30 AM '03

Shirley S. Pangione
CLERK

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

10 **THE STATE OF NEVADA,**
11 **Plaintiff,**

12 **-vs-**

13 **ALAN DEMETRIUS DANIELS,**
14 **#0747918**

15 **Defendant.**

Case No. C156246
Dept No. XIV

17 **ORDER GRANTING DEFENDANT'S PRO PER MOTION TO DISCHARGE**
18 **ATTORNEY OF RECORD AND FOR THE PRODUCTION OF ALL PAPERS,**
19 **DOCUMENTS, PLEADINGS AND OTHER TANGIBLE PROPERTY OF DEFENDANT**

20 **DATE OF HEARING: 01/07/03**
21 **TIME OF HEARING: 9:00 A.M.**

22 **THIS MATTER** having come on for hearing before the above entitled Court on the
23 7th day of January, 2003, the Defendant notbeing present, in proper person, the Plaintiff
24 being represented by DAVID ROGER, District Attorney, through LINDA LEWIS, Deputy
25 District Attorney, and the Court having heard the arguments of counsel and good cause
26 appearing therefor,

27 **///**

28 **///**

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JAN 16 2003

COUNTY CLERK

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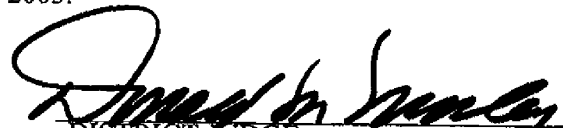
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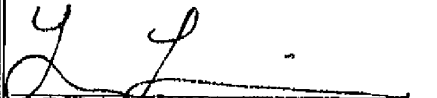
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IT IS HEREBY ORDERED that the Pro Per Motion to Discharge Attorney of Record and for the Production of All Papers, Documents, Pleadings and Other Tangible Property of Defendant, shall be, and it is granted.

DATED this 10th day of January, 2003.


DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781


LINDA LEWIS
Deputy District Attorney
Nevada Bar #006541

jj

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FILED

FEB 7 2 47 PM '0.
Chadwick & Higgins
CLERK

1 ALAN D. DANIELS
2 NDOP NO. 63982, SDCC
3 Post Office Box 208
Indian Springs, Nevada 89070

4 Defendant- In Propria Persona
5 ALAN DEMETRIUS DANIELS

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9
10 THE STATE OF NEVADA,
11 Plaintiff,
12 vs.
13 ALAN DEMETRIUS DANIELS
14 Defendant.

CASE NO. C156246
DEPT NO. 16 14
DOCKET

15 Rule 2.24.(c) Rehearing of Motion-EDCR.
16 MOTION TO DISCHARGE ATTORNEY OF RECORD AND
17 FOR THE PRODUCTION OF ALL PAPERS, DOCUMENTS
PLEADINGS AND OTHER TANGIBLE PROPERTY OF DEFENDANT

18 Date of Hearing: 02-18-03

19 Time of Hearing: 9A

20 COMES NOW the Defendant, ALAN DEMETRIUS DANIELS

21 in and through his proper person, pursuant to NRS 7-055 and
22 E.D.C.R. 7.40(b), and respectfully moves this Honorable Court
23 for an Order discharging the attorney of record, STANLEY WALTON
24 550 E. Charleston Blvd suite A
25 Las Vegas, NV 89104, and requiring said attorney to
26 forthwith transfer all papers, documents, pleadings, and other
27 tangible property pertaining to the above-entitled action to the
Defendant, so that a proper person PETITION WRIT.
28 _____, can be prepared.

COUNTY CLERK

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CMC

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1 RELEVANT FACTS UNDER RULE 2.24.(c) FOR
2 REHEARING OF MOTION EDCR. FOR PRODUCTION OF
3 ALL DOCUMENTS UNDER NRS.7,055 (2) ATTORNEY FAILED TO
4 COMPLY TO THE COURT'S ORDER TO MAIL ALL DOCUMENTS.

5 Relevant Facts:

6 (1) On January 7, 03 at 9:00 am Dept 16. Judge Mosely
7 granted a Motion to discharge attorney of record Stanley
8 Walton. And production of all documents was heard and granted
9 by the Court. That said attorney send file to defendant.

10 (2) The defendant Alan Daniels is giving notice to
11 the Court, that said discharge attorney Stanley Walton, did
12 not comply to the Court's order, as of February 4, 03.

13 (3) The defendant can't file his State Post-
14 Conviction Petition within the one year Rule, without the
15 documents as follows: Sentencing Minutes, J.O.C. Presentence
16 Investigation Report, Amended Indictment or Information,
17 Guilty Plea or Amended Guilty Plea.

18 (4) Under Rule 2.24.(c) States in Relevant Part:
19 If a motion for rehearing is granted, the court may make a
20 final disposition of the cause without reargument or may
21 reset it for reargument or resubmission or may make such
22 other orders as are deemed appropriate under the
23 circumstances of the particular case.

24 (5) NRS. 7.055 (2). States in Relevant Part;
25 A client who, after demand therefore and payment of the fee
26 due from him, does not receive from his discharged attorney
27 all papers, documents, pleadings, may obtain an order for the
28 production of his papers, documents, pleadings, and other
property. NRS. 7.055 (2).

CONCLUSION

Based on the relevant facts, the defendant Alan Daniels respectfully moves this Honorable Court for an Order of rehearing to have said attorney Stanley Walton comply to the Court's Order. To mail all documents listed on page 2.--(3)-- of defendant rehearing for Production of all Documents, based on the relevant facts and defendant's Time-Line to file his State post-conviction petition within the one year rule to file said petition.

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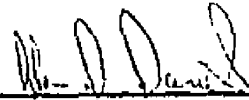
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1 This Motion is made and based upon the above referenced
2 Statute, attached Memorandum of Points and Authorities, and
3 attached Exhibit(s) submitted herewith.

4 DATED this 4 day of FEBRUARY, 03.

5 Respectfully Submitted By:

6 
7

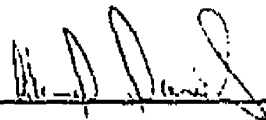
8 NDOP NO. 63982, SDCC
9 Post Office Box 208
Indian Springs, Nevada 89070
10 Defendant- In Propria Persona

11 NOTICE OF MOTION

12 TO: THE STATE OF NEVADA, Plaintiff;
13 TO: DAVID ROGER, District Attorney, Its Attorney; and
14 TO:

15 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the
16 Undersigned will bring the above and foregoing Motion on for
17 hearing before the Court at the Courthouse of the above-entitled
18 Court on the _____ day of _____, at
19 _____ o'clock _____ M. of said day, in Department _____
20 of said Court.

21 Respectfully Submitted By:

22 
23

24 Defendant- In Propria Persona

25 MEMORANDUM OF POINTS AND AUTHORITIES

26 On or about the 5 day of APRIL,

27 02, the Defendant notified STANLEY WALTON,
28 Attorney, in writing of his desire to end the attorney

1 client relationship. Also, the Defendant requested that said
2 attorney of record appear forthwith before the Court to be
3 formally withdrawn as attorney of record, thereby reducing the
4 possibility of any ancillary Court action being delayed.

5 At the same time, Defendant requested that said attorney
6 of record deliver all papers, documents, pleadings, and other
7 tangible property that either belonged to the Defendant, or that
8 originated during the course of the case. (See Exhibit "_____").

9 More than Thirty (30) days has elapsed and said attorney
10 of record has failed to respond to Defendant's request in any
11 manner whatsoever.

12 A casual reading of NRS 7.055 will show that the language
13 contained therein, is mandatory. Thus, the only acceptable
14 reason for an attorney's refusal to comply with its provisions
15 and/or relinquish possession of any items belonging to the
16 Defendant-client, should be when said defendant-client has an
17 outstanding balance with the attorney's office. Id. In the
18 instant case, the Defendant has no such balance with said
19 attorney of record, nor with his/her office.

20 Therefore, the exception provisions to this statute is
21 inapplicable and the enforcement provision comes into play,
22 which states in relevant part:

23 A client who, after demand therefor and
24 payment of the fee due from him, does not
25 receive from his discharged attorney all
26 papers, documents, pleadings and items of
27 tangible personal property may, by a motion
filed after at least 5 days' notice to the
attorney, obtain an order for the production
of his papers, documents, pleadings and other
property. NRS 7.055(2).

28 5

1 WHEREFORE, based upon the above, it is hereby respectfully
2 requested that said motion for rehearing for production of
3 documents from Stanley Walton, as attorney of record herein and
4 ordering that said attorney forthwith transfer to Defendant all
5 papers, documents, pleadings, transcripts and other tangible
6 property pertaining to the above-entitled case in the possession
7 of said attorney within ten (10) days of that Order.

8 DATED this 4 day of February, 03.

9 Respectfully Submitted By:

10 Alan D. Daniels

11
12 NDOP NO. 63962, SDCC
13 Post Office Box 208
14 Indian Springs, Nevada 89070

15 Defendant- In Propria Persona
16 ALAN D. DANIELS
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CERTIFICATE OF SERVICE BY MAIL

I, The Undersigned, hereby certify, pursuant to N.R.C.P.
5(b), that on this 14 day of February, 1963

I served the foregoing MOTION TO DISCHARGE ATTORNEY OF RECORD
AND FOR THE PRODUCTION OF ALL PAPERS, DOCUMENTS, PLEADINGS, AND
OTHER TANGIBLE PROPERTY OF DEFENDANT by mailing a true and
correct copy thereof in a sealed envelope, upon which first
class postage was fully prepaid, addressed to:

DAVID ROGER, District Attorney
District Attorney's Office
Clark County Courthouse
200 South Third Street, Floor 7th
Post Office Box 552212
Las Vegas, Nevada 89155-2212

Attorney of Record

that there is regular communication by mail between the place of
mailing and the places so addressed.

DAVID ROGER
DECLARANT

1 ALAN D. DANIELS
2 NDOP NO. 63982, SDCC
3 Post Office Box 208
Indian Springs, Nevada 89070

4 Defendant- In Propria Persona
5 ALAN D. DANIELS

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA
9

10 THE STATE OF NEVADA,)
11 Plaintiff,)
12 vs.)
13 ALAN DEMETRIUS DANIELS)
14 Defendant.)
15

C156246

16 Rule 2.24.(c) Rehearing of Motion-EDCR.
17 ORDER DISCHARGING ATTORNEY OF RECORD
AND THE PRODUCTION OF ALL PAPERS, DOCUMENTS,
18 FLEADINGS AND OTHER TANGIBLE PROPERTY OF DEFENDANT

19 The Proper person Motion of _____,
20 Defendant above named, for an Order discharging the attorney of
21 record and requiring said attorney to forthwith produce all
22 papers, documents, pleadings and other tangible proeprty of
23 Defendant, having come before the Court this day, and the Court
being fully advised, and good cause appearing, now therefore;

24 IT IS HEREBY ORDERED that _____,
25 attorney of record be, and he/she is discharged as attorney of
26 record herein and in its stead, Defendant is placed in his proper
27 person. Further service of process will hereafter be made upon
28 the Defendant at the following address:

1 ALAN D. DANIELS

2 NDOP NO. 63982, SDCC
3 Post Office Box 208
Indian Springs, Nevada 89070

4 IT IS FURTHER ORDERED that _____,
5 the last assigned attorney of record in this case, forthwith
6 transfer to the Defendant all papers, documents, pleadings, and
7 other tangible property arising out of, or pertaining to the
8 above-entitled action within ten (10) days of this Order, so that
9 Defendant can prepare a proper person _____

10 _____
11 DATED AND DONE: _____
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14 _____
15 DISTRICT COURT JUDGE
16
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21

22 Submitted By:

23 
24 _____
25 NDOP NO. 63982, SDCC
26 Post Office Box 208
Indian Springs, Nevada 89070

27 Defendant- In Propria Persona
28

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FILED

MAR 24 9 09 PM '03

Shirley B. Brangina
CLERK

1 ALAN DEMETRIUS DANIELS
2 N.D.O.C. #63982
3 P.O. BOX 208
4 INDIAN SPRINGS, Nevada
5 89070. S.D.C.C.
6
7 Defendant Pro Se
8 ALAN DEMETRIUS DANIELS

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9 Plaintiff,
10 et,al

11 -VS-

12 ALAN D. DANIELS.
13 Defendant.

CASE NO. C156246
DEPT NO. XIV
DATE OF HEARING 4/8/03
TIME OF HEARING _____

MOTION FOR TRANSCRIPTS

14
15 COMES NOW, the Defendant, ALAN D. DANIELS in pro per, and
16 moves this Honorable court for its order granting Defendant the
17 guilty plea and sentencing transcripts in CASE NO. C156246 Dept
18 14, before Judge Donald M. Mosley. Connie Kalski, Relief Clerk,
19 Maureen Schorn, Reporter/Recorder were present during said date
20 05/14/02.

MC

21 Said transcripts are needed so that Defendant can pursue
22 issues in his State Petition for Post-Conviction Relief.

23 This motion is based upon NRS 178.552, and the attached
24 Order for Transcripts, as well said Motion is in Pro Se before
25 this Honorable court.

26 RESPECTFULLY SUBMITTED this 18 day of March, 2003.

[Signature]

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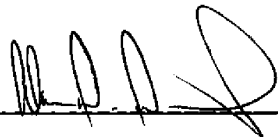
CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of March, 2003, I deposited in the Southern Desert Prison mail, postage prepaid, a copy of the NOTICE AND MOTION FOR TRANSCRIPTS, addressed as follows:

DAVID ROGERS
District Attorney,
200 S. THIRD ST
Post Office Box 552212
Las Vegas, Nevada 89155-2212

&

Shirley B. Parraguirre,
County Clerk.
County Courthouse
200 S. Third St
P.O. BOX 551601
Las Vegas, Nevada 89155-1601



20
FILED

MAR 24 9 09 PM '03

Shirley S. Panagiotou
CLERK

39
1 ALAN DEMETRIUS DANIELS
N.D.O.C. #63982.
2 P.O BOX 208
INDIAN SPRINGS, Nevada
3 89070. S.D.C.C.

4 Defendant Pro Se
ALAN DEMETRIUS DANIELS

5
6 DISTRICT COURT
CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,
Plaintiff,
9 et, al.

10 -VS-

11 ALAN D. DANIELS.

12 Defendant.

CASE NO. C156246

DEPT NO. XIV

DATE OF HEARING _____,

TIME OF HEARING _____,

13
14 NOTICE OF MOTION

15 TO: THE STATE OF NEVADA, Plaintiff; and
16 DAVID ROGER, District Attorney of Clark County

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the
18 8 day of April, 2003, at the hour of 9:00 a.m. or as soon
19 thereafter as Defendant may be heard, the undersigned will bring
20 on for hearing the herein motion for transcripts before the above
21 entitled court, at the Clark County courthouse, Las Vegas, Nevada,
22 Department thereof.

23 DATED this 18 day of March, 2003.

24
25 *Alan D. Daniels*
26 Defendant Pro Se
27
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RECEIVED

MAR 24 2003

COUNTY CLERK

1 ALAN DEMETRIUS DANIELS
N.D.O.C. #63982
2 P.O. BOX 208
INDIAN SPRINGS, Nevada
89070. S.D.C.C.
3 Defendant Pro Se
ALAN DEMETRIUS DANIELS
4

5 DISTRICT COURT
CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,
Plaintiff,
8 et, al.

9 -VS-

CASE NO. C156246
DEPT NO. XIV

10 ALAN D. DANIELS
11 Defendant.
12 -----

13 ORDER FOR TRANSCRIPTS

14 TO: COURT REPORTER - DEPARTMENT

15 Pursuant to the hearing of Defendant's Motion for
Transcripts on the ____ day of _____, 2003; and

16 GOOD CAUSE APPEARING IT IS HEREBY ORDER that the
17 transcripts be provided to Defendant at his place of confinement
forthwith.

18 1. Defendant's guilty plea and sentencing transcripts in
19 CASE NO. C156246 Dept 14, before Judge Donald M. Mosley. Date
20 of sentencing 05/14/03.

21 Said transcripts are needed so that Defendant can pursue
22 issues in his State Petition for Post-Conviction Relief.

23 This motion is based upon NRS 178.552. And based on
24 Defendant is in Pro Se.

25 ///

26 ///

27 ///

28 ///

1 Guilty Plea and sentencing transcripts shall be provided
2 to the Defendant in CASE NO. C156246. Date of said sentencing
3 05/14/03. Dept 14, before Judge Donald M. Mosely.

4 DATED this ____ day of _____, 2003.

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6 _____
7 DISTRICT COURT JUDGE
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OPPS
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
H. LEON SIMON
Deputy District Attorney
Nevada Bar #000411
200 South Third Street
Las Vegas, Nevada 89155-2211
(702) 455-4711
Attorney for Plaintiff

FILED

APR 3 2 05 PM '03

Shirley L. Hingston
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,)
)
-vs-)
)
ALAN DEMETRIUS DANIELS,)
#0747918)
)
Defendant.)

CASE NO: C156246
DEPT NO: XIV

STATE'S OPPOSITION TO DEFENDANT'S PRO PER MOTION FOR TRANSCRIPTS

DATE OF HEARING: 04/08/03
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through H. LEON SIMON, Deputy District Attorney, and hereby submits the attached Points and Authorities in the State's Opposition To Defendant's Pro Per Motion For Transcripts.

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

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COUNTY CLERK

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On January 27, 1999, an indictment was filed charging Alan Daniels, hereinafter
4 Defendant, with two counts of Burglary While in Possession of a Firearm, three counts of
5 Robbery With Use of a Deadly Weapon, and Conspiracy to Commit Robbery. On April 2,
6 2002, an amended indictment was filed in open court charging Defendant with Burglary
7 While in Possession of a Firearm and Robbery. On April 2, 2002, a guilty plea agreement
8 was filed in open court in which Defendant pleads guilty to the amended indictment.

9 On May 14, 2002, Defendant was sentenced in the instant matter. As to Count I,
10 Burglary While in Possession of a Firearm, Defendant was sentenced to a maximum term of
11 one-hundred eighty (180) months with a minimum parole eligibility of thirty five (35)
12 months. As to Count II, Robbery, Defendant was sentenced to a maximum term of one-
13 hundred eighty (180) months with a minimum parole eligibility of thirty-five (35) months in
14 the Nevada Department of Corrections. Count II was ordered to run concurrent to Count I.
15 In addition, Defendant received thirty six (36) days credit for time served. On May 28,
16 2002, judgment of conviction was filed. On December 18, 2002, Defendant filed a pro per
17 motion to discharge his attorney of record. On January 16, 2003, an order was filed granting
18 Defendant's pro per motion to discharge his attorney of record. On March 24, 2003,
19 Defendant filed the instant motion.

20 **ARGUMENT**

21 **I. DEFENDANT HAS NOT ESTABLISHED A NEED FOR STATE FUNDED**
22 **TRANSCRIPTS**

23 Defendant asks that the State provide him with transcripts and records at State
24 expense. However, the State is not required to furnished transcripts based on an unsupported
25 request by a petitioner who is unable to pay for them. The Nevada Supreme Court has set
26 forth a threshold requirement which a Defendant must meet in order to qualify for State
27 supplied transcripts and records. The Nevada Supreme Court has stated:
28

1 NRS 177.325, 177.335, and 177.345 do not contemplate that records will be
2 furnished at state expense upon the mere unsupported request of a petitioner
3 who is unable to pay for them. Just as the petitioner must show that the
4 requested review is not frivolous before he may have an attorney appointed
(NRS 177.345 (2)), so must he satisfy the court that the points raised have
merit and such merit will tend to be supported by a review of the record before
he may have trial records supplied at state expense. He must specifically set
forth grounds upon which the petition is based.

5 Peterson v. Warden, 87 Nev. 134, 135-136, 483 P.2d 204, 205 (1971). Defendant must
6 satisfy the court that the points raised have merit and such merit will tend to be supported by
7 a review of the record before he may have trial records supplied at state expense. Peterson v.
8 Warden, 87 Nev. 134, 483 P.2d 204 (1971).

9 In the present case, Defendant claims he needs the transcripts in order to allege all
10 available issues in his Petition for Writ of Habeas Corpus (Post-conviction). Defendant has
11 not demonstrated that the arguments he intends to raise on appeal have merit. As such,
12 Defendant has not met the threshold requirement and should be denied transcripts at state
13 expense.

14 CONCLUSION

15 Defendant has not demonstrated a need for State funded documents. Therefore, the
16 Court should deny Defendant's Motion for Transcripts at State Expense.

17 DATED this _____ day of April, 2003.

18 Respectfully submitted,

19 DAVID ROGER
20 Clark County District Attorney
Nevada Bar #002781

21
22
23 BY

24 H. LEON SIMON
25 Deputy District Attorney
Nevada Bar #000411

26 ///

27 ///

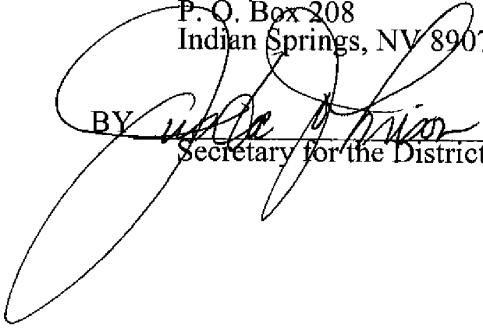
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CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 3 day of March, 2003, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

Alan Demetrius Daniels (BAC#63982)
Southern Desert Correctional Center
P. O. Box 208
Indian Springs, NV 89070

BY  Secretary for the District Attorney's Office

TO/HLS/jj

1 **ORDR**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 DAVID B. BARKER
6 Chief Deputy District Attorney
7 Nevada Bar #001648
8 200 South Third Street
9 Las Vegas, NV 89155-2211
10 (702) 455-4711
11 Attorney for Plaintiff

FILED

APR 22 9 42 AM '03

Shirley A. Longman
CLERK

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 ALAN DEMETRIUS DANIELS,
14 #0747918

15 Defendant.

Case No. C156246
Dept No. XIV

17 ORDER DENYING DEFENDANT'S PRO PER MOTION FOR TRANSCRIPTS

18 DATE OF HEARING: 04/08/03
19 TIME OF HEARING: 9:00 A.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 8th day of April, 2003, the Defendant not being present, in proper person, the Plaintiff being
22 represented by DAVID ROGER, District Attorney, through DAVID B. BARKER, Chief
23 Deputy District Attorney, and the Court having heard the arguments of counsel and good
24 cause appearing therefore,

25 ///

26 ///

///

///

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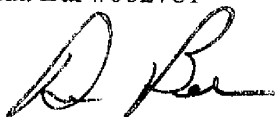
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1 IT IS HEREBY ORDERED that the Defendant's Pro Per Motion for Transcripts, shall
2 be, and it is hereby denied.

3 DATED this 10TH day of April, 2003.

4
5 
6 DISTRICT JUDGE 8

7
8 DAVID ROGER
9 DISTRICT ATTORNEY
10 Nevada Bar #002781

11 
12 DAVID B. BARKER
13 Chief Deputy District Attorney
14 Nevada Bar #001648
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DOCUMENT,
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43
1 ALAN DEMETRIUS DANIELS
N.D.O.C. #63982
2 POST OFFICE BOX 208
INDIAN SPRINGS, NEVADA
3 89070, S.D.C.C.

4 Defendant-In Proper Person
ALAN DEMETRIUS DANIELS
5

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 ALAN DEMETRIUS DANIELS
9 Defendant,

21
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MAY 9 2 06 PM '03
Shirley L. Langston
CLERK

CASE NO: C156246
DEPT NO: XIV
DOCKET T

10 VS.

Date of Hearing: _____
Time of Hearing: _____

11 THE STATE OF NEVADA, et,al.
12 Respondents.
13

14 MOTION FOR MODIFICATION OF SENTENCE

15 COMES NOW Defendant, Alan Demetrius Daniels in and
16 through his Proper Person pursuant to NRS 178.552, And pursuant
17 to STATE v. EIGHTH JUD. DIST. COURT 677 P.2d 1044 (Nev.1984)
18 And respectfully request this Honorable Court for an Order
19 granting Motion for Modification of Sentence in the above-
20 entitle case.

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

25 DATED THIS 6th day of May, 2003.

26 Respectfully Submitted By-
27 [Signature]
28

1 FACTUAL STATEMENT OF THE CASE

2 The defendant Alan Demetrius Daniels, appeared before the Court
3 with Counsel Stanley Walton, and enter a plea of guilty to the
4 crime(s) of Count 1-BURGLARY WHILE IN POSSESSION OF A FIREARM (
5 Category B Felony) And Count II-ROBBERY (Category B Felony),
6 in violation of NRS 200.380; thereafter, on the 14th day of May,
7 2002, the defendant was present in Court for sentencing with his
8 counsel. The defendant was adjudged guilty of said offense(s)

9 The defendant was sentenced as to Count 1-to the Nevada
10 Department of Corrections for a Maximum term of One Hundred
11 Eighty (180) Months with a Minimum parole eligibility of Thirty-
12 Five (35) Months and on Count II-Maximum term of One Hundred
13 Eighty (180) Months with a Minimum parole eligibility of Thirty-
14 Five (35) Months. Count II to run Concurrent to Count 1.-

15 Sentence to run Consecutive to the sentence the defendant is
16 currently serving. Defendant received Thirty-Six (36) Days
17 credit for time served. Said date of Judgement and plea May 24
18 2002, before District Court Judge Donald M. Mosley Dept XIV.
19 A Stamp file Judgement of Conviction (Plea of Guilty) was
20 entered on May 28, 11:39 AM 02, By the county Clerk's Office-See
21 defendant's Exhibit (A) attached to said Motion.

22 A Parole and Probation Pre-Sentence Investigation Report was
23 Order by the Court, The defendant was scheduled for a telephonic
24 interview with the Division on May 2, 2002, While in custody at
25 the Southern Desert Correctional Center.

26 The Defendant was unable to obtain an interview in a timely
27 manner.

28 ///

1 **because** the caseworker was unavailable at the time of the
2 scheduled interview. The Division would need additional time
3 to re-schedule the appointment if the Court desires a
4 defendant's statement. **This fact is Reflected in the Parole and**
5 **Probation Presentence Investigation Report at page 4, See**
6 **also on page 4, of said Report statement**—Due to the fact that
7 the Division was unable to contact the defendant for a Pre-
8 Sentence investigation interview, the information provided was
9 obtained from a previous pre-sentence report dated December,
10 1999. The following social history and community supervision
11 plan are not updated and are as related by the defendant.
12 The information provided is **unverified** unless otherwise noted.
13 **See defendant's Exhibit (b) attached to said Motion.....The**
14 **Pre-Sentence Investigation Report is Dated 04-25-2002.**
15 The defendant signed a Guilty Plea Agreement dated April 2, 2002
16 And filed in open Court By the county clerk Office. **See**
17 **defendant's Exhibit (c) attached to said Motion.**
18 On page 3, of the Plea Agreement it Stated in Relevant Part;
19 **Lines-10-16, I understand that the Division of Parole and**
20 **Probation will prepare a report for the sentencing Judge prior**
21 **to sentencing. This report will include matters relevant to the**
22 **issues of sentencing, including my criminal history. My attorney**
23 **and I Will Each have the Opportunity to comment on the-**
24 **information contained in the report at the time of sentencing.**
25 **Unless the District Attorney has specifically agreed otherwise,**
26 **then the District Attorney may also comment on this report.**
27 The Plea Agreement **Also Stated,** on Page 2-Lines 26-28, and
28 **///**

1 Page 3-Lines 1-3, I understand that if the State of Nevada has
2 agreed to recommend or stipulate a particular sentence or has
3 agreed not to present argument regarding sentence, or agreed
4 not to oppose a particular sentence, such agreement is-
5 contingent upon my appearance in Court on the initial sentencing
6 date (and any subsequent dates if the sentencing is continued).
7 I understand that if I fail to appear for the scheduled -
8 sentencing date or I commit a new criminal offense prior to
9 sentencing the State of Nevada would regain the full right to
10 argue for any lawful sentence.

11

12 The defendant Alan D. Daniels have filed to Relevant legal
13 Argument for Modification of Sentence of Constitutional Merit,
14 and respectfully ask this Honorable Court to consider the
15 following ISSUES".

16 ISSUE I. The defendant was denied a pre-sentence
17 investigation report interview and discloser, under the federal
18 constitutional guarantees of due process, equal protection in
19 violation of his rights to due process guaranteed by the 5th,
20 6th and 14th Amendments to the United States Constitution.

21

22 ISSUE II. The state violated the defendant's his rights
23 to due process of law as guaranteed by the 5th and 14th
24 Amendments to the United States Constitution. When the state
25 stipulated not to oppose concurrent time with case no.C160684.
26 which is stipulated in the guilty plea agreement. in violation
27 of the defendant's 5th 14th Amendments rights to due process.

28 The following EXHIBITS' LISTED:

- 29 (A)-Judgement of Conviction Plea of Guilty.
30 (b)-Pre-Sentence Investigation Report.
31 (c)-Guilty Plea Agreement.
32 (d)-Criminal-Minutes' Sentencing Date.
33 /// Attached to back of said motion.

34 . . .

ISSUE I.

RELEVANT LEGAL ARGUMENT FOR MODIFICATION OF SENTENCE
AND POINTS OF AUTHORITIES IN SUPPORT FOR MODIFICATION

THE DEFENDANT WAS DENIED A PRE-SENTENCE INVESTIGATION REPORT,
INTERVIEW AND DISCLOSURE, UNDER THE FEDERAL CONSTITUTIONAL
GUARANTEES OF DUE PROCESS, EQUAL PROTECTION IN VIOLATION OF
HIS RIGHTS TO DUE PROCESS GUARANTEED BY THE 5th 6th and 14th
AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Supporting Facts:

The Pre-Sentence Investigation Report given to the Court clearly stated, The defendant was scheduled for a telephonic interview with the Division on May 2, 2002, while in custody at the Southern Desert Correctional Center. The defendant was unable to obtain an interview in a timely manner, because the caseworker was unavailable at the time of the scheduled interview. The Division would need additional time to - re-schedule the appointment if the Court desires a defendant's statement. Due to the fact that the Division was unable to contact the defendant for a Pre-Sentence Investigation - interview, the information provided was obtained from a - previous Pre-Sentence report dated December, 1999. The - following social history and community supervision plan are not updated and areas related by the defendant. The - information provided is **unverified** unless otherwise noted. See **defendant's Exhibit (b) Pre-Sentence Investigation Report - attached to said Motion, at page 4.**

The defendant signed a Guilty Plea Agreement dated April 2, 2002, And was filed in open Court by the county clerk's Office. On page 3, of the Plea Agreement it Stated in Relevant Part; **Lines-10-16, I** understand that the Division of Parole and

///

1 Probation will prepare a report for the sentencing judge prior
2 to sentencing. this report will include matters relevant to the
3 issues of sentencing, including my criminal history. this report
4 may contain hearsay information regarding my background and
5 criminal history. My attorney and I will each have a opportunity
6 to comment on the information contained in the report at the time
7 of sentencing. Unless the District Attorney has specifically
8 agreed otherwise, then the District Attorney may also comment
9 on this report.

10 Let the record reflect before this Court, It his clear
11 that the Pre-Sentence Investigation Report that was before the
12 Court Clearly Stated, a interview was unavailable, because the
13 caseworker was unavailable at the scheduled time, the Division
14 would need additional time to re-schedule. Due to the fact that
15 the division was unable to contact the Defendant, the information
16 provided was obtained from a previous Pre-Sentence report dated
17 December, 1999. The following social history and community
18 supervision plan are not updated, the information provided is
19 unverified unless otherwise noted. This is Reflected in the
20 Report used at sentencing.

21 The Defendant Constitutional Rights to Due Process, Equal
22 Protection, was denied when, A updated Pre-Sentence investigation
23 Report, And Interview and Discloser was not conducted before the
24 defendant was sentence. Which is required under the Federal
25 Constitutional Guarantees of Due Process, Equal Protection. in
26 violation of his 5th 6th and 14th Amendments Rights.

27 Under NRS 176.156 Discloser of Report of Presentence or General

28 ///

1 Investigation; Persons entitled to use Report; Confidentiality
2 of Report. States' in Relevant Part:

3 1. The division shall disclose to the prosecuting
4 attorney, the counsel for the defendant and the
5 defendant the factual content of the report of:
6 (a) Any presentence investigation made pursuant to NRS
7 176.135 and the recommendations of the division.
8 (b) Any general investigation made pursuant to NRS
9 176.135. the division shall afford an opportunity to
10 each party to object to factual errors in any such
11 report and to comment on any recommendations.

8 Federal Rules of Criminal Procedures. States in Relevant Part:

9 Rule 32,(3) Imposition of Sentence. Before imposing
10 sentence, the court must:

11 (A) Verify that the defendant and defendant's counsel
12 have read and discussed the presentence report made
13 available under subdivision (b)(6)(A).
14 (b) afford defendant's counsel an opportunity to speak
15 on behalf of the defendant;
16 (c) Address the defendant personally and determine
17 whether the defendant wishes to make a statement and
18 to present any information in mitigation of the
19 sentence.

15 The defendant Alan D. Daniels submits' to this Court;

16 Harmless error analysis may be appropriate when
17 sentencing judge fails to observe requirements of rule
18 requiring judge to determine whether defendant read
19 presentence report or discussed it with counsel. See-
20 U.S.-V-SUSTAITA Cited as 1 F.3d 950 (9th Cir.1993) at
21 page 954-[9].

20 Sentencing judge's failure to determine whether
21 defendant had read presentence report or discussed it
22 with his counsel, as required by Rules of Criminal
23 Procedure, was prejudicial error, requiring resentencing.
24 defense counsel Made no specific objection to any fact
25 in presentence report, and the defendant could have
26 tried to contradict report's factual findings had he
27 been given opportunity to read or discuss it. See also
28 U.S.-V-SUSTAITA Cited as 1 F.3d 950 (9th Cir 1993) at
page 953-[7]. Which was vacated and remand for
resentencing.
The (9th Cir 1993 in U.S.-V-SUSTAITA Stated: We there-
fore cannot excuse the court's failure to determine
whether Sustaita read the presentence report or
discussed it with her counsel. See page 954-[9]
U.S.-V-SUSTAITA.

1 In STATE -V- EIGHTH JUD. DIST. COURT Cited as 677 P.2d 1044
2 (Nev.1984) at page 1048-[3] States' in Relevant Part:

3 The district court's inherent authority to correct a
4 judgement or sentence founded on mistake is in accord
5 with the constitutional considerations underlying the
6 sentencing process.

6 In STATE -V- EIGHTH JUD. DIST COURT 677 P.2d 1044 (Nev.1984)
7 at page 1048-[3] States' in Relevant Part:

8 finding the defendant's due process rights had been
9 violated as the result of the sentencing judge's
10 misapprehension of the report. Id. at 246; see also
11 United States v. Myers, 374 F.2d at 710-712 -
12 (sentencing judge misread criminal record and -
13 sentenced defendant while under mistake assumption he
14 had suffered three prior convictions for strong arm
15 robbery); United States v. Weston, 448 F.2d 626 (9th
16 Cir. 1971)(sentencing judge's reliance upon pre-
17 sentence investigation report predicated on limited
18 factual basis amounts to due process violation).

14 In the defendant's Alan D. Daniels case the following Relevant
15 misapprehensions And assumption and errors, are contained in
16 the pre-sentence investigation report on page-5, are listed As:

17 (1) Alcohol Abuse: (No) The defendant reports consuming a
18 6-pack to 12-pack of beer on a weekly basis.

19 (2) Controlled Substance Use: (No)

20 (3) EVALUATION:

21 It is suspected that the defendant abuses both alcohol
22 and controlled substance.

23 In summary, it appears most likely that the defendant
24 has been involved in numerous robberies in addition to
25 those robberies for which he has been convicted.

24 (1) Alcohol Abuse: (No) The court will notice the answer is
25 No! It is Clear by the pre-sentence report contain inaccurate
26 "materially untrue assumptions" concerning the defendant's
27 criminal record. P & P report states the defendant consuming

28 ///

1 a 6-pack to 12-pack of beer on a weekly basis. this report is
2 inaccurate and false when the answer is No.

3
4 **(2) Controlled Substance Use: (No)** The pre-sentence
5 investigation answer is No! The answer is correct, But
6 if the Court will notice the pre-sentence report
7 contain a listing of charges of the defendant's alleged
8 convictions and criminal record.
9 The defendant Alan D. Daniels criminal record reflects'
10 **No** convictions' for use, or Possession of any Controlled
11 Substance.
12 And more Relevant the defendant never omitted to such
13 "materially untrue inaccurate and false information
14 in this Invalid December, 1999 Pre-sentence Report.

15
16 **(3) EVALUATION:** The pre-sentence investigation report
17 stated:
18 It is suspected that the defendant abuses both alcohol
19 and controlled substance.

20
21 In summary, it appears most likely that the defendant
22 has been involved in numerous robberies in addition to
23 those robberies for which he has been convicted.

24 The defendant Alan D. Daniels ask this Honorable Court to
25 consolidate **(2) Controlled Substance Use: And (3) Evaluation:** in
26 the Court's determination of the following Relevant inaccurate
27 information and the defendant's Reply. At **-(3) Evaluation: the**
28 **key word is** It is suspected, that the defendant abuses both
alcohol and controlled substance. Suspected is not a conviction
and is inaccurate, "materially untrue assumptions', false
information concerning the defendant's criminal record. This
was use at sentencing as a basis in sentencing. Which works to
the extreme detriment of the defendant. And more Relevant the
defendant never omitted to such untrue inaccurate and false
information,, in this Invalid December, 1999 (PSI)-Report. In
violation of the defendant's Fifth, Fourteenth Amendments'

///
9-

1 Rights to the United States Constitution. Also under (3) -

2 **Evaluation: P & P stated: In summary, it appears most likely**
3 **that the defendant has been involved in numerous robberies in**
4 **addition to those robberies for which he has been convicted.**
5 **See defendant's Exhibit (b) pre-sentence investigation report**
6 **at page 5, Relevant facts.**

7 If the court review Case No. C160684 the dates range from
8 6-14-1999,-1-10-2000, which is the defendant's sentenced date,
9 for multiple charges' which include Robbery. After the -
10 defendant was charged in this Case No. C160684 P & P never had
11 any other information or convictions on the defendant for any
12 **other robberies. When they conducted a December 1999 report!**
13 This inaccurate false information about numerous robberies' as
14 indicated in P & P Evaluation of statements was misleading
15 before the Court in December 1999. When the defendant never was
16 charged or convicted for such robberies!.

17 It is clear that a sentencing judge's misapprehension
18 of a defendant's criminal record may result in a
19 violation of the defendant's right to due process of law.
20 When this potential due process violation is considered
21 in conjunction with the district court's inherent
22 authority to correct sentences founded on mistakes
23 which work to the extreme detriment of the defendant,
24 it is equally clear that the district court has
25 authority to correct or modify a sentence which is the
26 result of the sentencing judge's misapprehension of a
27 defendant's criminal record. U.S.C.A. Const.Amends. 5,-
28 14. See STATE v. EIGHTH JUD. DIST. COURT Cited as 677
P.2d 1044 (Nev. 1984) at page 1048-[4,5]. also at page
1048-[3]-The United States Supreme Court has expressly
held that where a defendant is sentenced on the basis
of materially untrue assumptions concerning his criminal
record, "[the] result, whether caused by carelessness
or design, is inconsistent with due process of law."
Townsend v. Burke, 334 U.S. 736, 741, 68 S.Ct.1252, 1255,
92 L.Ed. 1690 (1948). Further, the cases clearly
establish that constitutionally violative "materially
untrue assumptions" concerning a criminal record may

///

aries either as a result of a sentencing judge's correct perception of inaccurate or false information, or a sentencing judge's incorrect perception or misapprehension of otherwise accurate or true information.

The Invalid inaccurate false information, mistakes, untrue unproven, statements in this December 1999, (PSI-REPORT), is not the legal fault of the district Court judge, But P & P inconsistent duty to conduct the proper interview of the said defendant Alan D. Daniels before sentencing in Case No. C156246.

In STATE V. EIGHTH JUD. DIST. COURT 667 P.2d 1044 (Nev. 1984) at page 1047-[1,2] States' in Relevant Part:

According, despite the state's reliance on NRS-176.185 (4), it is clear that when the sentencing court "makes a mistake in rendering a judgement which works to the extreme detriment of the defendant," the district court has jurisdiction to vacate or modify the suspect sentence or judgement.

This December, 1999- defective P & P report was used at the defendant's Alan D. Daniels 2002, sentencing hearing in Case No. C156246. In PASSANISI v. STATE 831 P.2d 1371 (Nev.1992) at page 1373-[5,6]-page-1374 States' in Relevant Part:

Generally, a district court lacks jurisdiction to suspend or modify a sentence after the defendant has begun to serve it. See NRS 176.1853(2); Miller v. Hayes, 95 Nev. 927, 604 P.2d 117 (1979).

We have made exceptions to this rule, however, when a court has made "a mistake in rendering a judgement which works to the extreme detriment of the defendant." State v. District Court, 100 Nev. 90, 95, 677 P.2d 1044, 1047(1984) (quoting Warden v. Peters, 83 Nev. 298, 301, 429 P.2d 549, 551 (1967)) (emphasis in original). Nevertheless, "not every mistake or error which occurs during sentencing gives rise to a due process violation. The cases implicitly recognize [that] ... a due process violation arises only when the errors result in materially untrue' assumptions about a defendant's record ... [T]hese considerations represent an appropriate jurisdictional limit to the correction or modification of a defective sentence by a district court. State v. District Court, 100 Nev. at 97, 677 P.2d at 1048-49(quoting Townsend v. Burke, 334 U.S. 736, 741, 68 S.Ct. 1252, 92 L.Ed. 1690(1948)(emphasis added); see

///

1 also Staley v. State, 106 Nev. 75, 79, 787 P.2d 396, 398
(1990).

2 Thus, it is clear that the district court had
3 jurisdiction to modify appellant's sentence in this case
4 only if (1) the district court actually sentenced
5 appellant based on a materially false assumption of fact
6 that worked to appellant's extreme detriment, and (2)
7 the particular mistake at issue was of the type that
8 would rise to the level of a violation of due process.

9 The defendant Alan D. Daniels case satisfies the two prong test
10 standard by the Nevada Supreme Court in PASSANISI V. STATE.

11 The Nevada Supreme Court also stated:

12 We further recognized that the inherent power to modify
13 a sentence necessarily includes the power to entertain
14 a motion to modify a sentence. Passanisi, 108 Nev. at
15 320, 831 P.2d at 1372.

16 We have expressly held that the district court's order
17 granting or denying such a motion is appealable as the
18 functional equivalent of an order granting or denying
19 a motion for a new trial pursuant to NRS 177.015(1)(b).
20 PASSANISI V. STATE 108 Nev. 318, 321-22, 831 P.2d 1371,
21 1373 (1992).

22 The P & P report statements' and inaccurate Evaluation violated
23 the defendant's due process rights prejudice said defendant at
24 sentencing before the district court judge. The sentencing judge
25 reliance upon pre-sentence investigation report predicated on
26 limited factual basis amounts to due process violation of the
27 defendant see UNITED STATES V. WESTON 448 F.2d 626 (9th Cir.
28 1971).

29 The Nevada Supreme Court ruling in PASSANI V. STATE at 831 P.2d
30 at 1372. recognized that the inherent power to modify a
31 sentence necessarily includes the power to entertain a motion
32 to modify a sentence.

33 Expressly held that the district court's order granting or
34 denying such a motion is appealable., PASSANISI 831 P.2d at 1373.

1 The defendant Alan D. Daniels request for a Determination by
2 this Honorable Court, to review the Record concerning the
3 factual Relevant legal argument. If the court had conducted
4 the proper procedure, the defendant could have objected to the
5 invalid Pre-Sentence Investigation Report dated December, 1999.
6 Objected to P & P failing to motion the Court for additional
7 time and properly contact, interview, and give the defendant
8 a timely manner before the sentencing date.

9 The defendant Alan D. Daniels submits' to this Court that, the
10 Nevada Supreme Court Stated;

11 NRS 176.156 declares that, "[t]he court shall disclose
12 to ... counsel for the defendant, the factual content
13 of the report of the presentence investigation and the
14 recommendations of the probation service and afford an
15 opportunity to each party to comment thereon." (Emphasis
added.) The language of NRS 176.156 is mandatory. See-
SHIELDS -V- STATE Cited as 634 P.2d 468 Nev,(1981) at-
page 468 -[1].

16 The defendant submits to this Court the Nevada Supreme Court's
17 did-not Rule that a 1999, invalid Pre-Sentence Investigation
18 Report can be used in a 2002 sentencing Hearing as was conducted
19 in the defendant's Alan D. Daniels Case.

20 The Nevada Supreme Court also Stated;

21 NRS 176.156 contemplates that persons convicted of
22 crimes should have the opportunity to make informed
23 comments on, and response to, all factual assertions
24 contained in presentence investigation report. Accord-
25 ingly, we reverse his sentence and remand this matter
for a resentencing hearing conducted in accord with NRS-
176.156. See SHIELDS-V-STATE Cited as 634 P.2d 468 Nev
(1981) at-page 469-[2].

26 The district judge Mosley sentencing decision manifestly was
27 affected by information contained in the invalid report used at

28 ///

1 sentencing in the defendant's Alan D. Daniels Case. as in -
2 SHIELDS-V-STATE, the defendant Alan D. Daniels sentence should
3 be reverse and remanded for a resentencing Hearing conducted in
4 accord with NRS 176.156. And a Valid Presentence Investigation
5 Report, And interview be conducted by the letter of the Law.

6
7 **Federal Rules of Criminal Procedures. State in Relevant Part:**

8 **Rule 32,(6) Discloser and Objections.**

9 (A) Not less than 35 days before the sentencing hearing
10 unless the defendant waives this minimum period-the
11 probation officer must furnish the presentence report
12 to the defendant, the defendant's counsel, and the
13 attorney for the Government. The court may, by local
14 rule or in individual cases, direct that the probation
15 officer not disclose the probation officer's
16 recommendation, if any, on the sentence.

17 (B) Within 14 days after receiving the presentence report
18 the parties shall communicate in writing to the probation
19 officer, and to each other, any objections to any
20 material information, sentencing classifications,
21 sentencing guideline ranges, and policy statements
22 contained in or omitted from the presentence report.
23 After receiving objections, the probation officer may
24 meet with the defendant, the defendant's counsel, and
25 the attorney for the Government to discuss those
26 objections. The probation officer may also conduct a
27 further investigation and revise the presentence report
28 as appropriate.

(C) Not later than 7 days before the sentencing hearing
the probation officer must submit the presentence report
to the court, together with an addendum setting forth
any unresolved objections, the grounds for those
objections, and the probation officer's comments on the
objections. At the same time, the probation officer must
furnish the revisions of the presentence report and the
addendum to the defendant, the defendant's counsel, and
the attorney for the Government.

24 The defendant Alan D. Daniles submit's P & P violated Rule 32,
25 and the defendant Rights to Due Process, Equal protection in
26 violation of his Rights to Due Process Guaranteed by the 5th,
27 6th, and 14th Amendments to the United States Constitution.

28 ///

1 And the Court violated **Rule 32(c)(3)** and defendant's Due -
2 Process, Equal Protection to Due Process Guaranteed by the 5th,
3 6th, And 14th Amendments to the United States Constitution.

4 **Rule 32(c)(3) provides in relevant part:**

5 Before imposing sentence, the court must:

6 (A) Verify that the defendant and defendant's counsel
7 have read and discussed the presentence report ...[and]
8 give the defendant and the defendant's counsel a
9 reasonable opportunity to comment on that information.

10 "[T]he plain language of [the rule] requires that the
11 court determine whether or not the defendant and his
12 counsel have had the opportunity to read and discuss
13 the report." See U.S.-V-PETTY Cited as 80 F.3d 1384 (9th
14 Cir.1996) at page 1387-[8,9] and page 1388.

15 In the present case, there is no indication that Alan D. Daniels
16 had read or discussed the presentence Report, even-worse there
17 is no indication that the court determine on the record, whether
18 or not the defendant Alan D. Daniels and his counsel have had
19 the opportunity to read and discuss the Invalid report. Had the
20 court made it's determination as required by **Rule 32(c)(3)**, this
21 **Due Process Violation** concerning the presentence Investigation
22 report, and the defendant's 5th, 6th, and 14th Amendments Rights
23 to the United States Constitution would have not been Violated
24 of His Due Process Rights.

25 In U.S.-V-PETTY the 9th Cir. Stated: We vacate Petty's sentence
26 and remand for resentencing.

27 The defendant Alan D. Daniels sentence should be vacted and
28 remanded for resentencing. The Court did not comply to **Rule 32-**
29 **(c)(3)**. In violation of defendant's Due Process, Equal -
30 Protection Amendments Rights 5th,6th and 14th, to the United
31 Constitution.

32 ///

1 CONCLUSION

2
3 The district court has jurisdiction to vacate or modify the
4 defendant's sentence or judgement.

5 It is clear the defendant Alan D. Daniels was denied his
6 Constitutional Rights to Due Process, to a valid pre-sentence
7 report, was not properly interview before sentencing.

8 The record of the criminal minutes is void of any procedure
9 by the court before imposing sentence, verifying the defendant
10 and counsel have read, discussed the pre-sentence report.

11 And by the [rule] requires that the court determine whether or
12 not the defendant and his counsel have had the opportunity to
13 read and discuss the report, which is required for the
14 sentencing judge to conduct by the Rules of Criminal Procedure.

15 The record is Clearly Void of such Procedures being conducted
16 by P & P, or by the district court judge.

17 It is also Clear the sentencing judge was unaware of the
18 inaccurate, false, mistakes, untrue, unproven statements, and
19 assumptions in the Invalid pre-sentence report. The sentencing
20 judge's reliance upon pre-sentence investigation report
21 predicated on limited factual basis amounts to due process
22 violation of defendant's 5th, 14th, Amendments Rights to Due
23 Process. Remedy requested defendant Respectfully ask that a
24 Valid pre-sentence report be conducted, defendant be re-sentence
25 In Case No C156246 to be run concurrent to Case No. C160684.
26 And if the Court file such Order by way of Amended Judgement
27 of Conviction.

ISSUE II.

RELEVANT LEGAL ARGUMENT FOR MODIFICATION OF SENTENCE
AND POINTS OF AUTHORITIES IN SUPPORT FOR MODIFICATION

THE STATE VIOLATED THE DEFENDANT'S HIS RIGHTS, TO DUE PROCESS
OF LAW AS GUARANTEED BY THE FIFTH, AND FOURTEENTH AMENDMENTS
TO THE UNITED STATES CONSTITUTION. WHEN THE STATE STIPULATED
NOT TO OPPOSE CONCURRENT TIME WITH CASE NO.C160684. which is
STIPULATED IN THE GUILTY PLEA AGREEMENT. IN VIOLATION OF -
THE DEFENDANT'S FIFTH, FOURTEENTH AMENDMENTS RIGHTS TO DUE PROCESS.

Supporting Facts:

The defendant Alan D. Daniels signed a Guilty Plea Agreement with the State dated April 2, 2002. Said Agreement was filed in open Court April 2, 2002 by the County Clerk Office.

In the Plea Agreement on page 1, it states in Relevant Part - Line 22, The State is not opposed to concurrent time with Case No. C160684.

THE CONSEQUENCES OF THE PLEA, States on page 2, Lines-26-28,
and page 3, Lines-1-3.

I understand that if the State of Nevada has agreed to recommend or stipulate a particular sentence or has agreed not to present argument regarding the sentence, or agreed not to oppose a particular sentence, such agreement is contingent upon my appearance in court on the initial sentencing date (and any subsequent dates if the sentencing is continued). I understand that if I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior to sentencing the State of Nevada would regain the full right to argue for any lawful sentence. See defendant's Exhibit (c) attached to said Motion.- GUILTY PLEA AGREEMENT.

On page 1, Lines 22-23 of said Agreement states' in Relevant part:

The State is not opposed to concurrent time with Case No. C160684, but will retain the right to argue at rendition of sentence.

In the Black's Law Dictionary the word Rendition means'

///

1 The return of a fugitive to the state in which he is
2 accused of having committed a crime, by the order of the
3 governor of the State to which the fugitive has gone.

4 Let the record reflect, that the Defendant Alan D. Daniels was
5 incarcerated in Prison on Case No. C160684. And awaiting
6 sentencing on Case No. C156246 this same case which is now before
7 this Court. It is clear that the Defendant was not a fugitive,
8 nor had to be returned to this State by Order of the governor of
9 the State of Nevada. This being the Relevant fact the State had
10 no right to argue at sentencing. Had the Defendant fled this
11 State argument at rendition of sentence may have applied.

12 Once defendant enters guilty plea and plea is accepted
13 by court, due process requires that plea be honored.
14 See STATE-V-CROCKETT Cited as 877 P.2d 1077(Nev.1994)At
15 page 1078 [1]-page-1079.

16 The Defendant Alan D. Daniels comprehension of the Plea He signed
17 was The state - is- not OPPOSEED to concurrent time with Case
18 No. C160684.

19 However, once a defendant enters a guilty plea and the plea is
20 accepted by the court, due process requires that the plea
21 bargain be honored. Santobello-v-New York, 404 U.S. 257, 92 S.
22 Ct. 495, 30 L.Ed.2d 427 (1971).

23 When the State enters a plea agreement, it "is held to
24 the most meticulous standards of both promise and
25 performance.' ... The violation of the terms or the
26 spirit' of the plea bargain requires reversal.' See
27 Van Buskirk-v-State, 102 Nev. 241, 243, 720 P.2d 1215,
28 1216(1986), See also CITTI-V-STATE Cited as 807 P.2d
 724 (Nev. 1991) at page 726 [1].

29 In both Citti and Van Buskirk the defendant's were induced to
30 plea guilty by the prosecution's plea bargain offer; thereafter
31 ///

1 the prosecution refused to honor its bargain. Consequently, this
2 court held that the proper remedy for breach of a plea agreement
3 is specific performance. Citti. 107 Nev. at 94, 807 P.2d at 727;
4 Van Buskirk, 102 Nev. at 243, 720 P.2d at 1216. See also STATE-
5 V-CROCKETT 877 P.2d 1077(Nev.1994) at Page 1079-[2]-page-1080.

6
7 The defendant Alan D. Daniels remedy is specific performance
8 of the Plea agreement, to what he reasonably understood when he
9 entered the plea. The state agreed to not opposed to concurrent
10 time with Case No.C160684. The initial question is whether
11 Alan D. Daniels could have reasonably understood the plea
12 agreement to preclude the state from advocating against the
13 plea agreement, not opposed to concurrent time with Case No.-
14 C160684.

15 A plea agreement is construed according to what the
16 defendant reasonably understood when he or she entered
17 the plea. See STATZ-V-STATE, 113 Nev. 987, 933, 944 P.
18 2d 813, 817 (1997) See also SULLIVAN-V-STATE Cited as
990 P.2d 1258 (Nev. 1999) at page 1260-[2].

19 The defendant Alan D. Daniels remedy specific performance
20 request before this Honorable Court is granting his Motion for
21 Modification of Sentence, by Re-sentencing the defendant to
22 concurrent time with Case No. C160684. The defendant is Not
23 attempting to withdraw his plea, but remedy requested to have
24 Case No. C156246 to be run concurrent to Case No. C160684.

25 The State stipulations in the Plea Agreement was, The state is
26 not opposed to concurrent time with Case No. C160684. The State
27 Violated the defendant's his Rights' to Due Process of Law

28 ///

1 as guaranteed by the Fifth, and Fourteenth Amendments to the
2 United States Constitution. When the State Stipulated not to
3 oppose concurrent time with Case No. C160684. The defendant
4 was prejudice and denied his Due Process Rights, When the
5 State at sentencing argued before the Court and opposed the
6 concurrent sentence Which the State agreement was not opposed
7 to concurrent time with Case No. C160684.

8 A guilty plea predicated upon a promise or agreement
9 by the Government normally must be fulfilled. United
10 States-v-Shanahan 574 F.2d 1228 (5th Cir. 1978); United
11 States-v-Grandinetti 564 F.2d 723 (5th Cir. 1977).
12 Where the Government fails to abide by the terms of a
13 plea agreement, a court has the authority to order
14 specific performance of the agreement. Santobello-v-New
15 York 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427(1972).

13 The record is clear that the State undercut the sentencing
14 Plea Agreement by attempting to persuade the sentencing court
15 to impose a harsher sentence when the State opposed the
16 concurrent term with Case No. C160684. "Santobello prohibits
17 not only "explicit repudiation of the government's assurances,
18 but must in the interests of fairness be read to forbid end-
19 runs around them".

20 The defendant Alan D. Daniels guilty plea predicated upon a
21 promise or agreement by the state stipulation in the plea
22 agreement should have been honored by the state at sentencing.

23 Once defendant enters guilty plea and plea is accepted
24 by court, due process requires that plea be honored.
25 State-v-Crocket 877 P.2d 1077(Nev.1994) at page 1078
26 [1]-page-1079.

26 a court has the authority to order specific
27 performance of the agreement. SANTOBELLO-v-NEW YORK
28 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427 (1972).

28 ...

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1 PROOF OF SERVICE

2 I, ALAN D. DANIELS DEFENDANT IN THE ABOVE ACTION FOR MOTION OF MODIFICATION OF
3 SENTENCE

4 DID DULY SERVE A TRUE AND CORRECT COPY OF THE SAME UPON:

5 TO: SHIRLEY B. PARRAGUIRE, County Clerk.
6 200 S. THIRD ST
7 P.O. BOX 551601
8 LAS VEGAS, NEVADA 89155-1601

9 &

10 TO: DAVID ROGER, District Attorney
11 District Attorney Office
12 Clark County Courthouse
13 200 S. THIRD Street, Floor 7th
14 Post Office Box 552212
15 LAS VEGAS, Nevada 89155-2212

16 BY PLACING IN A SEALED ENVELOPE WITH THE NECESSARY FIRST CLASS POSTAGE
17 AFFIXED THEREON, AND DELIVERING THE SAME TO AN AUTHORIZED AGENT OF THE NEVADA
18 DEPARTMENT OF PRISONS, SDCC, INDIAN SPINGS NEVADA, FOR DEPOSIT IN THE UNITED
19 STATES POST OFFICE.

20 DATED THIS 6th DAY OF MAY 2003.

21 I, ALAN D. DANIELS DO SOLEMNLY SWEAR, UNDER THE PENALTY OF PERJURY, THAT
22 THE ABOVE INFORMATION IS ACCURATE AND CORRECT TO THE BEST OF
23 MY KNOWLEDGE.

24 RESPECTFULLY SUBMITTED

25 ALAN D. DANIELS
26 #63982 DEFENDANT PRO SE

27 P.O. BOX 208 SDCC

28 INDIAN SPINGS, NEVADA 89070

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under the penalty of perjury that I am the ABOVE DEFENDENT
in the above action, and that the facts and information is true,
and accurate to the best of my knowledge and recollection pur-
suant to NRS 208.165 and NRS 171.102.

W. P. D.
DECLARANT

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EXHIBIT A.

ORIGINAL

9

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

FILED

MAY 28 11 39 AM '02

Shirley E. Rasmussen
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 ALAN DEMETRIUS DANIELS,
13 #0747918

14 Defendant.

Case No. C156246
Dept. No. XIV

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

18 The Defendant previously appeared before the Court herein with counsel and entered a
19 plea of guilty to the crime(s) of COUNT I - BURGLARY WHILE IN POSSESSION OF A
20 FIREARM (Category B Felony) and COUNT II - ROBBERY (Category B Felony), in violation
21 of NRS 200.380; thereafter, on the 14th day of May, 2002, the Defendant was present in court
22 for sentencing with his counsel, STANLEY A. WALTON, ESQUIRE, and good cause
23 appearing,

24 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition
25 to the \$25.00 Administrative Assessment Fee and \$3,400.00 Restitution, the Defendant is
26 sentenced as to COUNT I - to the Nevada Department of Corrections for a MAXIMUM term
27 of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of
28 THIRTY-FIVE (35) MONTHS and on COUNT II - a MAXIMUM term of ONE HUNDRED

RECEIVED

MAY 8 2 AM

CLERK

RECEIVED

MAY 23 2002

CLERK

1 EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35)
2 MONTHS. COUNT II to run CONCURRENT to COUNT I; this sentence to run
3 CONSECUTIVE to the sentence the defendant is currently serving. Defendant to receive
4 THIRTY-SIX (36) DAYS credit for time served.

5 DATED this 24TH day of May, 2002.

6
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8 DISTRICT JUDGE

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28 jj

EXHIBIT B.

KENNY C. GUINN
Governor

DISTRICT OFFICES

1301 CORDONE AVENUE
RENO, NEVADA 89502
(775) 686-1000

A. A. CAMPOS BUILDING
215 E. BONANZA ROAD
LAS VEGAS, NEVADA 89101
(702) 486-3001

3920 E. IDAHO STREET
ELKO, NEVADA 89801
(775) 738-4088

119 E. LONG STREET
CARSON CITY, NEVADA 89701
(775) 687-5045



PAROLE AND PROBATION

1445 Hot Springs Road, Suite 104
Carson City, Nevada 89706
Telephone (775) 687-5040 Fax (775) 687-5402
www.ps.state.nv.us

RICHARD KIRKLAND
Director

R. WARREN LUTZOW
Chief

FTA-PSI

NAME: ALAN DEMETRIUS DANIELS

SS#: 530-76-7296

CC#: C156246

THE HON: DONALD M. MOSLEY

J/DIS: 8TH DEPT: XIV COUNTY: CLARK

COUNSEL: STAN WALTON, RETAINED

DIST ATTY: BERNARD B. ZADROWSKI, DDA

DATE: 04-25-2002

R/NR: R

SENTENCE DATE: 05-14-2002

OFSE DATE: ON OR BETWEEN
02-20-1998 AND 04-12-1998

ARREST DATE: 04-30-1998

INDICTMENT DATE: 04-02-
2002, AMENDED

CONVICTED: 04-02-2002, BY
GUILTY PLEA

OFFENSE/NRS: COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (CATEGORY B FELONY); NRS 205.060: By imprisonment in the Nevada Department of Corrections for a minimum term of not less than two years and to a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

COUNT II - ROBBERY (CATEGORY B FELONY); NRS 200.380: By imprisonment in the Nevada Department of Prisons for a minimum term of not less than two years and to a maximum term of not more than 15 years.

PLEA NEGO: The State is not opposed to concurrent time with Case No. C160684, but will retain the right to argue at rendition of sentence.

ADD: 3601 E. Bonanza #1018
Las Vegas, NV 89110

FBI#: 7518131b7

DOB: 10-11-1965

AGE: 36

SID#: NV01285656

LVMPD#: 0747918

PCN: 09393467

POB: Boston, Massachusetts
(ALSO USES: Worchester, Massachussets)

RACE/SEX: BMA

HAIR/EYES: Brown/Brown

HT/WT: 6'00

THIS REPORT NOT TO BE REPRODUCED OR
TRANSMITTED IN ANY FORM OR BY ANY
MEANS, ELECTRONIC OR MECHANICAL,
INCLUDING PHOTOCOPYING, RECORDING,
OR BY ANY INFORMATION STORAGE AND
RETRIEVAL SYSTEM.
RELEASED TO: [illegible]

(NSPO 2/02)

(O) 2018

PRE-SENTENCE REPORT
ALAN DEMETRIUS DANIELS
CC#C156246

PAGE 2

TATTOOS/SCARS: None Reported

ILLEGAL: NO

REG#: N/A

COUNTRY: N/A

CUSTODY STATUS: Southern
Desert Correctional Center

AKA's: Alan Daniels; Alan D. Daniels;

JAIL CREDIT: 36 DAYS: 04-30-1998 to 06-05-1998 (CCDC)

PRIOR RECORD AS DETERMINED BY DIVISION OF PAROLE AND PROBATION

ARRESTS: 7

OUTSTANDING WARRANTS: None

STATES: N/A

CONVICTIONS:

FEL: 4

MISD: 0

JAIL: 0

PRISON: 1

PROBATION:

COMPL: 0

FAIL: 0

ACTIVE: 0

PAROLES:

COMPL: 0

FAIL: 0

ACTIVE: 0

CRIMINAL HISTORY:

Records of the Las Vegas Metropolitan Police Department reflect the following information:

ADULT:

ARREST DATE

04-30-1998
(LVMPD)

OFFENSE

1. Robbery With Use of
a Deadly Weapon (F)
(3 Counts)
2. Burglary With Use of
a Deadly Weapon (F)
(3 Counts)
RMD: 05-14-1998;

DISPOSITION

Instant Offense,
CC#C156246. 04-02-2002,
pled guilty Count I-
Burglary While In
Possession Of firearm
(F) and Count II-
Robbery (F). Rendition
of Sentence 05-14-2002,
Department XIV.

PRE-SENTENCE REPORT
ALAN DEMETRIUS DANIELS
CC#C156246

PAGE 3

06-14-1999
(LVMPD)

Warrant-Robbery With
Use of a Deadly Weapon
(F) (2 Counts)
RMD: 07-01-1991
1. Burglary With Use of
a Deadly Weapon (F)
(2 Counts)
2. Robbery With Use of
a Deadly Weapon (F)
3. Kidnap, First Degree
(F) (2 Counts)
RMD: 07-01-1999; 07-27-
1999

CC#C160684. 12-07-1999
found guilty by jury
verdict of Count I -
Burglary While In
Possession of a Firearm
(Category B Felony),
Count II - Robbery With
Use of a Deadly Weapon
(Category B Felony),
Count III - Burglary
While In Possession of
a Firearm (Category B
Felony), and Count IV -
Robbery With Use of a
Deadly Weapon (Category
B Felony). 01-10-2000,
sentenced to CTI-90/24
months NDOC pay\$4100
rest; CTII-90/24NDOC +
equal and c/s 90/24 UDW
c/c CTI; CTIII-90/24
NDOC PAY \$3000 REST C/C
CTII; CTIV-90/24 NDOC +
equal and c/s 90/24 UDW
c/s CTII with 210 days
CTS.

In addition to the above, the defendant has been arrested for Possession of Stolen Property, DUI With Accident, Obstructing a Police Officer, and Resist Police Officer, in which the disposition is unknown or the charges were dismissed.

OFFENSE REPORT: Records of the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On April 12, 1998 at approximately 1:15 a.m., the Ellis Island Casino located at 4178 Koval Lane became the victim of a robbery when suspect #1 later identified as the defendant, Alan Demetrius Daniels made entry into the establishment through a doorway which was previously disabled by placing a matchbook in the locking mechanism. The defendant approached the cashier's cage, displayed a handgun, then ordered the casino cashier to fill a plastic bag with money. The defendant threw the plastic bag at the cashier who filled the bag with monies in the amount of \$3,400. Daniels then fled the Casino with the bag of money. He was followed by casino security who observed the defendant turn and aim a weapon at he guards but did not fire. Daniels then got into an early 90's model Toyota Tercel with tinted windows. A partial NV plate number was obtained 252 "B". Casino security officers notified the Las Vegas Metropolitan Police Department. It was discovered through investigation that the suspect touched the cage counter and a partial print was obtained. Three video tapes of the incident were impounded.

PRE-SENTENCE REPORT
ALAN DEMETRIUS DANIELS
CC#C156246

PAGE 4

There was a similar robbery at the Town Hall Casino in which the suspects used the same signature with the matchbook in the door to disable the locking mechanism. On April 12, 1998, an employee of the Town Hall Casino reported they observed a green Lincoln Continental, bearing NV plate HNG990, parked to the rear of the door of the Casino. A book of matches was found in the door to defeat the locking mechanism.

On April 22, 1998, the green Lincoln Continental was stopped by patrol officers. The driver of the vehicle stated that he was recruited by two subjects to do a robbery at the Town Hall Casino and that he was to put a book of matches into the locking mechanism to defeat it. The driver stated that on 04-12-1998 while at the Santa Fe Hotel, he and his friend were befriended by a guy named Chuck and Al, who invited them up to their room #502 to take some drugs, cocaine and marijuana. Both Al and Chuck bragged about robberies they committed at the Town Hall Casino and the MGM Grand. The defendant, the driver, and another co-offender and drove to the Town Hall in the Lincoln and put the matchbook in the door. Alan Daniels, who was registered in room #502 was positively identified as the suspect committing the robberies at the Town Hall Casino and the Ellis Island Casino. As a result of this investigation the defendant was suspected in several other robberies.

Alan Demetrius Daniels was arrested on April 30, 1998 and transported to Clark County Detention Center and booked accordingly.

DEFENDANT STATEMENT: The defendant was scheduled for a telephonic interview with the Division on May 02, 2002, while in custody at the Southern Desert Correctional Center. The Division was unable to obtain an interview in a timely manner because the caseworker was unavailable at the time of the scheduled interview. The Division would need additional time to reschedule the appointment if the Court desires a defendant's statement.

CO-DEFENDANT: None Reported

VICTIM INFORMATION: Ellis Island Casino (VC#2122050) is the reported victim of the robbery. The defendant stole \$3,400 which the casino is requesting as restitution.

RESTITUTION: \$3,400.

SOCIAL HISTORY:

Due to the fact that the Division was unable to contact the defendant for a Pre-Sentence investigation interview, the information provided was obtained from a previous pre-sentence report dated December, 1999. The following social history and community supervision plan are not updated and are as related by the defendant. The information provided is unverified unless otherwise noted.

Significant Family Information: (No)

Marital Status: (Separated)

PRE-SENTENCE REPORT
ALAN DEMETRIUS DANIELS
CC#C156246

PAGE 5

Number of Children: (2). Ages 5 and 10 that reside in Florida.

Child Support: (No) Amount: N/A Current: N/A

Significant Health Information: (No)

Significant Mental Health Information: (No)

Alcohol Abuse: (No) The defendant reports consuming a 6-pack to 12-pack of beer on a weekly basis.

Controlled Substance Use: (No)

Education: High school graduate. Additionally, the defendant has attended one year of college.

Military: (Yes) Branch/Discharge: Navy/Honorable

Residential: (Stable) Time in Community: 36 years

Present Employer: (Unemployed)

Previous Employment: Electrician

Income: None Additional Sources: None

Financial Assets: None Debts: \$5,000

Community Supervision Plan: None

EVALUATION: Before the Court for rendition of sentence is the defendant, ALAN ALAN DEMETRIUS DANIELS, who has pled guilty to Count I - Burglary While In Possession of a Firearm (Category B Felony) and Count II - Robbery (Category B Felony).

In addition to the Instant Offense, the defendant was convicted by jury trial of four felonies; two counts of Burglary While In Possession Of A Firearm and two counts of Robbery With Use Of A Deadly Weapon. These convictions occurred in January of 2000. The defendant is currently in the custody of the Southern Desert Correctional Center serving concurrent prison terms.

The defendant is a 36-year-old individual whose education is complete. He served in the United States Navy, receiving an Honorable Discharge. He is currently separated and has two children that reside in the State of Florida. It is suspected that the defendant abuses both alcohol and controlled substances. He reported no physical or mental health issues.

In summary, it appears most likely that the defendant has been involved in numerous robberies in addition to those robberies for which he has been convicted. In each instance his actions involved the use or possession of a firearm. It is fortunate that no one was physically harmed. Mr. Daniels should be viewed as a dangerous individual who should be incarcerated for a significant period of time. Therefore, the following recommendation is respectfully submitted for the Court's consideration:

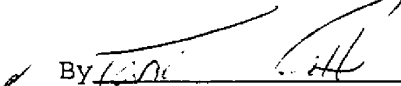
RECOMMENDATION: In addition to the \$25 Administrative Assessment fee, it is the recommendation of the Division Of Parole and Probation that the defendant, ALAN DEMETRIUS DANIELS, be sentenced as follows:

COUNT I - BURGLARY WHILE IN POSSESSION OF FIREARM: To a maximum term of ONE HUNDRED EIGHTY (180) months with a minimum parole eligibility of THIRTY-FIVE (35) months in the Nevada Department of Corrections, and pay restitution in the amount of \$3,400. The defendant will submit to a test for the purpose of determining genetic markers and pay a \$150 DNA Analysis fee to the Clark County Clerk.

COUNT II - ROBBERY: To a maximum term of ONE HUNDRED eighty (180) months with a minimum parole eligibility of THIRTY-FIVE (35) months in the Nevada Department of Corrections, concurrent to Count I. It is further recommended that Counts I & II be served consecutive to the sentence imposed in CC#C160684.

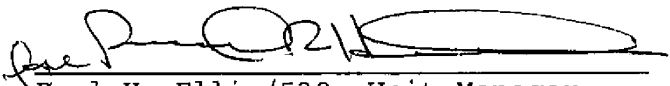
Respectfully submitted,

WARREN LUTZOW, CHIEF

By 

Lisa M. Liberty/947, Officer
Division of Parole and Probation
District IV, Las Vegas, Nevada

APPROVED:



Paul H. Ellis/539, Unit Manager
Court Services Unit II

LML/
N:/99636

EXHIBIT C.

FILED IN OPEN COURT
APR - 2 2002 19

SHIRLEY B. PARRAGUIRRE, CLERK
BY CONNIE KALSKI
DEPUTY

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

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

13 Defendant.
14

Case No. C156246
Dept. No. XIV
Docket T

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: COUNT I - BURGLARY WHILE IN POSSESSION
17 OF A FIREARM (Category B Felony - NRS 205.060); and COUNT II - ROBBERY (Category
18 B Felony - NRS 200.380), as more fully alleged in the charging document attached hereto as
19 Exhibit "1".

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

22 The State is not opposed to concurrent time with Case No. C160684, but will retain the
23 right to argue at rendition of sentence.

24 CONSEQUENCES OF THE PLEA

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

27 I understand that as a consequence of my plea of guilty as to Count I, the Court must
28 sentence me to imprisonment in the Nevada State Prison for a minimum term of not less than

PAWPDOC9\INDEKARON\VECH075806162040\AWPD

1 two (2) year(s) and a maximum term of not more than fifteen (15) years. The minimum term
2 of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment.
3 I understand that I may also be fined up to \$10,000.00; as to Count II, the Court must sentence
4 me to imprisonment in the Nevada State Prison for a minimum term of not less than two (2)
5 year(s) and a maximum term of not more than fifteen (15) years for Robbery. The minimum
6 term of imprisonment may not exceed forty percent (40%) of the maximum term of
7 imprisonment. I understand that the law requires me to pay an Administrative Assessment Fee.

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

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

15 I understand as to Count II, I understand that I am not eligible for probation for the
16 offense to which I am pleading guilty.

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

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

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

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

26 I understand that if the State of Nevada has agreed to recommend or stipulate a particular
27 sentence or has agreed not to present argument regarding the sentence, or agreed not to oppose
28 a particular sentence, such agreement is contingent upon my appearance in court on the initial

1 sentencing date (and any subsequent dates if the sentencing is continued). I understand that if
2 I fail to appear for the scheduled sentencing date or I commit a new criminal offense prior to
3 sentencing the State of Nevada would regain the full right to argue for any lawful sentence.

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

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

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

17 WAIVER OF RIGHTS

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

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

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

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

- 1 4. The constitutional right to subpoena witnesses to testify on my behalf.
2 5. The constitutional right to testify in my own defense.
3 6. The right to appeal the conviction, with the assistance of an attorney, either appointed
4 or retained, unless the appeal is based upon reasonable constitutional jurisdictional or other
5 grounds that challenge the legality of the proceedings and except as otherwise provided in
6 subsection 3 of NRS 174.035.

7 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

24 //

25 //

26 //

27 //

28 //

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

DATED this 2nd day of ~~August~~ ^{April}, 2004.

ALAN DEMETRIUS DANIELS
Defendant

AGREED TO BY:

B.B. Zadworski
Deputy District Attorney

1 CERTIFICATE OF COUNSEL:

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

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

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

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

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

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

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

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

18 Dated: This 2nd day of April 2002.

19 Stanley H. Dalton
20 ATTORNEY FOR DEFENDANT
21
22
23
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26
27
28

mmw

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

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALAN DEMETRIUS DANIELS,
12 #0747918

13 Defendant.

Case No. C156246
Dept No. XIV
Docket T

AMENDED
INDICTMENT

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

17 The Defendant above named, ALAN DEMETRIUS DANIELS, is accused by the Clark
18 County Grand Jury of the crimes of **BURGLARY WHILE IN POSSESSION OF A**
19 **FIREARM (Felony - NRS 205.060); and ROBBERY (Felony - NRS 200.380)**, committed at
20 and within the County of Clark, State of Nevada, on or between February 20, 1998, and April
21 12, 1998, as follows:

22 COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did, on or about April 12, 2002, then and there wilfully, unlawfully, and feloniously enter,
24 while in possession of a firearm, with intent to commit a felony, to-wit: robbery and/or larceny,
25 that certain building occupied by TOWN HALL CASINO, located at 4155 Koval Lane, Las
26 Vegas, Clark County, Nevada, and/or ELLIS ISLAND HOTEL AND CASINO, located at 4178
27 Koval Lane, Las Vegas, Clark County, Nevada, said Defendant aiding or abetting an unnamed
28 individual by counsel and encouragement and by entering into a course of conduct whereby

EXHIBIT "1"

1 Defendant drove said unnamed individual to said location, waited outside and acted as a lookout
2 while the unnamed individual directly committed said act and fled the scene together.

3 COUNT II - ROBBERY

4 did, on or about April 12, 1998, then and there wilfully, unlawfully, and feloniously take
5 personal property, to-wit: \$3,400.00 in lawful money of the United States, from the person of
6 RICHARD COLACINO, or in their presence, by means of force or violence, or fear of injury
7 to, and without the consent and against the will of the said RICHARD COLACINO, said
8 Defendant aiding or abetting an unnamed individual by counsel and encouragement and by
9 entering into a course of conduct whereby Defendant drove said unnamed individual to said
10 location, waited outside and acted as a lookout while the unnamed individual directly committed
11 said act and fled the scene together.

12 STEWART L. BELL
13 DISTRICT ATTORNEY
Nevada Bar #000477

14 BY B.B. Zadrowski
15 BERNARD B. ZADROWSKI
16 Deputy District Attorney
17 Nevada Bar #006545

18
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26 DA#99-156246X/mmw
27 LVMPD EV#9804120119;9802200082
28 BURG W/W; ROBB - F
(TK5)

EXHIBIT d.

PARTIES:

STATE OF NEVADA

Y

CRIMINAL COURT MINUTES

99-C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 005

04/02/02 09:30 AM 00 CALENDAR CALL

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Connie Kalski, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006545 Zadrowski, Bernard B.	Y
	001 D1 Daniels, Alan D	Y
	004784 Walton, Stanley A.	Y

Matter TRAILED for the presence of Mr. Walton.

Matter RECALLED with Mr. Walton present. Amended Indictment and Guilty Plea Agreement FILED IN OPEN COURT. NEGOTIATIONS: The State retains the right to argue the facts and circumstances but will not oppose concurrent time between all counts and Defendant's case C160684. Upon Court's inquiry, Defendant WITHDREW his not guilty plea, was ARRAIGNED AND PLED GUILTY to COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F) and COUNT II - ROBBERY (F). Court ACCEPTED plea, referred matter to the Division of Parole and Probation and ORDERED, set for sentencing. FURTHER, trial date VACATED.

NIC (COC)

5/14/02 9:00 AM SENTENCING

05/14/02 09:00 AM 00 SENTENCING

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Connie Kalski, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006541 Lewis, Linda Y.	Y
	001 D1 Daniels, Alan D	Y
	004784 Walton, Stanley A.	Y

Officer Lorena Yonashiro of the Division of Parole and Probation present. DEFENDANT DANIELS ADJUDGED GUILTY of COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F) and COUNT II - ROBBERY (F). Statements by counsel and Defendant. COURT ORDERED, in addition to the \$25 Administrative Assessment fee and \$3,400 in RESTITUTION, Defendant SENTENCED on COUNT I - to a MAXIMUM term of ONE-HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35) MONTHS and on COUNT II - to a MAXIMUM term of ONE-HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35)

CONTINUED ON PAGE: 007

PRINT DATE: 03/26/03

PAGE: 006

MINUTES DATE: 05/14/02

CRIMINAL COURT MINUTES

99-C-156246-C STATE OF NEVADA

vs Daniels, Alan D

CONTINUED FROM PAGE: 006

MONTHS in the Nevada Department of Corrections. Count II to run CONCURRENT with COUNT I; this sentence to run CONSECUTIVE to the sentence Defendant is currently serving. Defendant to receive 36 DAYS credit for time served.

NDC

01/07/03 09:00 AM 00 DEFT'S PRO PER MTN DISCHARGE ATTY/16

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA
006541 Lewis, Linda Y.

Y

Y

Court noted this is post conviction in nature and ORDERED, motion is GRANTED. Court directed Clerk to notify Mr. Walton to send the file to Defendant.

NDC

CLERK'S NOTE: 1/8/03 Clerk spoke with Carolina from Mr. Walton's Office and advised her of Court's ruling.

02/18/03 09:00 AM 00 DEFT'S PRO PER FOR REHEARING OF MTN TO DISCHARGE ATTY/PRODUCTN OF PAPER/DOCU/17

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Judy McFadden/jm, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA
006381 Knapp, Gregory D.

Y

Y

Court noted Mr. Walton is counsel in this matter and is presently in trial. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 02/19/03 09:00 AM 01

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21

FILED

MAY 9 2 06 PM '03

Shirley S. Hargrave
CLERK

1 ALAN DEMETRIUS DANIELS
N.D.O.C. #63982
2 POST OFFICE BOX 208
INDIAN SPRINGS, NEVADA
3 89070, S.D.C.C.

4 Defendant-In Proper Person
ALAN DEMETRIUS DANIELS

6 DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
Plaintiff,

10 -VS-

CASE NO. C156246
DEPT NO: XIV
DOCKET T
DATE OF HEARING _____,
TIME OF HEARING _____,

12 ALAN DEMETRIUS DANIEL
Defendant

14 NOTICE OF MOTION

15 TO: THE STATE OF NEVADA, PLAINTIFF; and
16 DAVID ROGER, District Attorney of Clark County

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the
18 20th day of May, 2003, at the hour of 9:00 a.m. or as soon
19 thereafter as Defendant may be heard, the undersigned will bring
20 on for hearing the herein motion for Modification of Sentence
21 before the above entitle court, at Clark County courthouse,
22 Las Vegas, Nevada, Department thereof.

23 DATED this _____ day of _____, 2003.

25 *[Signature]*
26 _____
27 Defendant In Proper Person
28

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2 District Court
3 Clark, County, Nevada

FILED
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Clerk

5 Case No. C156246

6 Department XIV

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.)

10 ALAN D. DANIELS,)

11 Defendant(s),)
12

13
14 CASE APPEAL STATEMENT

15 1. Appellant(s): ALAN D. DANIELS

16 2. Judge: DONALD MOSLEY

17 3. All Parties, District Court:

18 Plaintiff, THE STATE OF NEVADA

19 Defendant(s), ALAN D. DANIELS

20 4. All Parties, Appeal:

21 Appellant(s), ALAN D. DANIELS

22 Respondent, THE STATE OF NEVADA

23 5. Appellate Counsel: Proper Person, ALAN D. DANIELS #63982,

24 PO BOX 208 INDIAN SPRINGS NV 89070, Appellant

25 THE STATE OF NEVADA, David Roger, District Attorney, 200 South Third

26 Street, Las Vegas, Nevada 89155 (702) 455-4711, Counsel for Respondent
27
28

/C156246

518

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- 6. District Court, N/A
- 7. On Appeal, N/A
- 8. Forma Pauperis: GRANTED
- 9. Date Commenced in District Court: 01/27/1999

DATED this 19 day of June, 2003.

SHIRLEY B. PARRAGUIRRE
CLARK COUNTY CLERK

By:

MANUEL RIVAS, DEPUTY CLERK
200 South Third Street
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 455-4409

ALAN D. DANIELS
NDOP NO. 63982, SDCC
Post Office Box 208
Indian Springs, Nevada 89070

21
FILED

JUN 19 1 30 PM '03

Defendant- In Propria Persona
ALAN D. DANIELS

Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

ALAN D. DANIELS

Defendant.

CASE NO. C156246

DEPT NO. XIV

DOCKET

DESIGNATION OF RECORD ON APPEAL

TO: SHIRLEY PARRAGUIRRE, COUNTY CLERK
EIGHTH JUDICIAL DISTRICT COURT
Clark County Courthouse
200 South Third Street
Post Office Box 551601
Las Vegas, Nevada 89155-1601

The Defendant above-named, in and through his proper person hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 17th day of JUNE, 2003.

Respectfully Submitted By:

Alan D. Daniels
DEFENDANT- IN PROPRIA PERSONA

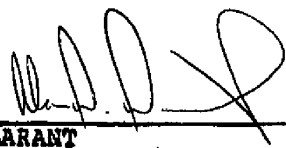
S18

CERTIFICATE OF SERVICE BY MAIL

I, the Undersigned, hereby certify, pursuant to N.R.C.P.
5(b), that on this 17th day of JUNE, 2003,
I served the foregoing NOTICE OF APPEAL and DESIGNATION OF
RECORD ON APPEAL by mailing a true and correct copy thereof in
a sealed envelope, upon which first class postage was fully
prepaid, addressed to:

DAVID ROGER, DISTRICT ATTORNEY
District Attorney's Office
Clark County Courthouse
200 South Third Street
Post Office Box 552212
Las Vegas, Nevada 89155-2212

that there is regular communication between the place of mailing
and the place so addressed.



DECLARANT

ALAN D. DANIELS
NDOP NO. 63982, SDCC
Post Office Box 208
Indian Springs, Nevada 89070

21
FILED

JUN 19 1 30 PM '03

Shelley B. Rungius
CLERK

Defendant - In Propria Persona

DISTRICT COURT
CLARK COUNTY, NEVADA

ALAN D. DANIELS
Defendant,

CASE NO. C156246

DEPT NO. XIV

vs.

DOCKET

THE STATE OF NEVADA, et, al.
Plaintiff,

NOTICE OF APPEAL

NOTICE is hereby given that ALAN D: DANIELS,
Defendant above-named, in and through his proper person,
hereby appeals to the Supreme Court of Nevada from the Eighth
Judicial District Court's Order denying MOTION FOR
MODIFICATION OF SENTENCE entered in

this action on the 17th day of JUNE, 2003.

DATED this 17th d.y of JUNE, 2003.

Respectfully Submitted By:

[Signature]

Defendant - In Propria Persona

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JUN 19 2003

COUNTY CLERK

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DISTRICT COURT
CLARK COUNTY, NEVADA

FILED
APR 21 8 23 AM '04

Shirley E. Hargrave
CLERK

* * * *

STATE OF NEVADA,

Plaintiff,

vs.

ALAN DEMETRIUS DANIELS,

Defendant.

Case No. C156246
Dept. XIV

**REPORTER'S TRANSCRIPT
OF
SENTENCING**

BEFORE THE HONORABLE DONALD M. MOSLEY

DISTRICT JUDGE

Taken on Tuesday, May 14, 2002

At 9:00 a.m.

APPEARANCES:

For the State: LINDA LEWIS, ESQ.
Deputy District Attorney

For the Defendant: STANLEY A. WALTON, ESQ.

Reported by: Maureen Schorn, CCR No. 496, RPR

MAUREEN SCHORN, CCR NO. 496, RPR

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APR 21 2004

COUNTY CLERK

1 LAS VEGAS, NEVADA. TUESDAY, MAY 14, 2002, 9:00 A.M.

2 * * * *

3

4 THE COURT: C156246, State versus
5 Alan Demetrius Daniels.

6 Good morning, Mr. Walton. The record
7 reflects your presence, as it does the your client in
8 custody; Ms. Lewis for the State; Ms. Yamashiro for the
9 Department of Parole and Probation. The matter is set for
10 sentencing.

11 Are you prepared to proceed, Mr. Walton?

12 MR. WALTON: Yes, Your Honor.

13 THE COURT: Mr. Daniels, have you any
14 legal cause or reason why judgement should not be
15 pronounced against you at this time?

16 THE DEFENDANT: No.

17 THE COURT: By virtue of your pleas of
18 guilty, you are adjudged guilty of Counts I and II of the
19 Amended Indictment; Count I, burglary while in possession
20 of a firearm; Count II, robbery, both felonies.

21 Ms. Yamashiro, is there anything to add to
22 the report?

23 OFFICER YAMASHIRO: No, Your Honor.

24 THE COURT: Ms. Lewis?

25 MS. LEWIS: Judge, I would point out to

1 the Court that the defendant has a prior offense for the
2 same exact thing which he's currently serving a
3 considerable amount of time, and I think that the
4 recommendation in this case for prison time is absolutely
5 appropriate.

6 This was a strong-armed robbery. The
7 defendant and another individual entered this casino
8 establishment and actually pointed a gun at the victim in
9 their robbery.

10 This was not the first one. There were
11 several robbery attempts over a period of time, and I
12 would note for the record that he does have prior felony
13 convictions. He's a danger to this community.

14 I think the sentencing recommendation is
15 absolutely appropriate, and I would ask that the Court run
16 the counts consecutive to each other.

17 THE COURT: The recommendation is that
18 the counts run concurrent to one another and consecutive
19 to the sentence he is now serving. That's certainly not
20 binding on you, but what is your preference?

21 MS. LEWIS: My understanding was this
22 was to run concurrent with the case that he's serving.

23 THE COURT: That may have been the
24 negotiations. I don't know.

25 MR. WALTON: That's correct, Your

1 Honor.

2 MS. LEWIS: Judge, apparently the
3 agreement between counsel in this case was that it was to
4 run concurrent.

5 THE COURT: What is to run concurrent?

6 MS. LEWIS: That these two charges, the
7 burglary and the robbery, were to run concurrent to each
8 other, and that was to run concurrent with the other case.

9 THE COURT: All right. If that's the
10 negotiation, then that's the negotiation. It's certainly
11 not binding on the Court.

12 Mr. Daniels, what do you have to say, sir?

13 THE DEFENDANT: No.

14 THE COURT: Mr. Walton?

15 MR. WALTON: Thank you, Judge.

16 Judge, this took us a long time to get to
17 this point in this particular case. One of the reasons
18 why it took us so long was because of Mr. Daniels'
19 reluctance to inform on the codefendant, who happened to
20 be a relative of his.

21 But in the particular matters before the
22 Court, Mr. Daniels was the driver and the relative was the
23 person who perpetrated the robbery. I think it was a fair
24 negotiation.

25 We would simply be asking the Court, if you

1 would, to stay with the spirit of the negotiations. I
2 would ask the Court on the burglary while in possession, I
3 would ask the Court to impose a sentence of 24 to 60, and
4 24 to 90 on the robbery, which would make it concurrent
5 with the other case to which he's now serving in Nevada
6 Department of Prisons.

7 Mr. Daniels understands that what he did in
8 this particular case was wrong. It was certainly an
9 aberration, but as you can tell from the police report,
10 Mr. Daniels got involved in some alcohol and narcotics
11 abuse, as well as having a gambling addiction, and those
12 things led him to this.

13 He's an honorably discharged veteran from
14 the United States Navy. He's a father of a couple of
15 children and he's still having some impact in their life,
16 and he wants to be able to serve his sentence and get back
17 to his family as quickly as possible.

18 Judge, I requested a record from the
19 Department of Prisons and I didn't receive it, but what I
20 was told through his case worker was that he was a model
21 prisoner. He's one of those people that they have no
22 problem with, and one of the ones that they hope through
23 his time there and his work there that he will be
24 rehabilitated.

25 We're not asking for a pass, Judge, but

1 we're asking that you consider all things in this
2 particular case and follow the spirit of the negotiations.

3 I don't think it was clear, Your Honor, but
4 what we did agree, and it's not necessarily in the
5 Presentence Investigation Report, was that it would be
6 concurrent time between the counts, as well as concurrent
7 time with the other case, which is C160684.

8 THE COURT: Ms. Lewis stated that.

9 MR. WALTON: Thank you, Judge. I
10 submit it to the Court.

11 THE COURT: Mr. Walton, I know you're
12 always sincere in your representation of your clients, and
13 you're one of the attorneys that I like to see come into
14 this court for a variety of reasons.

15 But I'm going to disagree with you this time
16 respectfully. If we reduce this sentence to what you
17 suggest, to run it concurrent, essentially what we've done
18 is given this man a pass on this, two crimes for the price
19 of one, and I see no reason.

20 I do think that the two counts might well
21 run concurrently because, as we know, it's the same
22 transaction and different charges that were developed by
23 virtue of the transaction.

24 The recommendation, therefore, will be
25 followed. According to the law of the State of Nevada,

1 Mr. Daniels, you are sentenced in Count I to 180 months in
2 prison, eligibility of parole after 35 months, and to make
3 restitution in the amount of \$3,400.

4 As to Count II, an identical term of 180
5 months in prison, eligibility of parole after 35 months.
6 Counts I and II will be served concurrently.

7 This sentence will run consecutive to any
8 sentence he is now serving.

9 Credit for time served, Ms. Yamashiro?

10 OFFICER YAMASHIRO: 36 days.

11 THE COURT: 36 days is afforded. Thank
12 you.

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15 ATTEST: Full, true and accurate transcript of
16 proceedings.

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MAUREEN SCHORN, CCR NO. 496, RPR

MAUREEN SCHORN, CCR NO. 496, RPR

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN D. DANIELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 41633

District Court Case No. C156246

FILED
2004 JUN 25 PM 2:
Janette M. Bloom
CLERK

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Janette M. Bloom, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 27th day of May, 2004.

IN WITNESS WHEREOF, I have subscribed my name and affixed
the seal of the Supreme Court at my Office in Carson City,
Nevada, this 22nd day of June, 2004.

Janette M. Bloom, Supreme Court Clerk

By: *J. Richards*
Chief Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN D. DANIELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41633

FILED

MAY 27 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Alan Daniels' motion for sentence modification.

On May 28, 2002, the district court convicted Daniels, pursuant to a guilty plea, of burglary while in possession of a firearm and robbery. The district court sentenced Daniels to serve two concurrent terms of 35 to 180 months in the Nevada State Prison. This sentence was imposed to run consecutively to Daniels' sentence in district court case no. C160684. No direct appeal was taken.

On May 9, 2003, Daniels filed a proper person motion for sentence modification in the district court. The State opposed the motion. Daniels filed a reply. On July 21, 2003, the district court denied Daniels' motion. This appeal followed.

A motion to modify a sentence "is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the defendant's extreme detriment."¹ A motion to modify a sentence that raises issues outside the very narrow scope of permissible issues may be summarily denied.²

¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

²Id. at 708-09 n.2, 918 P.2d at 325 n.2.

In his motion, Daniels claimed that his pre-sentence investigation report (PSI) contained errors. Daniels alleged that his PSI incorrectly concluded that he had a problem with alcohol and controlled substances. Further, the PSI inaccurately stated, "it appears most likely that [Daniels] has been involved in numerous robberies in addition to those robberies for which he has been convicted."

We conclude that Daniels failed to demonstrate that the district court relied on mistaken assumptions about his criminal record that worked to his extreme detriment. Daniels did not argue that the PSI contained inaccurate information with respect to his prior convictions. Daniels' claim concerning his alcohol and controlled substance use is outside the scope of a motion to modify a sentence because it does not concern his criminal record. Further, there is nothing in the record to suggest that the district court relied on the PSI's representation that Daniels committed additional robberies for which he has not been convicted. Consequently, we affirm the order of the district court with respect to this claim.³

Daniels also contended that the State breached the plea agreement by arguing that his sentences should be imposed consecutively, when the plea agreement specifically provided that the State would not oppose concurrent time. This claim is not appropriately raised in a motion to modify a sentence because it does not involve a mistaken assumption concerning Daniels' criminal record. Moreover, as a separate and

³To the extent that Daniels also argued that his sentence should be modified because he was denied the right to read his PSI prior to sentencing, and because he was not interviewed by the Division of Parole and Probation, we note that these claims are outside the scope of a motion to modify a sentence because they do not involve mistaken assumptions concerning Daniels' criminal record.

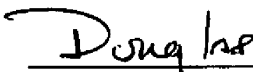
independent ground to deny relief, this claim is without merit. In the plea agreement, the State retained the right to argue at sentencing, but stipulated that it would not oppose the instant sentences being run concurrently with Daniels' sentence in district court case no. C160684. At Daniels' sentencing hearing, the State argued that the sentences for the instant offenses should be run consecutively to one another, but concurrently to Daniels' sentence in case no. C160684. The State's argument was consistent with the terms of the plea agreement. The district court was not bound by the negotiations, however, and ordered the sentences for Daniels' two cases to run consecutively. We therefore conclude that the district court did not err in denying this claim.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that Daniels is not entitled to relief and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Rose

 J.
Maupin

 J.
Douglas

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Donald M. Mosley, District Judge
Alan D. Daniels
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN D. DANIELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 41633

District Court Case No. C156246

REMITTITUR

TO: Shirley Parraguirre, Clark County Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: June 22, 2004

Janette M. Bloom, Clerk of Court

By: J. Richards
Chief Deputy Clerk

cc: Hon. Donald M. Mosley, District Judge
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Alan D. Daniels

RECEIPT FOR REMITTITUR

Received of Janette M. Bloom, Clerk of the Supreme Court of the State of Nevada, the

REMITTITUR issued in the above-entitled cause, on

6-24-04
NONNETA CALDWELL

DEPUTY _____
County Clerk

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DISTRICT COURT May 5 8 54 AM '10

CLARK COUNTY, NEVADA

John A. [Signature]
CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

ALAN DANIELS

Defendant,

)
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) Case No.: C156246
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) Department: 14
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ORDER FOR DISPOSAL OF EXHIBITS

It appearing to the Court that in the above-entitled action the exhibits in the custody of the Clerk of the Court are in a posture to be disposed of pursuant to NRS 3.305 and 239.110; the Court upon its own motion hereby ORDERS

That the Custodian of Evidence of the Clerk of the Court shall cause said exhibits to be destroyed or otherwise disposed of if they have not been withdrawn by the last attorney or attorneys of record within 30 days following notice given by the Custodian of Evidence.

DATED: This 3rd day of MAY, 2010.

Donald M. [Signature]

DISTRICT COURT JUDGE



**CLARK COUNTY COURTS
EIGHTH JUDICIAL DISTRICT COURT
LAS VEGAS TOWNSHIP JUSTICE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FLOOR
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

May 4, 2010

Stanley Walton, Esq.
550 E. Charleston Blvd., Suite A
Las Vegas, NV 89104

RE: STATE OF NEVADA VS Alan Daniels
C156246

Dear Mr. Walton,

You are hereby notified that a Petition will be filed seeking an Order authorizing the County Clerk to destroy or dispose of the exhibits in the above-entitled action. This is in accordance with the provisions of Nevada Revised Statutes 3.305 and 239.110.

If you wish to have the exhibits returned to you, a Court Order for release of exhibits must be filed with the Clerk of the Court within thirty (30) days from receipt of this letter. If more than one attorney represented a party, or if any exhibits were marked as Joint, a Stipulation and Order must be filed with the Clerk of the Court directing the release to one of the attorneys. *A copy of the filed Order must be delivered to the Clerk of the Court's Office, Evidence Custodian, as soon as it is filed.*

If you have any questions contact the Clerk of the Court's Office, Evidence Custodians at (702) 671-0797, Monday through Friday, 8:00am to 5:00pm.

Your cooperation will be appreciated.

STEVEN D GRIERSON, Clerk of the Court

By **BERYL SLY**
Beryl Sly Deputy County Clerk,
Evidence Custodian

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4 DISTRICT COURT
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CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

Alan D Daniels

Defendant,

Case No: C156246

99C156246
PODE
Petition and Order to Destroy / Dispose of
1546707



PETITION AND ORDER TO DESTROY OR DISPOSE OF EXHIBITS

Steve D. Grierson, Clerk of the Court, respectfully petitions the Court as follows:

I

That on May 3, 2010, there was filed an Order for Disposal of Exhibits which provides for the disposal of exhibits remaining in the custody of the Clerk of the Court, in the above-entitled action.

II

That the Custodian of Evidence has given written notice to the last attorney or attorneys of record, either by placing the notice in the U.S. mail or by depositing a copy thereof in the file folder(s) in the Clerk of the Court's Office of the last attorneys of record; that more than 35 days have passed since the mailing or placing in attorney(s) files of said notice.

III

That there are exhibits in the above-entitled action which have not been withdrawn and are in a posture to be destroyed or disposed of pursuant to NRS 3.305 and 239.110.

RECEIVED

JUL 27 2011

CLERK OF THE COURT

-1-

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IV

That the exhibits are believed by the Clerk to be of no value which would warrant their delivery to the Board of County Commissioners of Clark County, Nevada, as property of said County.

WHEREFORE, Petitioner requests that an Order be entered by this Court authorizing the destruction and/or disposal of said exhibits by the Clerk of the Court.

DATED: This 15th day of April, 2011.

By

BERYL SLY, Deputy Clerk

Submitted by:

DAVID ROGER, DISTRICT ATTORNEY

By

Deputy District Attorney
Nevada Bar No. 5093
Attorney for Petitioner

ORDER

Based upon the foregoing Petition, and good cause appearing, it is hereby ORDERED

That the Petitioner herein shall cause the exhibits in the above-entitled action to be destroyed and/or disposed of as set forth in the foregoing Petition.

DATED: This 25th day of May, 2011.

Jessie P. Ziegler
DISTRICT COURT JUDGE

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2011 JUL 28 P 1:43

DISTRICT COURT
CLARK COUNTY NEVADA

[Signature]
CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

ALAN D DANIELS

Defendant,

Case No.: C156246

99C156246
CODE
Certificate of Disposal of Exhibits
1553996



CERTIFICATE OF DISPOSAL OF EXHIBITS

The undersigned hereby certifies that she is a Deputy Clerk, Evidence Custodian; that she destroyed the exhibits in the above-entitled action pursuant to the Petition and Order for Disposal of Exhibits filed on 7/27/2011.

DATED: July 28, 2011

STEVEN D. GRIERSON, CLERK OF THE COURT

By *[Signature]*
Beryl Sly Deputy Clerk

Prohibition Petition - 2

ALAN DANIELS #63982

Southern Desert Correctional Center

SDCC / POB 208

Indian Springs NV 89070-0208

PETITIONER PRO-SE

FILED

MAY 17 2021

Clerk of Court
CLERK OF COURT

8th JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ALAN DANIELS,

Petitioner,

CASE # CISC 246

DEPT #

HEARING REQUESTED:

June 7, 2021

1:30 PM

TIME OF HEARING:

-VS-

DIRECTOR NEVADA DEPT
OF CORRECTIONS, et. al.,
Respondents.

NRS 34.320 Petition For writ OF Prohibition (PREEMPTORY) To Prohibit The NV Dept OF Corrections [NDOC] Director's UNCONSTITUTIONAL "seizures of Money" From Petitioner's NDOC Inmate Account To "Enforce Payment OF Restitution" To Petitioner's Crime Victim(s) Per The "Crime Victim Restitution Terms" Set Forth Within Petitioner's 5-28-02 Judgment of Conviction [JOC] == Because The NDOC Director Has "No Jurisdiction" To Do So == whereas Such "Jurisdiction" Is Vested SOLELY with The State District Court [SDC] Via Issuance OF A "Writ of Execution" Per NRS 176.275 (2)(a) : Judgment For Payment OF Restitution / NRCF Rule 69(a)(1) : Execution / NRS Chapter 21 : Enforcement OF Judgments

[Prohibition Petition-2]

COMES NOW, NDOC Inmate Petitioner Pro-Se Alan Daniels #63982

[Petitioner] submitting the instant "Prohibition-2" == which is made based upon NRS 34.320 / NRS 176.275 (2)(a) / NRCF Rule 69(a)(1) / NRS Chapter 21 : Enforcement of Judgments / NRS 176.033 / NRS 176.105 along with all papers / affidavits etc attached hereto

* PG 1 of 11 *

RECEIVED

APR - 7 2021

CLERK OF THE COURT

1

CLAIM 1 :

The NDOC Director Has No Statutory / Constitutional Jurisdiction To "Seize Money" From Petitioner's NDOC Inmate Account To "Enforce Payment Of Restitution" To Petitioner's Crime Victim(s) Per The "Crime Victim Restitution Terms" Set Forth Within Petitioner's 5-28-02 JOC ==
 Whereas Such "Jurisdiction" Is Vested Solely With The State District Court [SDC] Via Issuance Of A "Writ Of Execution" Per NRS 176.275(2)(a): Judgment For Payment Of Restitution / NRCP Rule 69 (a)(1): Execution / NRS Chapter 21: Enforcement Of Judgments (Violation Of The U.S. Const. 4th / 5th / 8th Amendments; Illegal Search & Seizure / Due Process & Equal Protection / Prohibition Against Cruel & Unusual Punishment)

[Prohibition Petition-2]

2] STATEMENT OF FACTS / POINTS & AUTHORITIES : Petitioner adopts herein by this reference, the statements within Petitioner's "Affidavit In Support Of Prohibition Petition" on PG 7-9 [infra] as being part of the "Statement of Facts / Points and Authorities" for the instant "CLAIM 1", and;

3] On/about 9-1-20, the NDOC Director began his UNCONSTITUTIONAL "Seizures of Money" from Petitioner's Inmate Account to "Enforce Payment Of Restitution" to Petitioner's Crime Victim(s) per the "Crime Victim Restitution Terms" set forth within Petitioner's 5-28-02 JOC (2 PGS) on PG 10-11 [infra]. Accordingly, the NDOC Director has NO JURISDICTION to do so == whereas NRS 176.275(2)(a) / NRCP Rule 69 (a)(1) / NRS Chapter 21 [supra] clearly established such JURISDICTION is "Vested Solely" with the SDC via issuance of a "Writ of Execution". That said, NRS 176.275(2)(a) [below] states that a "judgment which requires a defendant to pay RESTITUTION" is "ENFORCED as any other judgment for MONEY rendered in a CIVIL ACTION":

NRS 176.275

Judgment for fine, administrative assessment, payment of restitution or repayment of expenses is lien; additional provisions concerning judgment for payment of restitution.

2. A judgment which requires a defendant to pay restitution:

(a) May be recorded, docketed and enforced as any other judgment for money rendered in a civil action.

HISTORY:

1967, p. 1437; 1975, p. 217; 1977, p. 337; 1983, p. 909; 1993, ch. 93, § 1, p. 149; 2015, ch. 444, § 1, p. 2573.

Editor's Notes

Acts 2015, ch. 444, § 6 provides: "The amendatory provisions of this act apply to any judgment which requires a defendant to pay restitution which is rendered before, on or after October 1, 2015."

4] Next, NV Rules of Civil Procedure [NRCp] Rule 69 (a) (1): Execution [below] clearly established, that in a "Civil Action", a MONEY JUDGMENT to pay RESTITUTION is "Enforced" by COURT ISSUANCE of a "Writ of Execution" :

NRCp Rule 69. Execution (a) In General.

(1) *Money Judgment; Applicable Procedure.* - A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution - and in proceedings supplementary to and in aid of judgment or execution - must accord with these rules and state law.

5] Further, NRS 21.020: writ of Execution; Issuance; Contents [below] clearly established that the SDC is vested with SOLE JURISDICTION to ISSUE a "Writ of Execution" to ENFORCE PAYMENT OF RESTITUTION to Petitioner's "JOC Crime Victim(s)" in question :

NRS 21.020. Writ of execution: Issuance; contents.

The writ of execution must be issued in the name of the State of Nevada, sealed with the seal of the court, and subscribed by the clerk, and must be directed to the sheriff; and must intelligibly refer to the judgment, stating the court, the county where the judgment roll is filed, the names of the parties, the judgment, and if it is for money, the amount thereof, and the amount actually due thereon

6] That said, NRS 21.050: Enforcement of Judgments Requiring Payment of Money [below] further established that a "judgment requiring payment of money" (as restitution) to Petitioner's "JOC Crime Victims" at issue SHALL Be Enforced by Court Issuance of a "Writ of Execution" :

NRS 21.050

Enforcement of judgments requiring payment of money or delivery of property; performance of other act.

Where a judgment requires the payment of money or the delivery of real or personal property, the same shall be enforced in those respects by execution.

7] Additionally, NRS 21.075: Notice of writ of Execution; Service Required [below] clearly established that ONLY the "Sheriff" can EXECUTE upon Petitioner a "Writ of Execution" to ENFORCE PAYMENT OF RESTITUTION to Petitioner's "JOC Crime Victims" [supra] AFTER the "Sheriff" serves Petitioner NOTICE of such "Writ of Execution" along with a COPY of the "Writ" itself :

NRS 21.075. Notice of writ of execution: Service required; form; contents.

1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ.

8] With all the above facts & law re RESTITUTION in mind, the NV Supreme Court [NSC] Witter Decision (2019) [below] clearly established the following :

8.1) Per NRS 176.275 (2)(a) : Judgment For Payment of Restitution, a JOC that requires a Criminal Defendant to pay RESTITUTION to his/her **"JOC Crime Victim(s)"** IS ENFORCED as any other JUDGMENT rendered in a CIVIL ACTION ...

"In particular, the amount of RESTITUTION is not an inconsequential matter when a JUDGMENT imposing RESTITUTION constitutes a LIEN in like manner as a Judgment For Money rendered in a Civil Action NRS 176.275 (1), which may be ENFORCED as any other JUDGMENT rendered in a Civil Action NRS 176.275 (2)(a) "

* Witter v. State, 452 P.3d 406, 409 (Nev. 11-14-19)

9] Consequently, Witter [supra] further established the following re Petitioner's instant NRS 34.320 Petition for Writ of Prohibition [Prohibition Petition - 2] :

9.1) The NDOC Director Has No Statutory / Constitutional JURISDICTION to ISSUE a "Writ of Execution" to "Seize Money" from Petitioner's NDOC Inmate Account to "Enforce Payment of Restitution" to Petitioner's "JOC Crime Victim(s)". Specifically, because such JURISDICTION is "Vested Solely" with the COURT to do so under NRS 176.275(2)(a) / NRCP Rule 69 (a) (1) / NRS 21-020 / NRS 21-050 / NRS 21-075 and Witter v. State [all supra]

10] Accordingly, this Honorable Court "Must Prohibit" the NDOC Director from his UNCONSTITUTIONAL "Seizures of Money" from Petitioner's NDOC Inmate Account to "Enforce Payment of Restitution" to Petitioner's "JOC Crime Victims". Specifically, because the NDOC Director Had No Jurisdiction to do so as fully set forth & argued above.

11] That said, Petitioner has no plain / speedy / adequate REMEDY in the ordinary course of law to PROHIBIT the NDOC Director from his UNCONSTITUTIONAL "Seizures of Money" from Petitioner's NDOC Inmate

* PG 4 of 11 *

11] Account to "Enforce Payment of Restitution" to Petitioners "JOC Crime Victims" - - That was done Without Jurisdiction. Subsequently, the ONLY REMEDY available to Petitioner is his instant NRS 34.320 "Prohibition Petition-2", which is DEFINED below :

NRS 34.320. Writ of prohibition defined.

The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.

" Writ of MANDAMUS and Writ of PROHIBITION are counterparts in that MANDAMUS compels Government Body or OFFICIAL to perform legally mandated act, whereas PROHIBITION compels Government Body or OFFICIAL to cease performing acts Beyond Legal Authority "

* Ashokan v. State, 856 P.2d 244 (Nev. 1993)

12] Further, NRS 34.330 : Writ May Be Issued By Appellate or District Court When No Plain, Speedy and Adequate Remedy In Law [below]; JUSTIFIES this Honorable Court to "Grant" Petitioner's instant NRS 34.320 "Prohibition Petition-2" - - wherefore Petitioner is WITHOUT a plain/speedy/adequate REMEDY in the ordinary course of law to "Prohibit" the abovementioned UNCONSTITUTIONAL Acts of the NDOC Director as set forth & argued supra :

NRS 34.330

Writ may be issued by appellate or district court when no plain, speedy and adequate remedy in law.

The writ may be issued only by the Supreme Court, the Court of Appeals or a district court to an inferior tribunal, or to a corporation, board or person, in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law. It is issued upon affidavit, on the application of the person beneficially interested.

13]

REQUEST FOR RELIEF : * See Next PG ...

* I swear under penalty of perjury (NRS 208.165) that I wrote this "Prohibition Petition-2" for Inmate Alan Daniels # 63982 Because he is Illiterate In Law: Inmate George Luster #57587 Surgeant

*** PG 5 of 11 ***

13]

REQUEST FOR RELIEF :

Based on all the foregoing facts / law / evidence etc., Petitioner is entitled to the following RELIEF...

- 13.1) GRANT Petitioner's instant "Prohibition Petition-2"
- 13.2) Per NRS 34.320 / NRS 34.330 [supra] ISSUE & SERVE upon the NDOC Director a "Writ of Prohibition" COMMANDING him/her to CEASE & DESIST "Seizing Money" from Petitioner's NDOC Inmate Account to "Enforce Payment of Restitution" to Petitioner's "JOC Crime Victim(s)" at issue
- 13.3) ENTER an ORDER "commanding" the NDOC Director to Return Immediately (within 10 days) "All Monies" SEIZED from Petitioner's NDOC Inmate Account that was ALLEGEDLY PAID to Petitioner's "JOC Crime Victim(s)" in question (total amount to be determined)
- 13.4) APPOINT COUNSEL to represent Petitioner on Petitioner's instant "Prohibition Petition-2" from hereon
- 13.5) GRANT Petitioner all other RELIEF as JUSTICE requires

14]

CERTIFICATE OF SERVICE :

I certify under penalty of perjury (NRS 208.165) that on the date below I served a copy of this "Prohibition Petition-2" upon each of the parties listed below. That, by placing such in the prison mail box (labeled as legal / confidential mail) with 1st Class U.S. Postage prepaid affixed thereto :

- 14.1) Clark County Court clerk / PoB 551160 / LV NV 89155-1160
- 14.2) NV AG / 100 N. Carson, St #100 / Carson City NV 89701-4717
- 14.3) NDOC Director / PoB 7011 / Carson City NV 89702-7011

DATED this 4th day of APRIL, 2021

* Per NRS 239B.030, I certify this — BY: Alan Daniels

"Prohibition-2" does not contain the social security number of any person

Alan Daniels # 634182
SDCC / PoB 208
Indian Springs NV 89410-0208
PETITIONER PRO-SE

* PG 6 of 11 *

8th JUDICIAL DISTRICT COURT / CLARK COUNTY, NEVADA

ALAN DANIELS,
Petitioner,
- VS -
DIRECTOR NEVADA DEPT
OF CORRECTIONS, et. al.,
Respondents.

CASE # C156246

Petitioner's Affidavit In Support
Of Prohibition Petition-2

STATE OF NEVADA)
COUNTY OF CLARK) ss:

I, Inmate Alan Daniels #63982, being first duly sworn, fully
deposes & says:

1] I am the AFFIANT / PETITIONER in the above-titled "Petition
For writ OF Prohibition-2" [Prohibition-2] action.

2] Affiant is an adult (over age 18) NV Dept of Corrections [NDOC]
Inmate who is fully competent to testify re Affiant's personal
knowledge of the matters contained within this affidavit.

3] On 5-28-02, Affiant's Trial Judge filed/entered a Judg-
ment of Conviction [JOC] that sentenced Affiant to prison == AND ==
To pay \$3400 TOTAL RESTITUTION to Affiant's (Crime Victim(s))
listed below per the "Crime Victim Restitution Terms" set forth within
Affiant's 5-28-02 JOC in question :

CRIME VICTIMS OWED RESTITUTION IDENTIFIED WITHIN 5-28-02 JOC

NAME OF CRIME VICTIM OWED RESTITUTION	RESTITUTION OWED	SEE 5-28-02 JOC
1) Crime Victim-1 UNIDENTIFIED in JOC	\$3400	PG 10 / Ln 25 [intra]
2) *N/A	*N/A	*N/A
3) *N/A	*N/A	*N/A
4) *N/A	*N/A	*N/A
5) *N/A	*N/A	*N/A

4] Consequently, on the date(s) below, the NDOC Director ILLEGALLY
"Seized Money" from Affiant's NDOC Inmate Account "ALLEGEDLY" to pay
RESTITUTION to Affiant's above-listed "JOC Crime Victims" at issue
(which never happened) * continued on next page

* PG 7 of 11 *

4) * continued from previous page

NDOC MONEY SEIZURES TO PAY CRIME VICTIM RESTITUTION PER 5-28-02 JOC

DATE / AMT OF MONEY SEIZED	NAME OF PERSON / ENTITY MONEY WAS PAID TO	TOTAL RESTITUTION OWED TO THIS PERSON / ENTITY PER 5-28-02 JOC
1) DATE / AMT ?	NV Parole & Probation [P&P]	P&P not a Crime Victim owed RESTITUTION
2)		
3)		
4)		
5)		
6)		
7)		

5] That said, the NDOC Director's above-listed "Seizures of Money" from Affiant's NDOC Inmate Account to pay RESTITUTION to NV Parole & Probation [P&P] per the "Crime Victim Restitution Terms" set forth within Affiant's 5-28-02 JOC [supra] is UNCONSTITUTIONAL for these reasons:

5.1) The NDOC Director has No Statutory / Constitutional JURISDICTION to do so == For the arguments set forth within Affiant's instant "Prohibition Petition - 2" on PG 1-6 [supra], and;

5.2) P&P "Is Not Identified" within Affiant's 5-28-02 JOC in question as a "Crime Victim" who is owed RESTITUTION from Your Affiant == And therefore "Is Not Owed Restitution" from Affiant.

6] Subsequently, Affiant has APPEALED to the NDOC Director to "Cease and Desist" his/her UNCONSTITUTIONAL "Restitution Money Seizures" from Affiant's NDOC Account [supra] == TO NO AVAIL as of the date of this affidavit.

7] Consequently, Affiant will suffer "Irreparable Harm" if this Court does not PROHIBIT such UNCONSTITUTIONAL "Money Seizures" from Your Affiant by the NDOC Director in future.

8] Accordingly, Affiant has No Plain / Speedy / Adequate REMEDY in the ordinary course of law to PROHIBIT such UNCONSTITUTIONAL "Money Seizures" from Your Affiant by the NDOC Director in future ==

* PG 8 of 11 *

8] EXCEPT for Affiant's instant "Prohibition Petition-2". With that in mind, Affiant RESPECTFULLY requests this Honorable Court to GRANT Your Affiant the RELIEF requested within the instant "Prohibition Petition-2" on PG 6 / Para 13 [supra]

FURTHER, YOUR AFFIANT SAYETH NAUGHT.

WHEREFORE Affiant avers & swears under penalty of perjury (NRS 208.165) that the statements within this affidavit are true & correct based upon Affiant's personal knowledge.

DATED this 4th day of APRIL, 2021

BY: Alan Daniels

Alan Daniels #63982

SDCC / POB 208

Indian Springs NV 89070-0208

AFFIANT / PETITIONER PRO-SE

ORIGINAL

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

FILED
MAY 28 11 35 AM '02
Clerk of Court
CLERK

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,
11 -vs-
12 ALAN DEMETRIUS DANIELS,
13 #0747918
14 Defendant.

Case No. C156246
Dept. No. XIV

16 JUDGMENT OF CONVICTION
17 (PLEA OF GUILTY)

18 The Defendant previously appeared before the Court herein with counsel and entered a
19 plea of guilty to the crime(s) of COUNT I - BURGLARY WHILE IN POSSESSION OF A
20 FIREARM (Category B Felony) and COUNT II - ROBBERY (Category B Felony), in violation
21 of NRS 200.380; thereafter, on the 14th day of May, 2002, the Defendant was present in court
22 for sentencing with his counsel, STANLEY A. WALTON, ESQUIRE, and good cause
23 appearing.

24 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition
25 to the \$25.00 Administrative Assessment Fee and \$3,400.00 Restitution, the Defendant is
26 sentenced as to COUNT I - to the Nevada Department of Corrections for a MAXIMUM term
27 of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of
28 THIRTY-FIVE (35) MONTHS and on COUNT II - a MAXIMUM term of ONE HUNDRED

\$2

RECEIVED
MAY 28 2002
CLERK
RECEIVED
MAY 23 2002
CLERK
MAY 29 2002

1 EIGHTY (180) MONTHS with a MINIMUM parole eligibility of THIRTY-FIVE (35)
2 MONTHS. COUNT II to run CONCURRENT to COUNT I; this sentence to run
3 CONSECUTIVE to the sentence the defendant is currently serving. Defendant to receive
4 THIRTY-SIX (36) DAYS credit for time served.

5 DATED this 24TH day of May, 2002.

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8 DISTRICT JUDGE

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**PLEADING
CONTINUES
IN NEXT
VOLUME**