

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Sep 30 2021 05:22 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CLIFFORD SMITH,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-20-346330-1

Docket No: 83498

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
CLIFFORD SMITH # 1235854,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

I N D E X

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CLERK OF THE COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

Clifford Smith,

Defendant

District Court Case No.: C-20-346330-1
Dept.: VI

Justice Court Case No.: 20F00126X

CERTIFICATE

I hereby certify the foregoing to be a full, true and correct copy of the proceedings as
the same appear in the above case.

Dated this 22nd day of January, 2020



Justice of the Peace, Las Vegas Township

1
2 **JUSTICE COURT, LAS VEGAS TOWNSHIP**
3 **CLARK COUNTY, NEVADA**

4 STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 Clifford Smith

8 Defendant
9

District Court Case No.:

Justice Court Case No.: 20F00126X

10 **BINDOVER and ORDER TO APPEAR**

11 An Order having been made this day by me that **Clifford Smith** be held to answer
12 before the Eighth Judicial District Court, upon the charge(s) of **Robbery - with the use of**
13 **a deadly weapon or tear gas [50138]** committed in said Township and County, on or
about January 02, 2020 .

14 **IT IS FURTHER ORDERED** that said defendant is commanded to appear in the
15 Eighth Judicial District Court, Regional Justice Center, Lower Level Arraignment
16 Courtroom "A", Las Vegas, Nevada on January 24, 2020 at 10:00 AM for arraignment
17 and further proceedings on the within charge(s).

18 **IT IS FURTHER ORDERED** that the Sheriff of the County of Clark is hereby
19 commanded to receive the above named defendant(s) into custody, and detain said
20 defendant(s) until he/she can be legally discharged, and be committed to the custody of the
21 Sheriff of said County, until bail is given in the sum of \$10,000 / 10,000 and Medium
Level Electronic Monitoring.

22 Dated this 22nd day of January, 2020

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25 Justice of the Peace, Las Vegas Township
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ORIGINAL

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT

JAN 07 2020

BY

THE STATE OF NEVADA,

Plaintiff,

-vs-

CLIFFORD SMITH #2681698,

Defendant.

CASE NO: 20F00126X

DEPT NO: 7

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138), in the manner following, to wit: That the said Defendant, on or about the 2nd day of January, 2020, at and within the County of Clark, State of Nevada, did willfully, unlawfully, and feloniously take personal property, to wit: an iPhone and wallet, from the person of ELIJAH PATTERSON, or in his presence, without the consent and against the will of ELIJAH PATTERSON, by means of force or violence or fear of injury, immediate or future, to his person, the person of a member of his family, or of anyone in his company at the time of the robbery, defendant using force or fear to obtain or retain possession of the property, to prevent or overcome resistance to the taking of the property, and/or to facilitate escape, with use of a deadly weapon, to wit: a crowbar.

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

Beauville

01/03/20

20F00126X/mab
LVMPD EV# 200100006771
(TK7)



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

Department: PC

Court Minutes



L011920705

PC20F00126X State of Nevada vs. Smith, Clifford

**1/3/2020 1:30:00 PM Initial Appearance Justice
Court (PC Review) (In custody)**

Result: Matter Heard

PARTIES State Of Nevada Pandelis, Christopher
PRESENT: Defendant Smith, Clifford

Judge: Zimmerman, Ann E.

Court Reporter: Broka, Christa

Court Clerk: Montrone, Lauren

PROCEEDINGS

Hearings: 1/7/2020 7:30:00 AM: Status Check on Filing of Criminal Complaint

Added

Events: **Probable Cause Found**

72-Hour Hearing Completed

Counsel Provisionally Appointed

Josie Bayudan, Esq, Public Defender Counsel provisionally appointed for limited purposes of first appearance hearing.

Bail Argument Heard

The Court has heard arguments from the prosecution and defense counsel regarding custody of the Defendant

Bail Reset - Cash or Surety

Counts: 001 - \$10,000.00/\$10,000.00 Total Bail

**Release Order - Bail AND Electronic Monitoring-
Medium Level**

Bail Condition - Stay Away From Victim

and Victims address

**Continued for Status Check on filing of Criminal
Complaint**

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

Department: 07

Court Minutes



L011931157

20F00126X State of Nevada vs. Smith, Clifford

Lead Atty: Public Defender

**1/7/2020 7:30:00 AM Status Check on Filing of
Criminal Complaint (In custody)**

Result: Matter Heard

PARTIES
PRESENT: State Of Nevada Cole, Madilyn
Attorney Ross, Katrina
Defendant Smith, Clifford

Judge: Bennett-Haron, Karen P.

Court Reporter: O'Neill, Jennifer

Court Clerk: Treadwell, Wendy

PROCEEDINGS

Attorneys:	Public Defender Smith, Clifford	Added
	Ross, Katrina Smith, Clifford	Added

Hearings:	1/22/2020 9:00:00 AM: Preliminary Hearing	Added
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Events: Criminal Complaint

Filed in open court

Initial Appearance Completed

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

Defendant Identified as Indigent

Defendant and the Court discussed the appointment of counsel and defendant requested appointment of counsel.

Public Defender Appointed

Bail Argument Heard

The Court has heard arguments from the prosecution and defense counsel regarding custody of the Defendant. Public Defender request Defendant to be released on medium level electronic monitoring. State request bail and medium level electronic monitoring to stand. The Court is not inclined to disturb bail at this time.

Bail Stands - Cash or Surety Amount: \$10,000.00

Counts: 001 - \$10,000.00/\$10,000.00 Total Bail

**Release Order - Bail AND Electronic Monitoring-
Medium Level**

Bail Condition - Stay Away From Victim

Las Vegas Justice Court: Department 07

LVJC_RW_Criminal_MinuteOrderByEventCode

Case 20F00126X Prepared By: treaw

1/7/2020 11:22 AM

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

Department: 07

Court Minutes



L011959645

20F00126X State of Nevada vs. Smith, Clifford

Lead Atty: Adam L Gill

1/13/2020 7:30:00 AM Motion (In Custody)

Result: Matter Heard

PARTIES PRESENT:
State Of Nevada
Attorney
Defendant
Cole, Madilyn
Giddens, Christophor Bobby
Smith, Clifford

Judge: Bennett-Haron, Karen P.

Court Reporter: Ott, Shawn

Court Clerk: Thomas, Veronica

PROCEEDINGS

Attorneys:	Giddens, Christophor Bobby Gill, Adam L	Smith, Clifford Smith, Clifford	Withdrawal Added
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Events: Motion to Withdraw Due to Conflict

granted

Counsel Appointed

A. Gill, Esq. in absentia

Future Court Date Stands

01/22/2020 at 9:00am

Bail Condition - Stay Away From Victim

Discovery Placed in Contract Attorney Box

Notify

attorney A. Gill via email/tns

Bail Stands - Cash or Surety

Amount: \$10,000.00

Counts: 001 - \$10,000.00/\$10,000.00 Total Bail

Release Order - Bail AND Electronic Monitoring-Medium Level

Review Date: 1/14/2020

Las Vegas Justice Court: Department 07

LVJC_RW_Criminal_MinuteOrderByEventCode

Case 20F00126X Prepared By: sheltont

1/13/2020 2:10 PM

**IMAGED
EB**

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

Department: 07

Court Minutes



L011996083

20F00126X State of Nevada vs. Smith, Clifford

Lead Atty: Adam L Gill

1/22/2020 9:00:00 AM Preliminary Hearing (In Custody)

Result: Bound Over

PARTIES	State Of Nevada	Albright, Brandon B
PRESENT:	Attorney	Gill, Adam L
	Defendant	Smith, Clifford

Judge: Bennett-Haron, Karen P.

Court Reporter: O'Neill, Jennifer

Court Clerk: Treadwell, Wendy

PROCEEDINGS

Events: Unconditional Bind Over to District Court

Review Date: 1/23/2020

Defendant unconditionally waives right to Preliminary Hearing. Defendant Bound Over to District Court as Charged. Defendant to Appear in the Lower Level Arraignment Courtroom A.

District Court Appearance Date Set

Jan 24 2020 10:00AM: In Custody

Case Closed - Bound Over

Bail Stands - Cash or Surety

Amount: \$10,000.00

Counts: 001 - \$10,000.00/\$10,000.00 Total Bail

Release Order - Bail AND Electronic Monitoring-Medium Level

Bail Condition - Stay Away From Victim

Plea/Disp: 001: Robbery - with the use of a deadly weapon or tear gas [50138]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

10
ORIGINAL

1 0042

2 DARIN F. IMLAY, PUBLIC DEFENDER
3 NEVADA BAR NO. 5674
4 ASHLEY L. SISOLAK, DEPUTY PUBLIC DEFENDER
5 NEVADA BAR NO. 13958
6 PUBLIC DEFENDERS OFFICE
7 309 South Third Street, Suite 226
8 Las Vegas, Nevada 89155
9 Telephone: (702) 455-4685
10 Facsimile: (702) 455-5112
11 Ashley.Sisolak@ClarkCountyNV.gov
12 Attorneys for Defendant

FILED

2020 JAN -8 P 2:37

JUSTICE COURT
LAS VEGAS NEVADA

BY _____
DEPUTY

AMC

8 JUSTICE COURT, LAS VEGAS TOWNSHIP

9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 v.

13 CLIFFORD SMITH,

14 Defendant,

CASE NO. 20F00126X

DEPT. NO. 7

DATE: January 13, 2020
TIME: 7:30 a.m.

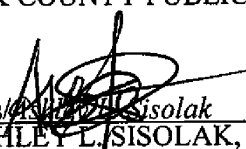
15 MOTION TO WITHDRAW DUE TO CONFLICT

16 COMES NOW, the Defendant, CLIFFORD SMITH, by and through ASHLEY L.
17 SISOLAK, Deputy Public Defender and respectfully moves this Honorable Court to allow the
18 Public Defender to withdraw and to appoint independent counsel due to a conflict of interest.

19 This Motion is made and based upon all the papers and pleadings on file herein,
20 the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

21 DATED this 8th day of January, 2020.

22 DARIN F. IMLAY
23 CLARK COUNTY PUBLIC DEFENDER

24 By: 
25 /s/ Ashley L. Sisolak
26 ASHLEY L. SISOLAK, #13958
27 Deputy Public Defender
28

20F00126X
MWC
Motion to Withdraw Due to Conflict
11941562



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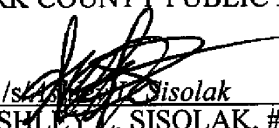
NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO WITHDRAW
DUE TO CONFLICT will be heard on 13th day of January, 2020, at 7:30 a.m., Justice Court,
Department 7.

DATED this 8th day of January, 2020.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: 
ASHLEY L. SISOLAK, #13958
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing MOTION is hereby
acknowledged this 8 day of January, 2020.

CLARK COUNTY DISTRICT ATTORNEY

By: 

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
12 - 35
WILL FOLLOW VIA
U.S. MAIL



1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #014158
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 I.A. 1/24/20
13 10:00 A.M.
14 A. GILL

15 THE STATE OF NEVADA,
16
17 Plaintiff,

CASE NO: C-20-346330-1

18 -vs-

DEPT NO: VI

19 CLIFFORD SMITH,
20 #2681698

21 Defendant.

INFORMATION

22 STATE OF NEVADA }
23 COUNTY OF CLARK } ss.

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


26 That CLIFFORD SMITH, the Defendant(s) above named, having committed the crime
27 of ATTEMPT ROBBERY (Category B Felony - NRS 200.380, 193.330 - NOC 50144), on or
28 about the 2nd day of January, 2020, within the County of Clark, State of Nevada, contrary to
the form, force and effect of statutes in such cases made and provided, and against the peace
and dignity of the State of Nevada, did willfully, unlawfully, and feloniously attempt to take
personal property, to wit: an iPhone and wallet, from the person of ELIJAH PATTERSON, or
in his presence, without the consent and against the will of ELIJAH PATTERSON, by means
of force or violence or fear of injury, immediate or future, to his person, the person of a member
of his family, or of anyone in his company at the time of the robbery, defendant using force or

W:\2020\2020F\001\26\20F00126-INFM-(SMITH_CLIFFORD)-001.DOCX

1 fear to attempt to obtain or retain possession of the property, attempt to prevent or overcome
2 resistance to the taking of the property, and/or attempt to facilitate escape.

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

6 BY


7 BRANDON ALBRIGHT
8 Deputy District Attorney
9 Nevada Bar #014158

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27 20F00126X/rmj/L3
28 LVMPD EV#200100006771
(TK7)

ORIGINAL

1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #014158
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

JAN 24 2020

BY, *Kathy Thomas*
KATHY THOMAS, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-20-346330-1
GPA
Guilty Plea Agreement
4890252



9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 CLIFFORD SMITH,
13 #2681698

14 Defendant.

CASE NO: C-20-346330-1

DEPT NO: VI

15 **GUILTY PLEA AGREEMENT**

16 I hereby agree to plead guilty to: ATTEMPT ROBBERY (Category B Felony - NRS
17 200.380, 193.330 - NOC 50144), as more fully alleged in the charging document attached
18 hereto as Exhibit "1".

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

21 The State agrees to make no recommendation at sentencing. Additionally, the State
22 agrees not to seek habitual criminal treatment. The State agrees that the maximum sentence
23 will not exceed eight (8) years. Further, the State has no opposition to bail being lowered to
24 \$5,000.00 with mid-level electronic monitoring upon entry of plea.

25 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
26 and/or impounded in connection with the instant case and/or any other case negotiated in
27 whole or in part in conjunction with this plea agreement.

28 I understand and agree that, if I fail to interview with the Department of Parole and

1 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
2 by affidavit review, confirms probable cause against me for new criminal charges including
3 reckless driving or DUI, but excluding minor traffic violations, the State will have the
4 unqualified right to argue for any legal sentence and term of confinement allowable for the
5 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
6 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
7 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
8 twenty-five (25) year term with the possibility of parole after ten (10) years.

9 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
10 plea agreement.

11 CONSEQUENCES OF THE PLEA

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

14 I understand that as a consequence of my plea of guilty the Court must sentence me to
15 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
16 ONE (1) year and a maximum term of not more than TEN (10) years. The minimum term of
17 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I
18 understand that the law requires me to pay an Administrative Assessment Fee.

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

23 I understand that I am eligible for probation for the offense to which I am pleading
24 guilty. I understand that, except as otherwise provided by statute, the question of whether I
25 receive probation is in the discretion of the sentencing judge.

26 I understand that I must submit to blood and/or saliva tests under the Direction of the
27 Division of Parole and Probation to determine genetic markers and/or secretor status.

28 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,

1 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
2 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
3 and may receive a higher sentencing range.

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

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

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

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

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

16 I understand that if I am not a United States citizen, any criminal conviction will likely
17 result in serious negative immigration consequences including but not limited to:

- 18 1. The removal from the United States through deportation;
- 19 2. An inability to reenter the United States;
- 20 3. The inability to gain United States citizenship or legal residency;
- 21 4. An inability to renew and/or retain any legal residency status; and/or
- 22 5. An indeterminate term of confinement, with the United States Federal
23 Government based on my conviction and immigration status.

24 Regardless of what I have been told by any attorney, no one can promise me that this
25 conviction will not result in negative immigration consequences and/or impact my ability to
26 become a United States citizen and/or a legal resident.

27 I understand that the Division of Parole and Probation will prepare a report for the
28 sentencing judge prior to sentencing. This report will include matters relevant to the issue of

1 sentencing, including my criminal history. This report may contain hearsay information
2 regarding my background and criminal history. My attorney and I will each have the
3 opportunity to comment on the information contained in the report at the time of sentencing.
4 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
5 comment on this report.

6 WAIVER OF RIGHTS

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

- 9 1. The constitutional privilege against self-incrimination, including the right
10 to refuse to testify at trial, in which event the prosecution would not be
allowed to comment to the jury about my refusal to testify.
- 11 2. The constitutional right to a speedy and public trial by an impartial jury,
12 free of excessive pretrial publicity prejudicial to the defense, at which
13 trial I would be entitled to the assistance of an attorney, either appointed
or retained. At trial the State would bear the burden of proving beyond
a reasonable doubt each element of the offense(s) charged.
- 14 3. The constitutional right to confront and cross-examine any witnesses who
15 would testify against me.
- 16 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 17 5. The constitutional right to testify in my own defense.
- 18 6. The right to appeal the conviction with the assistance of an attorney,
19 either appointed or retained, unless specifically reserved in writing and
20 agreed upon as provided in NRS 174.035(3). I understand this means I
21 am unconditionally waiving my right to a direct appeal of this conviction,
including any challenge based upon reasonable constitutional,
22 jurisdictional or other grounds that challenge the legality of the
proceedings as stated in NRS 177.015(4). However, I remain free to
challenge my conviction through other post-conviction remedies
including a habeas corpus petition pursuant to NRS Chapter 34.

23 VOLUNTARINESS OF PLEA

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

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

28 I have discussed with my attorney any possible defenses, defense strategies and

1 circumstances which might be in my favor.

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


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

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


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

12 My attorney has answered all my questions regarding this guilty plea agreement and its
13 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

14 DATED this 24 day of January, 2020.

15
16 
17 CLIFFORD SMITH
18 Defendant
19
20
21
22
23

24 AGREED TO BY:

25 
26
27 BRANDON ALBRIGHT
28 Deputy District Attorney
Nevada Bar #014158

1 CERTIFICATE OF COUNSEL:

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

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
- 13 b. An inability to reenter the United States;
- 14 c. The inability to gain United States citizenship or legal residency;
- 15 d. An inability to renew and/or retain any legal residency status; and/or
- 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
- 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
- c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 20 day of January, 2020.

ADAM GILL, ESQ.

rmj/L3

Steven D. Grierson

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 BRANDON ALBRIGHT
6 Deputy District Attorney
7 Nevada Bar #014158
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 I.A. 1/24/20
13 10:00 A.M.
14 A. GILL

15 THE STATE OF NEVADA,
16
17 Plaintiff,

CASE NO: C-20-346330-1

18 -vs-

DEPT NO: VI

19 CLIFFORD SMITH,
20 #2681698
21
22 Defendant.

INFORMATION

23 STATE OF NEVADA }
24 COUNTY OF CLARK } ss.

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

27 That CLIFFORD SMITH, the Defendant(s) above named, having committed the crime
28 of ATTEMPT ROBBERY (Category B Felony - NRS 200.380, 193.330 - NOC 50144), on or
about the 2nd day of January, 2020, within the County of Clark, State of Nevada, contrary to
the form, force and effect of statutes in such cases made and provided, and against the peace
and dignity of the State of Nevada, did willfully, unlawfully, and feloniously attempt to take
personal property, to wit: an iPhone and wallet, from the person of ELIJAH PATTERSON, or
in his presence, without the consent and against the will of ELIJAH PATTERSON, by means
of force or violence or fear of injury, immediate or future, to his person, the person of a member
of his family, or of anyone in his company at the time of the robbery, defendant using force or


EXHIBIT "1"

W:\2020\2020F001\2620F00126-INFM-(SMITH_CLIFFORD)-001.DOCX

1 fear to attempt to obtain or retain possession of the property, attempt to prevent or overcome
2 resistance to the taking of the property, and/or attempt to facilitate escape.

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

6 BY


7 BRANDON ALBRIGHT
8 Deputy District Attorney
9 Nevada Bar #014158

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27 20F00126X/rmj/L3
28 LVMPD EV#200100006771
(TK7)

BAIL BOND

FILED

JAN 28 2020

In the Las Vegas District Court, County of ~~Clark~~ ^{Clark} State of Nevada.

STATE OF NEVADA

Bail Bond No SV5-5044983

(Power of attorney with this number must be attached.)

vs.

Defendant Smith, Clifford

Case No. C-20-346330-1

PLEASE TAKE NOTICE:

That Defendant/Principal Smith, Clifford, and Seaview Insurance Co. as surety, heretofore authorized to transact Bail bonds in the State of Nevada, are held and bound, to the above court, for payment in the sum of: \$5,000.00 Dollars, whereof, we bind ourselves, our heirs, executors, administrators, and successors, and assigns, jointly, severally, and firmly, to this obligation. The condition of this obligation is such that Defendant shall appear at all scheduled court appearances to answer the charge(s) of

ATTEMPT ROBBERY

and not depart the same without leave of court.

Pursuant to NRS 178.502, this bond:

- (a) Extends to any action or proceeding in a Justice Court, Municipal Court or District Court:
Arising from the charge on which bail was first given in any of these courts; and
- (b) Remains in effect until exonerated by the Court.

The general legal requirements applicable to bail bonds, bail agents, and surety insurers (including, but not limited to, NRS Chapter 178 and NRS Chapter 697) apply to this bail bond and are hereby incorporated by reference.



Signed and sealed this 26th day of January, 2020

Signature

UNSWORN DECLARATION: Per NRS 53.045

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

Executed on: (Date):

(Signature):

(Typed or printed name):

(Bail Agent License Number):

1/26/20
Nicholas Scott
3406103

By

Bonding Company Stamp

Aladdin Bail NV, Inc

626 Las Vegas Blvd. South
Las Vegas, NV 89101-6649
Telephone (702) 853-2245
License # 1843442

Surety Stamp

SEAVIEW INSURANCE CO.

Designated Agent/Person
to receive all notices:

1000 Aviara Parkway, Suite 300
Carlsbad, CA 92011
Telephone (800) 808-2245 Fax (760)
431-2698

RECEIVED

JAN 28 2020

CLERK OF THE COURT

COURT COPY SV-0401-01

VERIFY FIRST 1. THE FACE OF THIS FORM IS PRINTED IN RED, BLUE AND BLACK INKS WITH A MULTI COLORED BACKGROUND. 2. THE PAPER THIS FORM IS PRINTED ON CONTAINS A "TRUE" WATERMARK. HOLD UP TO A LIGHT SOURCE TO SEE THE WORDS "VERIFY FIRST" AND "SAFE" IN THE PAPER. 3. LOOK CLOSELY AT THE THIN BLUE BORDER LINE - YOU MAY NEED MAGNIFICATION. IT IS MADE UP OF REPEATING LETTERS THAT READ TWOJININC

POWER OF ATTORNEY
SEAVIEW INSURANCE COMPANY
VOID IF NOT ISSUED BY: Friday, July 24, 2020

POWER AMOUNT \$ *5000.00**** **POWER NO. SV5-5044983**

KNOW ALL MEN BY THESE PRESENTS that SEAVIEW INSURANCE COMPANY a corporation duly organized and existing under the laws of the State of CALIFORNIA and by the authority of the resolution adopted by the Board of Directors at a meeting duly called and held on December 5, 2011 which has not been amended or rescinded does constitute and appoint and by these presents does make constitute and appoint the named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitations, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal Immigration Bonds. Not valid for Federal Bail Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power, and can only be used once.

The obligation of the company shall not exceed the sum of *****Five Thousand Dollars And No Cents*****

and provided this Power-of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, SEAVIEW INSURANCE COMPANY has caused these presents to be signed by its duly authorized attorney-in-fact, proper for the purpose and its corporate seal to be hereunto affixed this 26th day of January, 2020.

Bond Amount \$ 5,000.00 Case #: C20-346330-1

Defendant Smith, Clifford

Charges ATTEMPT
ROBBERY



By Peter Botz
Peter Botz
Attorney-in-Fact

Court Las Vegas District
City LAS VEGAS State Nevada

If rewrite, original

Executing Agent Scott, Nicholas Exec. Agent Signature

FOR STATE USE ONLY
NOT VALID IF USED IN FEDERAL COURT

DOCUMENT CONTROL NO. 71555 NOT REWER NUMBER



1 CASE NO.: C-20-346330-1

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4 COUNTY OF CLARK, STATE OF NEVADA

5 -oOo-

6 STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 CLIFFORD SMITH,)

10 Defendant.)

11 _____)

Case No. 20F00126X

12

13 REPORTER'S TRANSCRIPT OF

14 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

15 BEFORE THE HONORABLE KAREN BENNETT-HARON
16 JUSTICE OF THE PEACE

17 WEDNESDAY, JANUARY 22, 2020

18

APPEARANCES

19

20 For the State: BRANDON ALBRIGHT, ESQ.
Deputy District Attorney

21

22 For the Defendant: ADAM GILL, ESQ.

23

24

25 Reported By: Jennifer O'Neill, CCR No. 763

1 LAS VEGAS, NEVADA; JANUARY 22, 2020; 9:00 A.M.

2 -oOo-

3

4 THE COURT: Clifford Smith, 20F00126X.

5 Mr. Smith, good morning.

6 THE DEFENDANT: Good morning, ma'am.

7 THE COURT: And this matter is scheduled for
8 preliminary hearing.

9 MR. GILL: Judge, it's been resolved. He's
10 going to unconditionally waive his right to a
11 preliminary hearing this morning.

12 In District Court he will be pleading guilty
13 to one count of attempt robbery, a category B felony.

14 The State is going to make no recommendation
15 as well as not seek habitual criminal treatment. The
16 State is also agreeing to reduce the bail at entry of
17 plea to \$5,000 with midlevel monitoring.

18 I'm not sure how we can word this, Judge, but
19 the State is not -- the State is not making a
20 recommendation but also not going to -- we're going to
21 suggest to the District Court that the max penalty not
22 exceed eight years. The attempt robbery is a one to
23 ten.

24 MR. ALBRIGHT: That's correct, Your Honor.

25 THE COURT: Mr. Smith, did you understand the

1 terms of the negotiation?

2 THE DEFENDANT: I did, ma'am.

3 THE COURT: Did you understand the terms of

4 the negotiation?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Did you also understand that one

7 of the things you're being asked to do today is to

8 unconditionally waive your right to a preliminary

9 hearing. That means if you go to District Court and

10 you change your mind about the deal, you won't be able

11 to come back to this court to have a preliminary

12 hearing on this charge.

13 Do you understand that?

14 THE DEFENDANT: Yes, ma'am.

15 MR. GILL: Court's indulgence.

16 THE COURT: I'm going to trail that so,

17 Mr. Smith, you can speak with your lawyer a little bit

18 more.

19 (Whereupon, other matters were heard.)

20 THE COURT: Mr. Smith, I'll recall your case.

21 20F00126X. Did you clear up any questions Mr. Smith

22 had, Mr. Gill?

23 MR. GILL: I believe so, Your Honor. Yes.

24 THE COURT: Okay. Mr. Smith, did you

25 understand the terms of the negotiation?

1 THE DEFENDANT: Yes, ma'am. Correct.

2 THE COURT: Did you also understand that one
3 of the things you're being asked to do today is to
4 unconditionally waive your right to a preliminary
5 hearing, which means if you get to District Court and
6 you change your mind about the negotiations, you won't
7 be able to come back to this court to have a
8 preliminary hearing on this charge.

9 Do you understand that?

10 THE DEFENDANT: Yes. Correct.

11 THE COURT: And understanding that, is it
12 still your intention to unconditionally waive your
13 right to a preliminary hearing?

14 THE DEFENDANT: Correct, ma'am.

15 THE COURT: Then it appearing to this Court
16 from the criminal complaint on file herein that the
17 crime of robbery with use of a deadly weapon has been
18 committed; and the defendant, Clifford Smith, having
19 unconditionally waived his right to a preliminary
20 hearing on said charges, shall be held to answer said
21 charges in the Eighth Judicial District Court, lower
22 level, on:

23 THE CLERK: January 24th, 10:00 a.m.

24 THE COURT: Thank you.

25 ///

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THE DEFENDANT: Thank you.

(The proceedings concluded.)

* * * * *

ATTEST: Full, true, and accurate
transcript of proceedings.

/S/ Jennifer O'Neill
JENNIFER O'NEILL, CCR No. 763

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REPORTER'S CERTIFICATE

STATE OF NEVADA)
COUNTY OF CLARK)

I, Jennifer O'Neill, a certified court reporter
in and for the State of Nevada, hereby certify that
pursuant to NRS 239B.030 I have not included the Social
Security number of any person within this document.

I further certify that I am not a relative or
employee of any party involved in said action, nor a
person financially interested in the action.

Dated in Las Vegas, Nevada this 7th day of
February, 2020.

/S/ Jennifer O'Neill
JENNIFER O'NEILL, CCR No. 763

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
54 - 66
WILL FOLLOW VIA
U.S. MAIL

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DOCUMENT,
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67 - 75
WILL FOLLOW VIA
U.S. MAIL

Steven D. Grierson

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-20-346330-1

-vs-

DEPT. NO. VI

CLIFFORD SMITH
#2681698

Defendant.

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of ATTEMPT ROBBERY (Category B Felony) in violation of NRS 200.380, 193.330; thereafter, on the 13th day of July, 2020, the Defendant was present in court for sentencing with counsel ADAM GILL, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee and \$250.00 Indigent Defense Civil Assessment Fee plus \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: a MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS;

<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

fy

1 with ONE HUNDRED NINETY-THREE (193) DAYS credit for time served. As the
2 \$150.00 DNA Analysis Fee and Genetic Testing have been previously imposed, the
3 Fee and Testing in the current case are WAIVED.
4

5 DATED this 16th day of July, 2020.

6
7 
8 JACQUELINE M. BLUTH
9 DISTRICT COURT JUDGE 
10
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**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

February 09, 2021

Attorney: Adam L Gill
723 S 3rd ST
Las Vegas NV 89101

Case Number: C-20-346330-1
Department: Department 6

Defendant: Clifford Smith

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: Motion To Withdraw Guilty Plea

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,
DC Criminal Desk # 7
Deputy Clerk of the Court

Clifford RAY Smith

Defendant Hon. Jacqueline Bluth

VS

CASE NO 20-346330-1

STATE OF NEVADA

Plaintiff

MOTION TO WITHDRAW GUILTY
PLEA AND/OR MODIFICATION OF SENTENCE

Date of hearing _____

Time of hearing _____

1. Comes Now, Defendant, proceeding in proper persona hereby motion this Honorable Court, pursuant to statute

NRS 176.165 AND NRS 176.555.

2. This motion is based upon PAPERS AND PLEADING AND the facts herein.

3. The District Attorney did not Adequately inform me as a defendant the full consequences of my plea, he did falsely, and/or fabricate untrue assumption about my record that he intentionally threaten me to plead guilty, by telling me AND showing four (4) convictions that was only two (2).

4. Said conviction was considered a typo, which are two (2) convictions written twice.

5. The convictions were Burglary (F), Breaking and entering (F), which is only two convictions.

6. The District Attorney had four (4) convictions listed, and the types convictions and/or untrue... materially untrue convictions of the third case of Burglary (F) had a made up case number, the Alleged fourth (4th) charge and/or conviction which was Breaking And Entering also had made up case number.

7. Such false charges and/or convictions were used by the District Attorney to force defendant by threatening him to plead guilty by telling defendant, that he will be charged with the Habitual offender if he don't plead guilty. The District Attorney used false convictions that did force a plea.

8. After being forced to plea, and before the defendant was sentenced, the PSI had to be corrected, based on the materially untrue, false, fabricated charges/conviction of:

A. Burglary (F) 3rd

B. Breaking And Entering 4th

9. This shows that defendant was not adequately informed and/or correctly informed of the true status of his criminal convictions, and forced to plead guilty under fraudulent circumstances. After Presentence Investigation report was collected.

10. The records in this case verify all the allegations that support a withdrawal of this guilty plea, and such records will prove that I defendant was forced to plea, and when such materially untrue assumptions were collected, there was nothing done and the plea created a manifest of injustice that support the setting aside the conviction and allowing to withdraw the guilty plea.

11. And base on the hearing circumstances, this court should consider a modification of my sentence, and such would be based on the fraudulent action of the district attorney, and as

12. Defendant would ask this honorable court not to perceive this request to be pointing the finger at the district attorney or this court and saying "you were wrong for allowing such actions to occur. Defendant is merely requesting that the reconsider the sentence, and pronounce that such sentence, base of the plea was illegal.

Brief in support thereof

Pursuant to NRS 176.165. After sentencing, the court may set aside a judgment of conviction and permit a withdrawal of a plea. Failure to adequately inform a defendant of the full consequences of his plea creates manifest injustice which would be corrected by withdrawal of plea. Meyer v. State 603 P2d 1066 (1979 Nev) and Little v. Warden 34 P3d 540 (Nev 2001)

CONTINUE OF

BRIEF IN SUPPORT THEREOF

Being threaten, and force to take a plea by claiming and making you believe that you will be subjected to Habitual Criminal if you do not sign the plea, but in reality you do not have the four (4) felonies at all. They did... intentionally use a untrue assumption about defendant's records that force him to except a plea, and such failure of the prosecution to adequately and/or correctly give proper information before telling him, he will be charge with the four time felony, of Habitual Offender if he do not plead guilty.

In this case the district Attorney created a materially untrue assumption or a mistake that force a plea of guilty, and the plea of guilty worked to my extreme detriment. See State v. State 787 P2d 396, 106 Nev 75 (1990) Also see Edwards v. State 918 P2d 321, 324, 1112 Nev 704 (1996)

Defendant is arguing that his original PST report consisted of untrue assumption about his record that had him plead guilty, such plea of guilty was based on false, fabricated, lies created by the District Attorney. And sense the

The Plea of guilty was base of untrue material assumption, such mistake is not in Accord with the constitutional considerations underlying the sentencing process. The United States Supreme Court has expressly held that where a sentence was based on a mistake about your criminal records, whether cause by carelessness or design, is inconsistent with due process of law. See TOWNSEND V. BUIKE, (736, 741), 68 Sct 1252, 92 LEd2d 1690 (1994) Defendant sentence clearly establish that it was base on criminal record, and the Plea was based on a false perception of his criminal

record therefore these are the grounds for the withdrawal of Plea, if the Plea itself create a miscarriage of Justice, the sentence is Illegal on its face, therefore the facial legality of the sentence is Illegal. See, State V. Dist. Court, 100 Nev 90, 97, 677 P2d 1044, 1048 (1994)

wherefore this Honorable Court should Allow the withdrawal of His sentence, and/or modify sentence base on the District Attorney's illegal actions of creating false untrue convictions that was use to force a guilty plea that was obtain by fraudulent means, such Plea should be withdrawn, and/or a modification of sentence

could be considered. It is this court choice to do what they choose, AND if this honorable court follow the laws of NRS, AND Meyer v. State Id at 1066 such withdrawal of Plea, AND or modification of sentence, would be the correct thing to do.

The proof of the untrue assumption about my record, is also in PSI Report. Also the threat is clear, and the fabrication, see PSI Report at Page (8) Plea Negotiation. They clearly state. Additionally agrees not to seek habitual criminal treatment. Such is proof of the threat and the material untrue fact. Assumption presented by the District Attorney. This court has inherent authority.

Declaration

I declare under the Penalty of Perjury, that all of the foregoing is true AND correct pursuant to NRS 29 NO. 53.045, 209.165 AND 28 USC § 1746

Dated January 11, 2021

x Clifford Smith

CERTIFICATE OF SERVICE BY MAILING

I, Clifford Ray Smith, hereby certify, pursuant to NRCP 5(b), that on this 13
day of JANUARY, 2021, I mailed a true and correct copy of the foregoing, "Motion to
Withdraw Guilty Plea/Modification of Sentence"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Clerk of the Court
200 LOUIS AVE
LAS VEGAS NV 89101

CC:FILE

DATED: this 13 day of JANUARY, 2021.

X Clifford Smith # 1238854

/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Clifford Ray Smith

Defendant Judge Jacqueline Bluth

VS

CASE NO 20-346330-1

Dept No VII 6

STATE OF NEVADA

Plaintiff

NOTICE OF MOTION

YOU WILL PLEASE TAKE, that motion to withdraw.
Plea and/or modification of sentence will come on for a
hearing before the Honorable court on the day of February
2021, at the hour of 9 o'clock A.M. IN DEPT OF SAID COURT

Dated January 13 2021

x. Clifford Smith

RECEIVED

JAN 25 2021

CLERK OF THE COURT

Black

cc

Honorable Jacqueline Bluth

Case No. 20-346330-1

Department VI 6

Please send A
Filed Stamp Copy
Thank You

Dear Clerk of the Court

Please find enclosed for filing a motion to
withdraw my Guilty Plea and/or modification of
sentence. Notice of Motion Certificate of Service by
mailing

JANUARY 13, 2021

X Clifford Smith #1233854

Please set this on our calendar.
in the ordinary course.

Thank you~

Kristal Jacobs

Dept. 6 JEA

X4350

CC

RECEIVED

JAN 26 2021

CLERK OF THE COURT

CLARA RAY SMITH # 1035854
PO BOX 208 SDC
INDIAN SPRINGS NEVADA

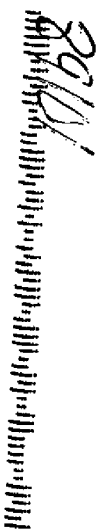
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LAS VEGAS NV 890
15 JAN 2021 PM 5 L



Honorable Jacqueline Bluth
Clerk of the Court
200 Jouis Ave 3rd Floor
LAS VEGAS, NEVADA

89101-630000



OUTGOING MAIL

JAN 15 2021

SOUTHERN NEVADA
CORRECTIONAL CENTER

1 Clifford R. Smith, 1233854

2 Petitioner/In Propria Persona
3 Post Office Box 208, SDCC
4 Indian Springs, Nevada 89070

FILED

MAR 02 2021

CLERK OF COURT

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF
6 THE STATE OF NEVADA IN AND FOR THE
7 COUNTY OF NEVADA

March 24, 2021
11:00 AM

8 CLIFFORD RAY SMITH }

9 Plaintiff,

10 vs.

Case No. 20-346330-1

11 THE STATE OF NEVADA }

Dept. No. 6

12 Defendant,

Docket _____

13
14 MOTION TO WITHDRAW COUNSEL

15 Date of Hearing: _____

16 Time of Hearing: _____

17 "ORAL ARGUMENT REQUESTED, Yes _____ No ☒"

18 COMES NOW, Defendant, Clifford Ray Smith, proceeding in proper
19 person, moves this Honorable Court for an ORDER Granting him permission to withdraw his
20 present counsel of record in the proceeding action, namely,

21 Adam L. Gill

22 This Motion is made and based on all papers and pleadings on file with the Clerk of the Court
23 which are hereby incorporated by this reference, the Points and Authorities herein, and attached
24 Affidavit of Defendant.

25 DATED: this 15 day of February, 2021.

26 BY: Clifford R. Smith
27 Clifford R. Smith # _____
28 Defendant/In Propria Personam

RECEIVED

FEB 22 2021

CLERK OF THE COURT

1 **POINTS AND AUTHORITIES**

2 The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

3 "An attorney who has been discharged by his client shall, upon demand and payment of the fee due from
4 the client, immediately deliver to the client all papers, documents, pleadings and items of tangible property
which belong to or were prepared for that client."

5 As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s)
6 of record, were appointed by the Court to represent the defendant, who was an indigent, in Case
7 Number, 20-346330-1, in Department No. Six.

8 N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and
9 deliver to the defendant in his/her possession, which states:

10 "A client who, after demand therefore and payment of the fee due from him, does not receive from his
11 discharged attorney all papers, documents, pleadings and items of tangible personal property may, by
12 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."

13 In numerous cases throughout this great land, the courts have held attorneys to a high degree of
14 professional responsibility and integrity. This carried from the time of hiring to and through the
15 attorney's termination of employment.

16 Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a
17 . . . prompt accounting of all his client's . . . property in his possession." This is echoed in Canon 2 of
18 the Code of Professional Responsibility of the American Bar Association, which states in pertinent
19 part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all
20 papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the
21 ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply with
22 applicable laws on the subject.

23 In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460,
24 24 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney
25 refusing to deliver to a former client his documents after being requested to do so by the client. The
26 court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney
27 censured.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce and
6 deliver to the Defendant all documents and personal property in his/their possession belonging to him
7 or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers. The
8 attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada
9 Supreme Court Rules 173, 176 and 203.

10
11 DATED: this 15th day of February, 2021.

12
13 xBY: Clifford Smith

14 Clifford Ray Smith #
15 Defendant/In Propria Personam
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AFFIDAVIT OF: CLIFFORD RAY SMITH

STATE OF NEVADA)
COUNTY OF CLARK) ss:

TO WHOM IT MAY CONCERN:

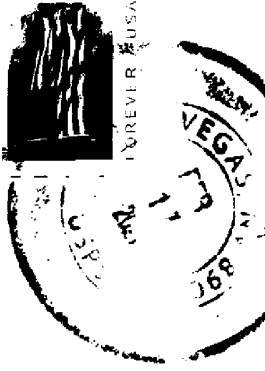
I, Clifford R. Smith the undersigned, do hereby swear that
all statements, facts and events within my foregoing Affidavit are
true and correct of my own knowledge, information and belief, and
as to those, I believe them to be True and Correct. Signed under the
penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state
the following:

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 15 Day of February 2021
2021.

X BY: Clifford R. Smith
Clifford R. Smith #
Post Office Box-208 (SDCC)
Indian Springs, Nevada, 89070.
Affiant, In Propria Personam:

Clifford Smith #1235854
S.D.C.C.
P.O. Box 208
Indian Springs, NV 89070



Steven D. Grierson, Clerk of the Court
200 Lewis Avenue, 3rd Floor

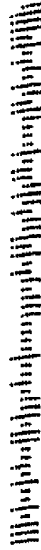
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FEB 22 2021

LAS VEGAS NV 89155

CLERK OF THE COURT

8910135300



Heaven's Honor
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #13730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CLIFFORD SMITH,
#2681698

Petitioner,

CASE NO: A-21-833992-W

-vs-

C-20-346330-1

THE STATE OF NEVADA,

DEPT NO: VI

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: JUNE 30, 2021
TIME OF HEARING: 11:00AM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE M. BLUTH, District Judge, on the 30th day of June, 2021, the Petitioner not being present, PROCEEDING IN PROPER PERSON, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through YU MENG, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On January 23, 2020, the State charged Clifford Smith (hereinafter "Petitioner") by way
4 of Information with one count of Attempt Robbery (Category B Felony – NRS 200.380,
5 193.330). The next day, Petitioner pleaded guilty to the one count and signed a Guilty Plea
6 Agreement. Pursuant to the negotiations, the State agreed to make no recommendation at
7 sentencing and agreed to not seek habitual criminal treatment. The State also agreed the
8 maximum sentence will not exceed eight years and did not oppose Petitioner's bail being
9 lowered to \$5,000.00 with mid-level electronic monitoring upon entry of plea.

10 On May 27, 2020, Petitioner and his counsel appeared at sentencing and informed this
11 Court there were issues with the Presentence Investigation Report (PSI) and requested a
12 continuance. On July 13, 2020, this Court noted it reviewed the Supplemental PSI that
13 corrected the previous errors, and adjudicated Petitioner guilty of Attempt Robbery. This Court
14 sentenced Petitioner to a minimum of thirty-six months and a maximum of ninety-six months
15 in the Nevada Department of Corrections (NDOC). Petitioner received one hundred ninety-
16 three days credit for time served. The Judgment of Conviction was filed on July 17, 2020.

17 On May 4, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus (Post-
18 Conviction) (hereinafter "Petition"). The State filed its Response on June 18, 2021. Following
19 a hearing on June 30, 2021, this Court now finds and concludes as follows:

20 **AUTHORITY**

21 Petitioner claims that he was forced to plead guilty because the District Attorney's
22 Office threatened him by using "materially untrue convictions" to make it appear he was
23 eligible for habitual criminal treatment. Petition, at 1-5. However, the claims raised in the
24 instant Petition are conclusory, bare, and naked assertions that should be summarily dismissed.
25 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

26 Dismissal of a petition is mandatory if "[t]he petitioner's conviction was upon a plea of
27 guilty or guilty but mentally ill and the petition is not based upon an allegation that the plea
28 was involuntarily or unknowingly entered or that the plea was entered without effective

1 assistance of counsel.” NRS 34.810(1)(a). The Nevada Court of Appeals recently considered
2 the types of ineffective assistance of counsel claims that are permissible pursuant to this
3 statute, and concluded that NRS 34.810 *only* permits claims of ineffective assistance of counsel
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8 conviction is the result of a guilty plea, to demonstrate prejudice, a petitioner “must show that
9 there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty
10 and would have insisted on going to trial.” Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102,
11 1107 (1996) (quoting Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 370 (1985)).

12 Here, Petitioner claims that the District Attorney’s Office forced him to plead guilty by
13 using “false convictions that did force a plea.” Petition, at 2. Petitioner’s only support for this
14 assertion is his PSI, which was not prepared by the District Attorney’s Office and was not
15 prepared until after Petitioner entered his guilty plea. Petitioner also claims that the District
16 Attorney threatened to charge him as a habitual offender. Petition, at 2. However, the State
17 never filed a Notice of Intent to Seek Habitual Criminal Treatment. The only mention of
18 habitual criminal treatment is the Guilty Plea Agreement, which states, “Additionally, the State
19 agrees not to seek habitual criminal treatment.” Guilty Plea Agreement, January 24, 2020, at
20 1. Thus, it is unclear how Petitioner was forced by the District Attorney to enter a guilty plea
21 because he feared habitual criminal treatment, when the State agreed not to seek it.

22 Furthermore, the record demonstrates that counsel brought the errors in Petitioner’s PSI
23 to the court’s attention before his sentencing. Court Minutes, May 27, 2020. After counsel
24 brought these errors to the court’s attention, a new supplemental PSI was filed prior to
25 sentencing, correcting the number of prior felonies to 2. See Court Minutes, July 13, 2020;
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1 were fixed to represent Petitioner's correct number of prior felonies, and Petitioner was not
2 forced into any negotiations by the State.

3 Petitioner also requests this Court allow him to withdraw his plea because his plea was
4 based on a "miscarriage of justice," while simultaneously asking this Court to modify his
5 sentence. Petition, at 5.¹ These two requests are mutually exclusive. If this Court allows him
6 to withdraw his plea, then this Court is unable to sentence him because the court can only
7 sentence a defendant that has either pled guilty or been found guilty at trial.

8 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only be
9 withdrawn to correct "manifest injustice." See Baal v. State, 106 Nev. 69, 72, 787 P.2d 391,
10 394 (1990). The law in Nevada establishes that a plea of guilty is presumptively valid, and the
11 burden is on a defendant to show that the plea was not voluntarily entered. Bryant v. State,
12 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing Wingfield v. State, 91 Nev. 336, 337, 535
13 P.2d 1295, 1295 (1975)). Manifest injustice does not exist if the defendant entered his plea
14 voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394.

15 To determine whether a guilty plea was voluntarily entered, the Court will review the
16 totality of the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721
17 P.2d at 367. A proper plea canvass should reflect that:

18 [T]he defendant knowingly waived his privilege against self-
19 incrimination, the right to trial by jury, and the right to confront his
20 accusers; (2) the plea was voluntary, was not coerced, and was not the
21 result of a promise of leniency; (3) the defendant understood the
22 consequences of his plea and the range of punishments; and (4) the
23 defendant understood the nature of the charge, i.e., the elements of
24 the crime.

25 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.
26 774, 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in

27 ¹ Petitioner also claims cruel and unusual punishment, ineffective assistance of counsel, and violation of due process. Id.
28 He mentions these claims, but never addresses them again and fails to make any factual allegations regarding these
claims. It is defendant's responsibility to plead specific factual allegations, and defendant cannot rely on conclusory
claims for relief. NRS 34.735; Colwell v. State, 118 Nev. 807, 812, 59 P.3d 463, 467 (2002) (citing Evans v. State, 117
Nev. 609, 621, 28 P.3d 498, 507 (2001)).

1 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d
2 107, 107 (1975).

3 This standard requires the court accepting the plea to personally address the defendant
4 at the time he enters his plea in order to determine whether he understands the nature of the
5 charges to which he is pleading. Bryant, 102 Nev. at 271, 721 P.2d at 367. A court may not
6 rely simply on a written plea agreement without some verbal interaction with a defendant. Id.
7 Thus, a “colloquy” is constitutionally mandated and a “colloquy” is but a conversation in a
8 formal setting, such as that occurring between an official sitting in judgment of an accused at
9 plea. Id. However, the Court need not conduct a ritualistic oral canvass. State v. Freese, 116
10 Nev. 1097, 13 P.3d 442 (2000). The guidelines for voluntariness of guilty pleas “do not require
11 the articulation of talismanic phrases,” but only that the record demonstrates a defendant
12 entered his guilty plea understandingly and voluntarily. Heffley v. Warden, 89 Nev. 573, 575,
13 516 P.2d 1403, 1404 (1973); see also Brady v. United States, 397 U.S. 742, 747-48, 90 S. Ct.
14 1463, 1470 (1970).

15 Nevada precedent reflects “that where a guilty plea is not coerced and the defendant
16 [is] competently represented by counsel at the time it [is] entered, the subsequent conviction
17 is not open to collateral attack and any errors are superseded by the plea of guilty.” Powell v.
18 Sheriff, Clark County, 85 Nev. 684, 687, 462 P.2d 756, 758 (1969) (citing Hall v. Warden, 83
19 Nev. 446, 434 P.2d 425 (1967)). In Woods v. State, the Nevada Supreme Court determined
20 that a defendant lacked standing to challenge the validity of a plea agreement because he had
21 “voluntarily entered into the plea agreement and accepted its attendant benefits.” 114 Nev.
22 468, 477, 958 P.2d 91, 96 (1998).

23 Furthermore, the Nevada Supreme Court has explained:

24 [A] guilty plea represents a break in the chain of events which has
25 preceded it in the criminal process. When a criminal defendant has
26 solemnly admitted in open court that he is in fact guilty of the offense
27 with which he is charged, he may not thereafter raise independent
28 claims relating to the deprivation of constitutional rights that occurred
prior to the entry of the guilty plea.

1 Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollet v. Henderson, 411
2 U.S. 258, 267, 93 S. Ct. 1602, 1608 (1973)). Indeed, entry of a guilty plea “waive[s] all
3 constitutional claims based on events occurring prior to the entry of the plea[], except those
4 involving voluntariness of the plea[] [itself].” Lyons, 100 Nev. at 431, 683 P.2d 505; see also,
5 Kirksey, 112 Nev. at 999, 923 P.2d at 1114 (“Where the defendant has pleaded guilty, the only
6 claims that may be raised thereafter are those involving the voluntariness of the plea itself and
7 the effectiveness of counsel.”).

8 Here, Petitioner’s claim that his plea was coerced is belied by the record. First,
9 Petitioner affirmed that he was entering his plea freely and voluntarily when he signed his
10 GPA, which stated:

11 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

25 My attorney has answered all my questions regarding this plea
26 agreement and its consequences to my satisfaction and I am satisfied
with the services provided by my attorney.

27 Guilty Plea Agreement, January 24, 2020, at 4-5 (emphasis added).
28

1 Therefore, based on Petitioner's Guilty Plea Agreement, his claim is belied by the
2 record, and he is not entitled to withdraw his plea. Petitioner has not shown withdrawal of his
3 plea is necessary to correct a manifest injustice—especially because Petitioner entered his plea
4 before his PSI was even prepared. As such, Petitioner is not entitled to withdraw his plea.

5 Petitioner is also not entitled to a modification of his sentence. Petition, at 5. In general,
6 a district court lacks jurisdiction to modify a sentence once the defendant has started serving
7 it. Passanisi v. State, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992), overruled on other
8 grounds by Harris v. State, 130 Nev. 435, 329 P.3d 619 (2014). However, a district court does
9 have inherent authority to correct, vacate or modify a sentence where the defendant can
10 demonstrate the sentence violates due process because it is based on a materially untrue
11 assumption or mistake of fact that has worked to the defendant's extreme detriment. Edwards
12 v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996); NRS 176.555; see also Passanisi, 108
13 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to a due
14 process violation. State v. Dist. Ct. (Husney), 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984).
15 The Nevada Supreme Court has emphasized that a "motion to modify a sentence is limited in
16 scope to sentences based on mistaken assumptions about a defendant's criminal record which
17 work to the extreme detriment of the defendant." Edwards, 112 Nev. at 708, 918 P.2d at 325.

18 Here, Petitioner has failed to show that the Court sentenced him under a materially
19 untrue assumption or mistake of fact. See NRS 176.555; Edwards, 112 Nev. at 707, 918 P.2d
20 at 324; Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Petitioner has not presented any argument
21 or evidence that his sentence is facially illegal. This request is not based on a materially untrue
22 assumption or mistake of fact that has worked to his extreme detriment to give the Court any
23 reason to modify his sentence because the error in his PSI was corrected prior to sentencing.
24 Accordingly, Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction) is DENIED.

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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, and it is, hereby denied.

~~DATED this 22 day of July, 2021.~~

Dated this 19th day of August, 2021



DISTRICT JUDGE

NH kj

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

1F9 6B5 64A0 EA1A
Jacqueline M. Bluth
District Court Judge

BY


KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #13730

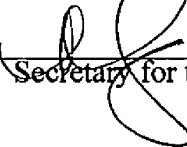
Yu meng #14741
for

CERTIFICATE OF SERVICE

I certify that on the 22nd day of July, 2021, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

CLIFFORD SMITH, BAC #1235854
THREE LAKES VALLEY C.C.
PO BOX 208
INDIAN SPRINGS, NV 89070

BY


Secretary for the District Attorney's Office

KM/mah/L3

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Clifford Smith, Plaintiff(s)

CASE NO: A-21-833992-W

7 vs.

DEPT. NO. Department 6

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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1 NEO

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 CLIFFORD SMITH,

6 Petitioner,

Case No: C-20-346330-1

Dept No: XI

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

10 NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

11 PLEASE TAKE NOTICE that on August 19, 2021, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed
to you. This notice was mailed on August 24, 2021.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 24 day of August 2021, I served a copy of this Notice of Entry on the
21 following:

22 ☒ By e-mail:

23 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:

25 Clifford Smith # 1235854 Adam Gill, Esq.
3955 W. Russell Rd. 723 S. Third St.
26 Las Vegas, NV 89118 Las Vegas, NV 89101

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk

Heaven's Honor
CLERK OF THE COURT

FCL
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Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CLIFFORD SMITH,
#2681698

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-833992-W

C-20-346330-1

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: JUNE 30, 2021
TIME OF HEARING: 11:00AM

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18 [T]he defendant knowingly waived his privilege against self-
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20 accusers; (2) the plea was voluntary, was not coerced, and was not the
21 result of a promise of leniency; (3) the defendant understood the
22 consequences of his plea and the range of punishments; and (4) the
23 defendant understood the nature of the charge, i.e., the elements of
24 the crime.

25 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.
26 774, 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in

27 ¹ Petitioner also claims cruel and unusual punishment, ineffective assistance of counsel, and violation of due process. Id.
28 He mentions these claims, but never addresses them again and fails to make any factual allegations regarding these
claims. It is defendant's responsibility to plead specific factual allegations, and defendant cannot rely on conclusory
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Nev. 609, 621, 28 P.3d 498, 507 (2001)).

1 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d
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3 This standard requires the court accepting the plea to personally address the defendant
4 at the time he enters his plea in order to determine whether he understands the nature of the
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7 Thus, a “colloquy” is constitutionally mandated and a “colloquy” is but a conversation in a
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12 entered his guilty plea understandingly and voluntarily. Heffley v. Warden, 89 Nev. 573, 575,
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14 1463, 1470 (1970).

15 Nevada precedent reflects “that where a guilty plea is not coerced and the defendant
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18 Sheriff, Clark County, 85 Nev. 684, 687, 462 P.2d 756, 758 (1969) (citing Hall v. Warden, 83
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22 468, 477, 958 P.2d 91, 96 (1998).

23 Furthermore, the Nevada Supreme Court has explained:

24 [A] guilty plea represents a break in the chain of events which has
25 preceded it in the criminal process. When a criminal defendant has
26 solemnly admitted in open court that he is in fact guilty of the offense
27 with which he is charged, he may not thereafter raise independent
28 claims relating to the deprivation of constitutional rights that occurred
prior to the entry of the guilty plea.

1 Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollet v. Henderson, 411
2 U.S. 258, 267, 93 S. Ct. 1602, 1608 (1973)). Indeed, entry of a guilty plea “waive[s] all
3 constitutional claims based on events occurring prior to the entry of the plea[], except those
4 involving voluntariness of the plea[] [itself].” Lyons, 100 Nev. at 431, 683 P.2d 505; see also,
5 Kirksey, 112 Nev. at 999, 923 P.2d at 1114 (“Where the defendant has pleaded guilty, the only
6 claims that may be raised thereafter are those involving the voluntariness of the plea itself and
7 the effectiveness of counsel.”).

8 Here, Petitioner’s claim that his plea was coerced is belied by the record. First,
9 Petitioner affirmed that he was entering his plea freely and voluntarily when he signed his
10 GPA, which stated:

11 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

25 My attorney has answered all my questions regarding this plea
26 agreement and its consequences to my satisfaction and I am satisfied
with the services provided by my attorney.

27 Guilty Plea Agreement, January 24, 2020, at 4-5 (emphasis added).
28

1 Therefore, based on Petitioner's Guilty Plea Agreement, his claim is belied by the
2 record, and he is not entitled to withdraw his plea. Petitioner has not shown withdrawal of his
3 plea is necessary to correct a manifest injustice—especially because Petitioner entered his plea
4 before his PSI was even prepared. As such, Petitioner is not entitled to withdraw his plea.

5 Petitioner is also not entitled to a modification of his sentence. Petition, at 5. In general,
6 a district court lacks jurisdiction to modify a sentence once the defendant has started serving
7 it. Passanisi v. State, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992), overruled on other
8 grounds by Harris v. State, 130 Nev. 435, 329 P.3d 619 (2014). However, a district court does
9 have inherent authority to correct, vacate or modify a sentence where the defendant can
10 demonstrate the sentence violates due process because it is based on a materially untrue
11 assumption or mistake of fact that has worked to the defendant's extreme detriment. Edwards
12 v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996); NRS 176.555; see also Passanisi, 108
13 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to a due
14 process violation. State v. Dist. Ct. (Husney), 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984).
15 The Nevada Supreme Court has emphasized that a "motion to modify a sentence is limited in
16 scope to sentences based on mistaken assumptions about a defendant's criminal record which
17 work to the extreme detriment of the defendant." Edwards, 112 Nev. at 708, 918 P.2d at 325.

18 Here, Petitioner has failed to show that the Court sentenced him under a materially
19 untrue assumption or mistake of fact. See NRS 176.555; Edwards, 112 Nev. at 707, 918 P.2d
20 at 324; Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Petitioner has not presented any argument
21 or evidence that his sentence is facially illegal. This request is not based on a materially untrue
22 assumption or mistake of fact that has worked to his extreme detriment to give the Court any
23 reason to modify his sentence because the error in his PSI was corrected prior to sentencing.
24 Accordingly, Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction) is DENIED.

25 //

26 //

27 //

28 //

1 ORDER

2 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
3 shall be, and it is, hereby denied.

4 ~~DATED this 22 day of July, 2021.~~

Dated this 19th day of August, 2021

5
6 
DISTRICT JUDGE

NH kj

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

1F9 6B5 64A0 EA1A
Jacqueline M. Bluth
District Court Judge

9 BY 

10 KAREN MISHLER
11 Chief Deputy District Attorney
Nevada Bar #13730

Yu meng #14741
for

12
13
14 CERTIFICATE OF SERVICE

15 I certify that on the 22nd day of July, 2021, I mailed a copy of the foregoing
16 proposed Findings of Fact, Conclusions of Law, and Order to:

17 CLIFFORD SMITH, BAC #1235854
18 THREE LAKES VALLEY C.C.
19 PO BOX 208
INDIAN SPRINGS, NV 89070

20 BY 

Secretary for the District Attorney's Office

21
22
23
24
25
26
27
28 KM/mah/L3

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Clifford Smith, Plaintiff(s)

CASE NO: A-21-833992-W

7 vs.

DEPT. NO. Department 6

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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1 NEO

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 CLIFFORD SMITH,

6 Petitioner,

Case No: C-20-346330-1

Dept No: XI

7 vs.

Amended

8 THE STATE OF NEVADA,

9 Respondent,

AMENDED NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW AND
ORDER

11 PLEASE TAKE NOTICE that on August 19, 2021, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed
15 to you. This notice was mailed on August 25, 2021.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 25 day of August 2021, I served a copy of this Notice of Entry on the
21 following:

22 ☒ By e-mail:

23 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

24 ☒ The United States mail addressed as follows:

25 Clifford Smith # 1235854 Adam Gill, Esq.
P.O. Box 208 723 S. Third St.
26 Indian Springs, NV 89070 Las Vegas, NV 89101

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk

Heather Shuman
CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #13730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CLIFFORD SMITH,
#2681698

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-833992-W

C-20-346330-1

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: JUNE 30, 2021
TIME OF HEARING: 11:00AM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE M. BLUTH, District Judge, on the 30th day of June, 2021, the Petitioner not being present, PROCEEDING IN PROPER PERSON, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through YU MENG, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On January 23, 2020, the State charged Clifford Smith (hereinafter "Petitioner") by way
4 of Information with one count of Attempt Robbery (Category B Felony – NRS 200.380,
5 193.330). The next day, Petitioner pleaded guilty to the one count and signed a Guilty Plea
6 Agreement. Pursuant to the negotiations, the State agreed to make no recommendation at
7 sentencing and agreed to not seek habitual criminal treatment. The State also agreed the
8 maximum sentence will not exceed eight years and did not oppose Petitioner's bail being
9 lowered to \$5,000.00 with mid-level electronic monitoring upon entry of plea.

10 On May 27, 2020, Petitioner and his counsel appeared at sentencing and informed this
11 Court there were issues with the Presentence Investigation Report (PSI) and requested a
12 continuance. On July 13, 2020, this Court noted it reviewed the Supplemental PSI that
13 corrected the previous errors, and adjudicated Petitioner guilty of Attempt Robbery. This Court
14 sentenced Petitioner to a minimum of thirty-six months and a maximum of ninety-six months
15 in the Nevada Department of Corrections (NDOC). Petitioner received one hundred ninety-
16 three days credit for time served. The Judgment of Conviction was filed on July 17, 2020.

17 On May 4, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus (Post-
18 Conviction) (hereinafter "Petition"). The State filed its Response on June 18, 2021. Following
19 a hearing on June 30, 2021, this Court now finds and concludes as follows:

20 **AUTHORITY**

21 Petitioner claims that he was forced to plead guilty because the District Attorney's
22 Office threatened him by using "materially untrue convictions" to make it appear he was
23 eligible for habitual criminal treatment. Petition, at 1-5. However, the claims raised in the
24 instant Petition are conclusory, bare, and naked assertions that should be summarily dismissed.
25 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

26 Dismissal of a petition is mandatory if "[t]he petitioner's conviction was upon a plea of
27 guilty or guilty but mentally ill and the petition is not based upon an allegation that the plea
28 was involuntarily or unknowingly entered or that the plea was entered without effective

1 assistance of counsel.” NRS 34.810(1)(a). The Nevada Court of Appeals recently considered
2 the types of ineffective assistance of counsel claims that are permissible pursuant to this
3 statute, and concluded that NRS 34.810 *only* permits claims of ineffective assistance of counsel
4 that challenge the validity of the guilty plea. Gonzales v. State, 136 Nev. Adv. Op. 60 (Nev.
5 App. 2020). “[A] petitioner must allege specific facts demonstrating both that counsel’s advice
6 (or failure to give advice) regarding the guilty plea was objectively unreasonable and that the
7 deficiency affected the outcome of the plea negotiation process.” Id. Further, when a
8 conviction is the result of a guilty plea, to demonstrate prejudice, a petitioner “must show that
9 there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty
10 and would have insisted on going to trial.” Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102,
11 1107 (1996) (quoting Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 370 (1985)).

12 Here, Petitioner claims that the District Attorney’s Office forced him to plead guilty by
13 using “false convictions that did force a plea.” Petition, at 2. Petitioner’s only support for this
14 assertion is his PSI, which was not prepared by the District Attorney’s Office and was not
15 prepared until after Petitioner entered his guilty plea. Petitioner also claims that the District
16 Attorney threatened to charge him as a habitual offender. Petition, at 2. However, the State
17 never filed a Notice of Intent to Seek Habitual Criminal Treatment. The only mention of
18 habitual criminal treatment is the Guilty Plea Agreement, which states, “Additionally, the State
19 agrees not to seek habitual criminal treatment.” Guilty Plea Agreement, January 24, 2020, at
20 1. Thus, it is unclear how Petitioner was forced by the District Attorney to enter a guilty plea
21 because he feared habitual criminal treatment, when the State agreed not to seek it.

22 Furthermore, the record demonstrates that counsel brought the errors in Petitioner’s PSI
23 to the court’s attention before his sentencing. Court Minutes, May 27, 2020. After counsel
24 brought these errors to the court’s attention, a new supplemental PSI was filed prior to
25 sentencing, correcting the number of prior felonies to 2. See Court Minutes, July 13, 2020;
26 Supplemental PSI, prepared July 1, 2020. Even with two prior felonies, Petitioner was eligible
27 to be sentenced under the small habitual statute. See NRS 207.010(1)(a). However, the errors
28

1 were fixed to represent Petitioner's correct number of prior felonies, and Petitioner was not
2 forced into any negotiations by the State.

3 Petitioner also requests this Court allow him to withdraw his plea because his plea was
4 based on a "miscarriage of justice," while simultaneously asking this Court to modify his
5 sentence. Petition, at 5.¹ These two requests are mutually exclusive. If this Court allows him
6 to withdraw his plea, then this Court is unable to sentence him because the court can only
7 sentence a defendant that has either pled guilty or been found guilty at trial.

8 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only be
9 withdrawn to correct "manifest injustice." See Baal v. State, 106 Nev. 69, 72, 787 P.2d 391,
10 394 (1990). The law in Nevada establishes that a plea of guilty is presumptively valid, and the
11 burden is on a defendant to show that the plea was not voluntarily entered. Bryant v. State,
12 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing Wingfield v. State, 91 Nev. 336, 337, 535
13 P.2d 1295, 1295 (1975)). Manifest injustice does not exist if the defendant entered his plea
14 voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394.

15 To determine whether a guilty plea was voluntarily entered, the Court will review the
16 totality of the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721
17 P.2d at 367. A proper plea canvass should reflect that:

18 [T]he defendant knowingly waived his privilege against self-
19 incrimination, the right to trial by jury, and the right to confront his
20 accusers; (2) the plea was voluntary, was not coerced, and was not the
21 result of a promise of leniency; (3) the defendant understood the
22 consequences of his plea and the range of punishments; and (4) the
23 defendant understood the nature of the charge, i.e., the elements of
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27 ¹ Petitioner also claims cruel and unusual punishment, ineffective assistance of counsel, and violation of due process. Id.
28 He mentions these claims, but never addresses them again and fails to make any factual allegations regarding these
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18 Sheriff, Clark County, 85 Nev. 684, 687, 462 P.2d 756, 758 (1969) (citing Hall v. Warden, 83
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23 Furthermore, the Nevada Supreme Court has explained:

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5 Kirksey, 112 Nev. at 999, 923 P.2d at 1114 (“Where the defendant has pleaded guilty, the only
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7 the effectiveness of counsel.”).

8 Here, Petitioner’s claim that his plea was coerced is belied by the record. First,
9 Petitioner affirmed that he was entering his plea freely and voluntarily when he signed his
10 GPA, which stated:

11 VOLUNTARINESS OF PLEA

12 I have discussed the elements of all the original charge(s) against me
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me.

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

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

17 All of the foregoing elements, consequences, rights, and waiver of
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19 I believe that pleading guilty and accepting this plea bargain is in my
best interest, and that trial would be contrary to my best interest.

20 **I am signing this agreement voluntarily, after consultation with**
21 **my attorney, and I am not acting under duress or coercion or by**
22 **virtue of any promises of leniency except those set forth in this**
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23 I am not now under the influence of any intoxicating liquor, a
24 controlled substance or other drug which would in any manner impair
my ability to comprehend or understand this agreement or the
proceedings surrounding my entry of this plea.

25 My attorney has answered all my questions regarding this plea
26 agreement and its consequences to my satisfaction and I am satisfied
with the services provided by my attorney.

27 Guilty Plea Agreement, January 24, 2020, at 4-5 (emphasis added).
28

1 Therefore, based on Petitioner's Guilty Plea Agreement, his claim is belied by the
2 record, and he is not entitled to withdraw his plea. Petitioner has not shown withdrawal of his
3 plea is necessary to correct a manifest injustice—especially because Petitioner entered his plea
4 before his PSI was even prepared. As such, Petitioner is not entitled to withdraw his plea.

5 Petitioner is also not entitled to a modification of his sentence. Petition, at 5. In general,
6 a district court lacks jurisdiction to modify a sentence once the defendant has started serving
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15 The Nevada Supreme Court has emphasized that a "motion to modify a sentence is limited in
16 scope to sentences based on mistaken assumptions about a defendant's criminal record which
17 work to the extreme detriment of the defendant." Edwards, 112 Nev. at 708, 918 P.2d at 325.

18 Here, Petitioner has failed to show that the Court sentenced him under a materially
19 untrue assumption or mistake of fact. See NRS 176.555; Edwards, 112 Nev. at 707, 918 P.2d
20 at 324; Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Petitioner has not presented any argument
21 or evidence that his sentence is facially illegal. This request is not based on a materially untrue
22 assumption or mistake of fact that has worked to his extreme detriment to give the Court any
23 reason to modify his sentence because the error in his PSI was corrected prior to sentencing.
24 Accordingly, Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction) is DENIED.

25 //

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28 //

1 ORDER

2 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
3 shall be, and it is, hereby denied.

4 ~~DATED this 22 day of July, 2021.~~

Dated this 19th day of August, 2021

5
6 
DISTRICT JUDGE

NH kj

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

1F9 6B5 64A0 EA1A
Jacqueline M. Bluth
District Court Judge

9
10 BY 

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #13730

Yu meng #14741
for

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14 CERTIFICATE OF SERVICE

15 I certify that on the 22nd day of July, 2021, I mailed a copy of the foregoing
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17 CLIFFORD SMITH, BAC #1235854
18 THREE LAKES VALLEY C.C.
19 PO BOX 208
INDIAN SPRINGS, NV 89070

20 BY 

Secretary for the District Attorney's Office

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Clifford Smith, Plaintiff(s)

CASE NO: A-21-833992-W

7 vs.

DEPT. NO. Department 6

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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8th Judicial Dist Court

Clifford Smith

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CLERK OF THE COURT

Steven D. Grierson

V

CASE NO 20-346330-1

Department 6-VI

STATE OF NEVADA

NOTICE OF APPEAL

Please TAKE NOTICE, that I wish
to appeal the Denial of withdrawal of
Guilty and/or Modification of sentence of
the District Court.

Dated AUGUST 29 2021

x Clifford Smith

TRANSFER OF RECORDS

Would you transfer all records and
other tangible documents, along with the
PST Report and what other records that
are necessary.

Dated AUGUST 29 2021

x AUGUST 29, Clifford Smith

CLERK OF THE COURT

SEP 07 2021

RECEIVED

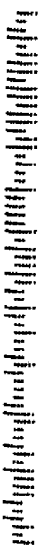
Clifford Smith #1235854
Indian Springs, NV 89096

LAS VEGAS NV 890
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CLERK OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS, NV 89155

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Southern Desert
International Center
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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

CLIFFORD SMITH,

Defendant(s),

Case No: C-20-346330-1

Dept No: XVII

CASE APPEAL STATEMENT

1. Appellant(s): Clifford Smith

2. Judge: Jacqueline M. Bluth

3. Appellant(s): Clifford Smith

Counsel:

Clifford Smith #1235854
P.O. Box 208
Indian Springs, NV 89070

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: January 22, 2020

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Post-Conviction Relief

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 10 day of September 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Clifford Smith

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 24, 2020

C-20-346330-1 State of Nevada
 vs
 Clifford Smith

January 24, 2020 10:00 AM Initial Arraignment

HEARD BY: Wittenberger, Shannon **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kathy Thomas
 Carolyn Jackson

RECORDER: Sharon Nichols

REPORTER:

PARTIES

PRESENT: Pieper, Danielle K. Attorney
 Smith, Clifford Defendant

JOURNAL ENTRIES

- Deft. SMITH present, in custody. Deputy District Attorney Brianna Stutz (15340) present. Court stated the negotiations. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. SMITH ARRAIGNED AND PLED GUILTY TO ATTEMPT ROBBERY (F). Court ACCEPTED plea, and ORDERED, matter referred to the Division of Parole and Probation (P&P) and set for sentencing. Pursuant to negotiations, COURT FURTHER ORDERED, Release with \$5,000.00 BAIL and MID-LEVEL ELECTRONIC MONITORING and DIRECTED Deft. to report to P&P within 24 hours of release, excluding weekends and holidays.

BOND/MID-LEVEL EM

05/18/2020 9:30 AM SENTENCING (DEPT. 6)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 18, 2020

C-20-346330-1 State of Nevada
 vs
 Clifford Smith

May 18, 2020 10:15 AM Sentencing

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Smith, Clifford Defendant
 State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- Present via video on behalf of Defendant, Attorney Adam Gill. Mr. Gill requested a continuance for Defendant's review of the Presentence Investigation Report (PSI) which was mailed and is not believed to have yet been received. Defendant acknowledged he's not received the PSI. Colloquy regarding negotiations. COURT ORDERED, matter CONTINUED.

CUSTODY

5-27-20 10:15 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 27, 2020

C-20-346330-1 State of Nevada
 vs
 Clifford Smith

May 27, 2020 10:15 AM Sentencing

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- Present via video, Defendant Clifford Smith with Attorney Adam Gill. Mr. Gill advised he went through the Presentence Investigation Report (PSI), there's issues that rise to Stockmeyer, Defendant's Ohio record is incorrect, they're not comfortable going forward with the PSI the way it is and requested a continuance. COURT ORDERED, proceedings CONTINUED for status check regarding the PSI.

CUSTODY

6-3-20 10:15 AM STATUS CHECK: PSI...SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 03, 2020

C-20-346330-1 State of Nevada
 vs
 Clifford Smith

June 03, 2020 10:15 AM All Pending Motions

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- STATUS CHECK: PRESENTENCE INVESTIGATION REPORT(PSI)...SENTENCING

Present via video on behalf of Defendant, Attorney Adam Gill. The Officer advised the Defendant refused. Argument by Mr. Gill in support of request for a new Presentence Investigation Report. (PSI) . Mr. Turner requested Mr. Gill reach out to Parole and Probation as to what's specifically being challenged. COURT ORDERED, sentencing CONTINUED.

CUSTODY

7-13-20 10:15 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 13, 2020

C-20-346330-1 State of Nevada
 vs
 Clifford Smith

July 13, 2020 10:15 AM Sentencing

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Jill Chambers

RECORDER: Gail Reiger

REPORTER:

PARTIES

PRESENT:	Clowers, Shanon	Attorney
	Gill, Adam	Attorney
	Smith, Clifford	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted the new Presentence Investigation report was reviewed.

Argument by counsel. Statement by the Deft.

DEFT SMITH ADJUDGED GUILTY of ATTEMPT ROBBERY (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, the \$150.00 DNA Analysis fee including testing to determine genetic markers is WAIVED, the \$3.00 DNA Collection and a \$250.00 Indigent Defense Civil Assessment fee, Deft. SENTENCED to a MINIMUM of THIRTY-SIX (36) MONTHS and a MAXIMUM of NINETY-SIX (96) MONTHS in the Nevada Department of Corrections (NDC), with ONE HUNDRED NINETY-THREE (193) DAYS credit for time served.

BOND, if any, EXONERATED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 24, 2021

C-20-346330-1 State of Nevada
 vs
 Clifford Smith

March 24, 2021 11:00 AM Motion

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Grecia Snow

RECORDER: Toshiana Pierson

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- There being no opposition, COURT ORDERED, motion GRANTED.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Adam Gill Esq., at
adam@aisengill.com. 3/25/21 gs

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated September 24, 2021, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 132.

STATE OF NEVADA,

Plaintiff(s),

vs.

CLIFFORD SMITH,

Defendant(s),

Case No: C-20-346330-1

Dept. No: XVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 30 day of September 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk