

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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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 VOLUME 2

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

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,) CASE NO. C-20-346330-1
9 Plaintiff,) DEPT. NO. XVII
10 vs.)
11 CLIFFORD SMITH,)
12 Defendant.)

13
14 BEFORE THE HONORABLE SHANNON WITTENBERGER, DISTRICT COURT JUDGE

15 FRIDAY, JANUARY 24, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**

17 **INITIAL ARRAIGNMENT**

18 APPEARANCES:

19 For the State: BRIANNA STUTZ, ESQ.,
20 Deputy District Attorney

21
22 For the Defendant: DANIELLE M. PETKOVICH, ESQ.,
23

24
25 RECORDED BY: SHARON NICHOLS, COURT RECORDER

1 Las Vegas, Nevada; Friday, January 24, 2020
2 [Hearing commenced at 10:16 a.m.]
3
4 THE COURT: Okay. This is page 60, Clifford Smith,
5 C346330. I'm sorry. Can I have your appearance again?
6 MS. PETKOVICH: Good morning, Your Honor, Danielle
7 Petkovich appearing for Adam Gill on behalf of Mr. Smith. He is present
8 in custody. This is a guilty plea agreement, Your Honor.
9 THE COURT: Your bar number please.
10 MS. PETKOVICH: 15305.
11 THE COURT: Thank you.
12 Clifford Smith.
13 MS. PETKOVICH: He's in the back, back.
14 THE COURT: Oh. Officers, he's in the back. I need Clifford
15 Smith please.
16 CORRECTION'S OFFICER: Smith. Clifford Smith.
17 THE DEFENDANT: Good morning, ma'am.
18 THE COURT: Good morning. I have a guilty plea agreement
19 which indicates Mr. Smith will plead guilty to attempt robbery, a B felony.
20 State agrees to make no recommendation at sentencing. State agrees
21 not to seek habitual criminal treatment. State agrees that the maximum
22 sentence will not exceed eight years. And the State has no opposition
23 to bail being lowered to \$5,000 with midlevel electronic monitoring after
24 plea. Counsels, is that accurate?
25 MS. STUTZ: That's correct, Your Honor.

1 MS. PETKOVICH: Correct, Your Honor.
2 THE COURT: And, Mr. Smith, is that your understanding of
3 the negotiations?
4 THE DEFENDANT: Yes, ma'am. Correct, ma'am.
5 THE COURT: I'm sorry. What was that?
6 THE DEFENDANT: Yes, ma'am. Correct.
7 THE COURT: Thank you. What is your true full name
8 please?
9 THE DEFENDANT: Clifford Ray Smith.
10 THE COURT: How old are you?
11 THE DEFENDANT: I'm 35 to be precise.
12 THE COURT: How far have you gone in school?
13 THE DEFENDANT: I got a high school education.
14 THE COURT: Do you read, write and understand the English
15 language?
16 THE DEFENDANT: Yes, ma'am.
17 THE COURT: Are you taking any medications or suffering
18 any medical conditions that would interfere with your ability to
19 understanding the proceedings of the terms of your agreement?
20 THE DEFENDANT: Not at all, ma'am.
21 THE COURT: Do you understand you're being charged with
22 attempt robbery, a B felony?
23 THE DEFENDANT: That's correct, ma'am.
24 THE COURT: How do you plead to that charge, guilty or not
25 guilty?

1 THE DEFENDANT: Guilty, ma'am.

2 THE COURT: Is anybody forcing you to plead guilty?

3 THE DEFENDANT: Absolutely not.

4 THE COURT: Are you pleading guilty of your own free will?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Do you understand as a consequence of your

7 plea that the Court may sentence you to a minimum of one year and a

8 maximum of ten years in the Nevada Department of Corrections?

9 THE DEFENDANT: I thought it was eight, one to eight.

10 THE COURT: Well, the agreement between you and the

11 State is that they won't argue for more than eight, but the potential

12 penalty is one to ten; do you understand?

13 THE DEFENDANT: Yes, ma'am. Thank you.

14 THE COURT: And do you understand that the Court doesn't

15 have to follow the negotiations?

16 THE DEFENDANT: Correct, ma'am.

17 THE COURT: Okay. And do you understand you'll be

18 required to pay administrative assessment fees?

19 THE DEFENDANT: Absolutely, ma'am.

20 THE COURT: And you understand that sentencing is up to

21 the Court, no one can promise you probation, leniency or special

22 treatment?

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

24 THE COURT: And I have the original guilty plea agreement;

25 did you read through it?

1 THE DEFENDANT: Yes, ma'am. I did, ma'am.
2 THE COURT: And did you understand it?
3 THE DEFENDANT: Yes, ma'am.
4 THE COURT: And was your attorney available to answer all
5 your questions?
6 THE DEFENDANT: Yeah. She was also.
7 THE COURT: Are you satisfied with the services of your
8 attorney?
9 THE DEFENDANT: Yes, ma'am.
10 THE COURT: Did you sign the agreement?
11 THE DEFENDANT: Yes. I did, ma'am.
12 THE COURT: Is this your signature here on page 5?
13 THE DEFENDANT: Absolutely.
14 THE COURT: Did you sign it freely and voluntarily?
15 THE DEFENDANT: Yes, ma'am.
16 THE COURT: Do you understand that by entering your guilty
17 plea, you're giving up the constitutional rights listed in -- in the
18 agreement?
19 THE DEFENDANT: Yes, ma'am. Correct.
20 THE COURT: Do you understand that if you're not a U.S.
21 citizen you may be deported based on your guilty plea?
22 THE DEFENDANT: Yes, ma'am.
23 THE COURT: Did you discuss the case and your rights with
24 your attorney?
25 THE DEFENDANT: Yes. I did, ma'am.

1 THE COURT: Do you have any questions?

2 THE DEFENDANT: No. I don't, ma'am.

3 THE COURT: Are you pleading guilty because in truth and in
4 fact on or about January 2nd, 2020 in Clark County, Nevada, you willfully,
5 unlawfully and feloniously attempted to take personal property, an
6 iPhone and wallet from the person of Elijah Patterson or in his presence
7 without his consent and against his will by means of force or violence or
8 fear of injury, immediate or future, to his person, the person of a member
9 of his family or of anyone in his company at the time of the robbery, you
10 using force or fear to attempt to obtain or retain possession of the
11 property, attempt to prevent or overcome resistance to the taking of
12 property and/or attempt to facilitate escape; is that true?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: I accept your plea as being freely and
15 voluntarily entered. I will order a PSI. I'll also set bail at \$5,000 cash or
16 bond with midlevel electronic monitoring. If you do post, you must report
17 to Probation and Parole no later -- the day after you get out excluding
18 weekends and holidays; do you understand?

19 THE DEFENDANT: Yes, ma'am.


20 THE COURT: And you must return to Court for sentencing.
21 You want an in-custody date still?

22 THE DEFENDANT: I can't hear you, ma'am. I'm sorry.

23 MS. PETKOVICH: I believe he's going to post today.

24 THE DEFENDANT: I couldn't hear you.

25 THE COURT: I was asking your attorney if she wants an in-

1 custody. So you want out?
2 MS. PETKOVICH: Yeah. He should be out.
3 THE COURT: Okay.
4 MS. PETKOVICH: I'll [indiscernible] today.
5 THE COURT: So make sure you come back for this date.
6 THE CLERK: May 18th at 9:30 a.m., Department 6.
7 MS. PETKOVICH: Thank you.
8 MS. STUTZ: Thank you, Your Honor.
9 THE DEFENDANT: May 18th. Thank you, ma'am. Have a
10 blessed day. Thank you for the information.
11 THE COURT: Thank you.
12 [Hearing concluded at 10:20 a.m.]
13
14
15
16 * * * * *
17
18
19 ATTEST: I do hereby certify that I have truly and correctly transcribed
20 the audio/video proceedings in the above-entitled case to the best of my
21 ability.
22
23 
24 Michelle Ramsey
Court Recorder/Transcriber
25

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Court of Appeals order dated February 4, 2022, 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 supplemental trial court record for the case referenced below. The record comprises volume two with pages numbered 133 through 139.

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 10 day of February 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk