

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY BERNARD GERMAN,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Aug 25 2021 11:23 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-14-300979-2

Docket No: 83300

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
JEFFREY GERMAN # 92696,
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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C-14-300979-2

State of Nevada
vs
Jeffrey German

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01-30-98	Domestic Violence	LVMPD	1
02-11-98	Trauma Shooting - Video	LVMPD	30 Min.
02-26-98	Clandestine Lab Dangers - Video	LVMPD	30 Min.
03-06-98	Secondary Devices - Video	LVMPD	30 Min.
03-09-98	Cardio-Pulmonary Resuscitation (CPD)	LVMPD	4
03-31-98	Duty Weapon Qualification	LVMPD	2
05-01-98	Applied Neurolinguistic Programming	LVMPD	7
06-06-98	Duty Weapon Qualification	LVMPD	2
08-24 to 08-28-98	Bloodstain Evidence Workshop I	Northwestern University, Traffic Institute	40
09-10-98	Critical Procedures Test	LVMPD	2
09-25-98	Optional Weapon	LVMPD	
12-07-98	Training - Motor Home Driving	LVMPD	4
12-19-98	Duty Weapon Qualification	LVMPD	2
02-23 to 02-25-99	Latent Print Identification	Law Enforcement Officers Training School, sponsored by LVMPD	24
03-16-99	Award Presentation and PR Photography - LVMPD	LVMPD	2
03-30-99	Duty Weapon Qualification	LVMPD	2
06-15-99	Duty Weapon Qualification	LVMPD	2
08-30 to 09-01-99	Clandestine Laboratory Safety Certification Course, Occasional Site Worker	LVMPD	24
09-21-99	Duty Weapon Qualification	LVMPD	2
08-23 to 08-27-99	Bloodstain Evidence Workshop 2	Northwestern University, Traffic Institute	40
01-20-00	Latent Fingerprint Development Workshop	U.S. Secret Service	8
05-22 to 05-24-00	Practical Homicide Investigation (Advanced Course of Instruction)	P.H.I., Investigative Consultants, Inc.	24
06-13-00	Crime Scene Analyst Certification (Certificate	IAI	

Renhard Louise
Curriculum Vitae
LVMPD

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	being sent)		
08-01 to 08-02-00	C.P.R. Instructor Course	LVMPD	14
09-06 to 09-08-00	Shooting Incident Reconstruction	Forensic Identification Training Seminars	24
04-11 to 04-13-01	3 rd Annual Educational Conference Officer Involved Shootings	NSDIAI	3
"	Expert Witness	"	2
"	Death Investigations	"	2
04-17-02 *****			
10-08-01	Bloodstain Pattern Analysis - Certificate # 10 - completed proficiency exercises	LVMPD	3
11-13-01	Bloodstain Pattern Analysis - Angle of Impact Proficiency Exercise - Certificate #26	LVMPD - Criminalistics Bureau	3
04-03-02	Documentation of Footwear & Tire Impressions	LVMPD - Criminalistics Bureau	1
04-01-02	Clandestine Laboratory Safety - Fingerprint Processing	LVMPD - Criminalistics Bureau	1
04-02-02	Forensic Anthropology	LVMPD - Criminalistics Bureau	1.5
04-01-02	Chemical Enhancements of Bloodstains, Preliminary Steps	LVMPD - Criminalistics Bureau	1
05-06-02	Major Case Prints	LVMPD - Criminalistics Bureau	3
08-04 to 08-10-02	87 th International Educational Conference - See below	IAI	
"	Forensic Archaeology/Scenes Involving Skeletal Remains	"	8
"	W-11: Forensic Archaeology/Scenes Involving Skeletal Remains (Buried Remains) Field Exercise	"	8
"	W-14: Forensic Archaeology/Scenes Involving Skeletal Remains (Scattered Surface Remains) Field Exercise	"	8

Renhard Louise
Curriculum Vitae
LVMPD
- 4 -

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

Date: 07/01/10

Name: Beata Vida

P#: 1427
9

Classification: Forensic Scientist II

Current Discipline of Assignment: Biology/DNA

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Blood Alcohol	
Toolmarks		Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	X	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	X
Footwear Impressions		Technical Support /	
Quality Assurance			
EDUCATION			
Institution	Dates Attended	Major	Degree Completed
University of Central Florida	01/2005-present	Anthropology	BA-in progress
Minnesota State University Moorhead	01/1997-05/2001	Biology	BA
Brevard Community College	08/2005-05/2005	Crime Scene Technology	AS
ADDITIONAL TRAINING / SEMINARS			
Course / Seminar	Location	Dates	
8 th Annual Advanced DNA Technical Workshop by BODE Technology Group	Amelia Island, FL	05/19/09-05/20/09	
FBI DNA Auditor 2-day Workshop	Amelia Island, FL	05/17/09-05/18/09	
19 th International Symposium on Human Identification by the Promega Corporation	Hollywood, CA	10/14/08-11/16/08	

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Forensic Population Genetics Workshop	Hollywood, CA	10/13/08
Statewide Biology Discipline Meeting	Largo, FL	05/14/08-05/15/08
Florida Statewide DNA Conference	Largo, FL	05/12/08-05/13/08
3130 HID Class by Applied Biosystems	Orlando, FL	05/01/07-05/03/07
Serology/DNA Crime Laboratory Analyst Training Program	Orlando, FL	06/2006-06/2007
7000/7500 Sequence Detection Systems Training	Orlando, FL	10/19/06
Biomek 2000/3000 Training	Orlando, FL	09/25/06
GeneMapper ID Computer Software Training	Orlando, FL	09/2006
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Orange, Brevard, Osceola, Seminole and Volusia Counties, Florida	Serology/DNA	15
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Forensic Scientist II	06/14/2010-present
Florida Department of Law Enforcement	Crime Laboratory Analyst	04/2006-05/28/2010
Florida Department of Law Enforcement	Forensic Technologist	12/31/05-04/2006
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	
American Academy of Forensic Sciences	01/2006-present	
International Association for Identification	06/2004-present	
PUBLICATIONS / PRESENTATIONS:		
University of Central Florida – Introductory Forensic Science Class presentation 03/24/2010		
Detective Training presentation – DNA Training For New Detectives 10/2009		

Statement of Qualifications

Name:

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MEMORY TRANSMISSION REPORT

TIME : 02-18-2015 16:39
FAX NO.1 :
NAME :

FILE NO. : 876
DATE : 02.18 16:27
TO : 7029741458
DOCUMENT PAGES : 16
START TIME : 02.18 16:33
END TIME : 02.18 16:39
PAGES SENT : 16
STATUS : OK

SUCCESSFUL TX NOTICE

1 NNEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH C. BEVERLY
6 Deputy District Attorney
7 Nevada Bar #012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,
13 Plaintiff,

14 -VS-

15 CHRISTOPHER LEROY ROACH, aka
16 Christopher Roach, #2757657
17 JEFFREY B. GERMAN, aka
18 Jeffery Bernard German, #1602073
19 JAMES CURTIS IVEY, JR., #7010542
20 Defendant.

CASE NO: C-14-300979-2
DEPT NO: XXIII

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

21 TO: CHRISTOPHER LEROY ROACH, aka Christopher Roach,
22 Defendant; and

23 TO: C. ALMASE, ESQ, Counsel of Record:

24 TO: JEFFREY B. GERMAN, aka Jeffery Bernard German,
25 Defendant; and

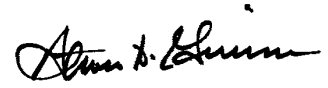
26 TO: D. FISCHER, ESQ., Counsel of Record:

27 TO: JAMES CURTIS IVEY, JR., Defendant; and

28 TO: C. COLUCCI, ESQ., Counsel of Record:

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

W:\2014\FI10476\14F10476-NNEW-(GERMAN_JEFFREY)-001.DOCX



CLERK OF THE COURT

1 **NWEW**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **LEAH C. BEVERLY**
6 **Deputy District Attorney**
7 **Nevada Bar #012556**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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

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

11 **-vs-**

12 **CHRISTOPHER LEROY ROACH, aka**
13 **Christopher Roach, #2757657**
14 **JEFFREY B. GERMAN, aka**
15 **Jeffery Bernard German, #1602073**
16 **JAMES CURTIS IVEY, JR., #7010542**
17 **Defendant.**

CASE NO: C-14-300979-2
DEPT NO: XXIII

16 **NOTICE OF WITNESSES**
17 **[NRS 174.234(1)(a)]**

18
19 **TO: CHRISTOPHER LEROY ROACH, aka Christopher Roach,**
20 **Defendant; and**

21 **TO: C. ALMASE, ESQ, Counsel of Record:**

22 **TO: JEFFREY B. GERMAN, aka Jeffery Bernard German, Defendant;**
23 **and**

24 **TO: D. FISCHER, ESQ., Counsel of Record:**

25 **TO: JAMES CURTIS IVEY, JR., Defendant; and**

26 **TO: C. COLUCCI, ESQ., Counsel of Record:**

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

1	<u>NAME</u>	<u>ADDRESS</u>
2	ADAMS, Z.	LVMPD #9028
3	CUSTODIAN OF RECORDS or Designee	7-Eleven, 1600 Rancho Dr., LV, NV
4	CUSTODIAN OF RECORDS or Designee	Citi Bank
5	CUSTODIAN OF RECORDS or Designee	Clark County Marriage License Bureau
6	CUSTODIAN OF RECORDS or Designee	Red Box Movie Kiosk
7	CUSTODIAN OF RECORDS or Designee	State of California DMV
8	CUSTODIAN OF RECORDS or Designee	State of Nevada DMV
9	CUSTODIAN OF RECORDS or Designee	Wells Fargo Bank
10	DIMARIA, Donna	C/O CCDA's Office
11	DIXON, B.	LVMPD #14105
12	EBERLING, J.	LVMPD #8745
13	FRIED, J.	LVMPD #8174
14	GRIGSBY, Meghan	1950 Simmons St., #15-1067, LV, NV
15	HOWELL, T.	LVMPD #8907
16	INZO, FNU	LVMPD
17	KULL, Baylie Joslyn	3420 100 th Ct., Palmerto, FL
18	LANGGIN, M.	LVMPD #4078
19	LAROTONDA, A.	NLVPD #2232
20	LEE, F.	NLVPD #1938
21	LNU, John	Rancho Del Sol Apts., 4299 Wynn Rd., LV
22	MEDINA, Jesus, Jr.	C/O CCDA's Office
23	PETERSEN, R.	LVMPD #10051
24	POLLOCK, W.	LVMPD #7203
25	REHNARD, L.	LVMPD #5223
26	ROBINSON, Eola	2881 North Rancho Dr., #2119, LV, NV
27	RUSSO, L.	LVMPD #14737
28	SCHUMAKER, S.	LVMPD #9076

1 SHANNON, G. LVMPD #4111
2 STOCKTON, D. LVMPD #9989
3 TOBAK, Richard 4270 S. Valley View Bl., #2405. LV, NV
4 VANEPPS, J. LVMPD #7724
5 VIDA, B. LVMPD #14279
6 WARD, K. LVMPD #9046
7 WOOLARD, B. LVMPD #7558

8 These witnesses are in addition to those witnesses endorsed on the Information or
9 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
10 Witnesses has been filed.

11 STEVEN B. WOLFSON
12 DISTRICT ATTORNEY
Nevada Bar #001565

13
14 BY /s/ Leah C. Beverly
LEAH C. BEVERLY
15 Deputy District Attorney
Nevada Bar #012556
16
17

18 CERTIFICATE OF FACSIMILE TRANSMISSION

19 I hereby certify that service of the above and foregoing, was made this 19th day of
20 February, 2015, by facsimile transmission to:

21 C. ALMASE, ESQ.
22 702-474-0445

23 D. FISCHER, ESQ.
24 702-974-1458

25 C. COLUCCI, ESQ.
26 702-384-4453

27 By: /s/ D. Jason
Secretary for the District Attorney's Office

28 djj/L5

MEMORY TRANSMISSION REPORT

TIME : 02-19-2015 15:04
FAX NO.1 :
NAME :

FILE NO. : 892
DATE : 02.19 15:02
TO : 7029741458
DOCUMENT PAGES : 3
START TIME : 02.19 15:03
END TIME : 02.19 15:04
PAGES SENT : 3
STATUS : OK

SUCCESSFUL TX NOTICE

1 **NWEW**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **LEAH C. BEVERLY**
6 **Deputy District Attorney**
7 **Nevada Bar #012556**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

12 **THE STATE OF NEVADA,**
13 **Plaintiff,**

14 **-vs-**

15 **CHRISTOPHER LEROY ROACH, aka**
16 **Christopher Roach, #2757657**
17 **JEFFREY B. GERMAN, aka**
18 **Jeffery Bernard German, #1602073**
19 **JAMES CURTIS IVEY, JR., #7010542**
20 **Defendant.**

CASE NO: C-14-300979-2
DEPT NO: XXIII

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

21 **TO: CHRISTOPHER LEROY ROACH, aka Christopher Roach,**
22 **Defendant; and**
23 **TO: C. ALMASE, ESQ, Counsel of Record;**
24 **TO: JEFFREY B. GERMAN, aka Jeffery Bernard German, Defendant;**
25 **and**
26 **TO: D. FISCHER, ESQ., Counsel of Record;**
27 **TO: JAMES CURTIS IVEY, JR., Defendant; and**
28 **TO: C. COLUCCI, ESQ., Counsel of Record;**
YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

W:\2014F\10476\14F10476-NWEW-(GERMAN_JEFFREY)-002.DOCX

ORIGINAL

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LEAH BEVERLY
6 Deputy District Attorney
7 Nevada Bar #012556
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

MAR 11 2015

BY *Katherine Streuber*
KATHERINE STREUBER, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-14-300979-2
AINF
Amended Information
4440711



9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO. C-14-300979-2

11 -vs-

DEPT NO. XXIII

12 CHRISTOPHER LEROY ROACH, aka,
13 Christopher Roach,
14 #2757657,
15 JEFFREY B. GERMAN, aka,
16 Jeffery Bernard German,
17 #1602073,
18 JAMES CURTIS IVEY, JR.,
19 #7010542

AMENDED

INFORMATION

Defendants.

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss:

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

22 That the Defendant(s) above named, having committed the crimes of **ROBBERY**
23 **WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 -**
24 **NOC 50138) and CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS**
25 **200.380, 199.480 - NOC 50147),** on or between June 30, 2014 and July 1, 2014, within the
26 County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
27 cases made and provided, and against the peace and dignity of the State of Nevada,

28 ///

1 COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON


2 did wilfully, unlawfully, and feloniously take personal property, to-wit: a cellular
3 telephone and a fanny pack and contents and/or U. S. currency, two (2) credit and/or debit
4 cards, and a cellular telephone, from the person of BAYLIE KULL and/or EOLA ROBINSON
5 and/or DONNA DIMARIA and/or JESUS MEDINA, JR., or in their presence, by means of
6 force or violence, or fear of injury to, and without the consent and against the will of BAYLIE
7 KULL and/or EOLA ROBINSON and/or DONNA DIMARIA and/or JESUS MEDINA, JR.,
8 with use of a deadly weapon, to-wit: a firearm; Defendants being criminally liable under one
9 or more of the following principles of criminal liability, to-wit: (1) by directly committing this
10 crime; and/or (2) by aiding or abetting one another in the commission of this crime with the
11 intent to commit this crime, by providing counsel and/or encouragement, by the Defendants
12 acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

14 did wilfully, unlawfully, and feloniously conspire with each other to commit a robbery.

15 STEVEN B. WOLFSON
16 DISTRICT ATTORNEY
Nevada Bar #001565

17
18 BY


19 LEAH BEVERLY
Deputy District Attorney
Nevada Bar #012556

20
21
22
23
24
25
26
27 DA#14F10476A-C/erg/L-5
28 LVMPD EV#1407014137
(TK6)

ORIGINAL

1 **GPA**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **LEAH BEVERLY**
6 **Deputy District Attorney**
7 **Nevada Bar #012556**
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

MAR 11 2015

BY: *Katherine Streuber*
KATHERINE STREUBER, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-14-300979-2
GPA
Guilty Plea Agreement
4440713



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

11 **-vs-**

12 **JEFFREY B. GERMAN, aka,**
13 **Jeffery Bernard German,**
14 **#1602073**

Defendant.

CASE NO: C-14-300979-2

DEPT NO: XXIII

GUILTY PLEA AGREEMENT

15 I hereby agree to plead guilty to: **COUNT 1 - ROBBERY WITH USE OF A**
16 **DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138) and**
17 **COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS**
18 **200.380, 199.480 - NOC 50147), as more fully alleged in the charging document attached**
19 **hereto as Exhibit "1".**

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

22 The State will retain the right to argue at sentencing. Additionally, the State will not
23 seek habitual criminal treatment.

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

27 **///**
28

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

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

12 CONSEQUENCES OF THE PLEA

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

15 As to Count 1, I understand that as a consequence of my plea of guilty the Court must
16 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term
17 of not less than TWO (2) years and a maximum term of not more than FIFTEEN (15) years.
18 The minimum term of imprisonment may not exceed forty percent (40%) of the maximum
19 term of imprisonment, plus a consecutive minimum term of not less than ONE (1) year and a
20 maximum term of not more than FIFTEEN (15) years, for the Deadly Weapon enhancement.

21 As to Count 2, I understand that as a consequence of my plea of guilty the Court must
22 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term
23 of not less than ONE (1) year and a maximum term of not more than SIX (6) years. The
24 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of
25 imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that the
26 law requires me to pay an Administrative Assessment Fee.

27 ///

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

5 As to Count 1, I understand that I am not eligible for probation for the offense to which
6 I am pleading guilty.

7 As to Count 2, I understand that I am eligible for probation for the offense to which I
8 am pleading guilty. I understand that, except as otherwise provided by statute, the question of
9 whether I receive probation is in the discretion of the sentencing judge.

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

12 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
13 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
14 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
15 and may receive a higher sentencing range.

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

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

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

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

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

28 ///

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

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

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

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

19 WAIVER OF RIGHTS

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

- 22 1. The constitutional privilege against self-incrimination, including the right
23 to refuse to testify at trial, in which event the prosecution would not be
24 allowed to comment to the jury about my refusal to testify.
- 25 2. The constitutional right to a speedy and public trial by an impartial jury,
26 free of excessive pretrial publicity prejudicial to the defense, at which
27 trial I would be entitled to the assistance of an attorney, either appointed
28 or retained. At trial the State would bear the burden of proving beyond
a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who
would testify against me.

///

4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, 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.

VOLUNTARINESS OF PLEA

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

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

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

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

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

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

I am not now under the influence of any intoxicating liquor, a 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.

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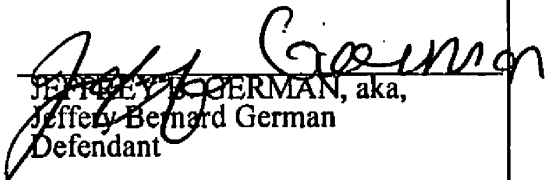
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1 My attorney has answered all my questions regarding this guilty plea agreement and its
2 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

3 DATED this 2 day of March, 2015

4 
5 ~~JEFFREY B. GERMAN~~, aka,
6 Jeffrey Bernard German
7 Defendant

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24 AGREED TO BY:

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26
27 LEAH BEVERLY
28 Deputy District Attorney
Nevada Bar #012556

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.

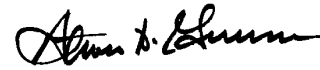
Dated: This 2nd day of March, 2015.


ATTORNEY FOR DEFENDANT

erg/L-5

THIS SEALED
DOCUMENT,
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260 - 268
WILL FOLLOW VIA
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COSCC



CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA

CASE NO.: C-14-300979-2

VS

DEPARTMENT 23

JEFFREY GERMAN

CRIMINAL ORDER TO STATISTICALLY CLOSE CASE

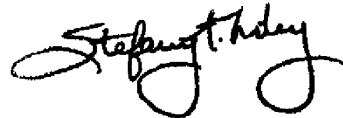
Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

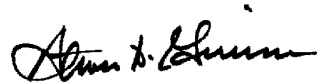
DISPOSITIONS:

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☒ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
 - ☐ Dismissed (during trial)
 - ☐ Acquittal
 - ☐ Guilty Plea with Sentence (during trial)
 - ☐ Conviction
- ☐ Jury Trial
 - ☐ Dismissed (during trial)
 - ☐ Acquittal
 - ☐ Guilty Plea with Sentence (during trial)
 - ☐ Conviction
- ☐ Other Manner of Disposition

DATED this 8th day of May, 2015.



STEFANY MILEY
DISTRICT COURT JUDGE



CLERK OF THE COURT

1 JOCP
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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-
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CASE NO. C300979-2

DEPT. NO. XXIII

12 JEFFREY B. GERMAN
13 aka Jeffery Bernard German
14 #1602073

15 Defendant.
16

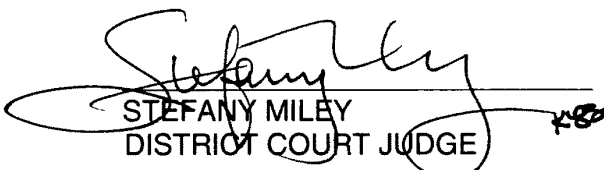
17 JUDGMENT OF CONVICTION
18 (PLEA OF GUILTY)
19

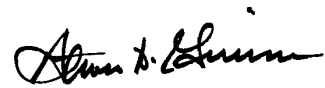
20 The Defendant previously appeared before the Court with counsel and entered
21 a plea of guilty to the crimes of COUNT 1 – ROBBERY WITH USE OF A DEADLY
22 WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; and COUNT 2 –
23 CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS
24 200.380, 199.480; thereafter, on the 6th day of May, 2015, the Defendant was present
25 in court for sentencing with counsel DAVID R. FISCHER, ESQ., and good cause
26 appearing,
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1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
2 addition to the \$25.00 Administrative Assessment Fee and \$880.00 Restitution to be
3 paid jointly and severally with Co-Defendants plus \$3.00 DNA Collection Fee, the
4 Defendant is sentenced to the Nevada Department of Corrections as follows: as to
5 COUNT 1 – a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM
6 parole eligibility of SIXTY (60) MONTHS plus a CONSECUTIVE term of ONE
7 HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of SIXTY (60)
8 MONTHS for the Use of a Deadly Weapon; and COUNT 2 - a MAXIMUM of SIXTY (60)
9 MONTHS with a MINIMUM parole eligibility of THIRTEEN (13) MONTHS;
10 CONSECUTIVE to COUNT 1; with THREE HUNDRED NINE (309) DAYS credit for time
11 served. The AGGREGATE TOTAL sentence is FOUR HUNDRED TWENTY (420)
12 MONTHS MAXIMUM with a MINIMUM of ONE HUNDRED THIRTY-THREE (133)
13 MONTHS. As the \$150.00 DNA Analysis Fee and Genetic Testing have been
14 previously imposed, the Fee and Testing in the current case are WAIVED.
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16 DATED this 11 day of May, 2015
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STEFANY MILEY
DISTRICT COURT JUDGE



CLERK OF THE COURT

1 **RTRAN**

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6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**
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9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

12
13 **CHRISTOPHER LEROY ROACH, aka**
14 **Christopher Roach,**
15 **JEFFREY B. GERMAN, aka**
16 **Jeffrey Bernard German,**
17 **JAMES CURTIS IVEY, JR.,**

18 **Defendants.**

CASE NO. C300979-1
C300979-2
C300979-3

DEPT. NO. XXIII

TRANSCRIPT OF PROCEEDINGS

19 **BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE**

20 **WEDNESDAY, MARCH 11, 2015**

21 **CALENDAR CALL**

22 **APPEARANCES:**

23 **For the State:**

MICHELLE SUDANO, ESQ.
Deputy District Attorney

24
25 **APPEARANCES CONTINUED ON PAGE 2**

1	For Defendant Christopher Roach:	CAESAR V. ALMASE, ESQ.
2	For Defendant Jeffrey German:	DAVID R. FISCHER, ESQ.
3	For Defendant James Ivey, Jr.:	CARMINE J. COLUCCI

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RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

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WEDNESDAY, MARCH 11, 2015, 9:58 A.M.

THE MARSHAL: Bottom of page 6, C300979-3, Ivey, and that's Co-Defendant German, too, on C300979.

THE COURT: Mr. Colucci and Mr. Fischer.

THE MARSHAL: And I believe -- and Roach.

MR. COLUCCI: The gang's all here.

THE MARSHAL: All right.

THE COURT: There's three of you.

THE MARSHAL: Bottom of 5, Judge; and page 6, top and bottom.

THE COURT: All my attorneys are on this case.

THE MARSHAL: Yes.

THE COURT: All right. Good morning, gentlemen for Mr. Roach, Mr. German and Mr. Ivey. It's the time set for calendar call. Do I have a plea agreement; did all three take deals?

MR. COLUCCI: Yes.

MR. ALMASE: Yes. As to the three, they're identical negotiations, Your Honor.

THE COURT: All right. So which of you gentlemen is Mr. Ivey?

All right, Mr. Ivey, we're going to start with you. Mr. Ivey, sir, what is your full legal name?

DEFENDANT IVEY: James Curtis Ivey, Jr.

THE COURT: And how old are you, Mr. Ivey?

DEFENDANT IVEY: Twenty-eight.

THE COURT: Twenty-eight?

1 DEFENDANT IVEY: Yes.

2 THE COURT: What's your education?

3 DEFENDANT IVEY: Twelfth grade.

4 THE COURT: Fair to say you read, write, understand the English language?

5 DEFENDANT IVEY: Yes, ma'am.

6 THE COURT: Are you a U.S. citizen?

7 DEFENDANT IVEY: Yes, ma'am.

8 THE COURT: Are you taking any drugs or medication that would affect your
9 ability to understand these proceedings?

10 DEFENDANT IVEY: No, ma'am.

11 THE COURT: Sir, there's an Amended Information. It charges you with the
12 crime of robbery with the use of a deadly weapon which is a category B felony, and
13 conspiracy to commit robbery which is also a category B felony. Did you read the
14 Amended Information?

15 DEFENDANT IVEY: Yes, ma'am.

16 THE COURT: Did you talk it over with your lawyer?

17 DEFENDANT IVEY: Yes, ma'am.

18 THE COURT: Do you understand the charges against you, sir?

19 DEFENDANT IVEY: Yes, ma'am.

20 THE COURT: Sir, I have the written guilty plea agreement. Before signing
21 the written guilty plea agreement, did you read every single page?

22 DEFENDANT IVEY: Yes, ma'am.

23 THE COURT: Let's go over a few things. When we come back for
24 sentencing in a couple months, the State is going to have the right to argue, which
25 means they get to argue regarding the length of your sentence.

1 They also get to argue whether or not count one and count two will run
2 concurrently or consecutively. Do you understand that?

3 DEFENDANT IVEY: Yes, ma'am.

4 THE COURT: All right. I want you to understand that for count one, which is
5 the robbery with use of a deadly weapon, there is a potential sentence of a minimum
6 of two years and a maximum of 15 years; and also, another consecutive sentence
7 for the deadly weapon of one to 15 years. Do you understand that?

8 DEFENDANT IVEY: Yes, ma'am.

9 THE COURT: And also, for count two, it's a potential sentence of a minimum
10 of one year and a maximum of 6 years. Do you understand that as well?

11 DEFENDANT IVEY: Yes, ma'am.

12 THE COURT: And do you understand that on count one you're not eligible for
13 probation?

14 DEFENDANT IVEY: Yes, ma'am.

15 THE COURT: Which means when we come back for sentencing you're going
16 to prison. Do you understand that?

17 DEFENDANT IVEY: Yes, ma'am.

18 THE COURT: And do you understand that it's going to be the Court that
19 makes the final decision regarding the length of each of your sentences?

20 DEFENDANT IVEY: Yes, ma'am.

21 THE COURT: And do you understand the Court's going to make the final
22 decision whether count one and count two run concurrently or consecutively? Do
23 you understand that as well?

24 DEFENDANT IVEY: Yes, ma'am.

25 THE COURT: With all that being said, do you have any questions regarding

1 the plea agreement, sir?

2 DEFENDANT IVEY: No, ma'am.

3 THE COURT: Sir, how do you want to plead on count one, robbery with use
4 of a deadly weapon, a category B felony; and count two, a conspiracy to commit
5 robbery, a category B felony; guilty or not guilty?

6 DEFENDANT IVEY: Guilty.

7 THE COURT: Sir, before I can accept your plea of guilty, I need to be
8 satisfied that's freely and voluntarily given. Is your plea freely and voluntarily given?

9 DEFENDANT IVEY: Yes, ma'am.

10 THE COURT: Did anyone make any threats or promises to get you to plead
11 guilty?

12 DEFENDANT IVEY: No, ma'am.

13 THE COURT: Do you understand that by pleading guilty today you give up
14 your right to a jury trial?

15 DEFENDANT IVEY: Yes, ma'am.

16 THE COURT: Do you understand that by pleading guilty today if later on
17 down the road you have second thoughts about this deal, your -- the grounds on
18 which you can file an appeal are going to be more limited? Do you understand that?

19 DEFENDANT IVEY: Yes, ma'am.

20 THE COURT: Sir, listen to these facts. Tell me if these facts are why you are
21 pleading guilty today.

22 [The Court read the Amended Information aloud]

23 THE COURT: Are these facts why you're pleading guilty today?

24 DEFENDANT IVEY: Yes, ma'am.

25 THE COURT: Sir, the Court will accept your plea of guilty finding that it's

1 freely and voluntarily given. We'll give you a date for sentencing. And I'll just put all
2 the Defendants on the same date.

3 MR. ALMASE: Yes.

4 THE CLERK: May 6th, 9:30.

5 THE COURT: All right. The next one I have is Mr. -- and Mr. Ivey, you can sit
6 down. I have Mr. German. Which is Mr. German?

7 All right, Mr. German, good morning, sir. What's your full legal name?

8 DEFENDANT GERMAN: Jeffrey Bernard German.

9 THE COURT: How old are you?

10 DEFENDANT GERMAN: Thirty-six.

11 THE COURT: What's your education?

12 DEFENDANT GERMAN: High school and college, community college.

13 THE COURT: So it's fair to say you read, write, understand the English
14 language?

15 DEFENDANT GERMAN: Yes.

16 THE COURT: Are you a U.S. citizen?

17 DEFENDANT GERMAN: Yes.

18 THE COURT: Are you taking any drugs or medication that would affect your
19 ability to understanding these proceedings?

20 DEFENDANT GERMAN: No.

21 THE COURT: Sir, there's an Amended Information which charges you with
22 the crime of robbery with the use of a deadly weapon which is a category B felony;
23 and conspiracy to commit robbery, which is also a category B felony. Did you read
24 the Amended Information?

25 DEFENDANT GERMAN: Yes.

1 THE COURT: Did you discuss it with your lawyer?

2 DEFENDANT GERMAN: Yes.

3 THE COURT: Do you understand the charges against you?

4 DEFENDANT GERMAN: Yes.

5 THE COURT: Sir, I also have a written guilty plea agreement. Before signing
6 the written guilty plea agreement, did you read every single page?

7 DEFENDANT GERMAN: Yes.

8 THE COURT: Did you discuss it with your lawyer?

9 DEFENDANT GERMAN: Yes.

10 THE COURT: All right. So when we come back for sentencing in a couple
11 months, similar to your Co-Defendant, the State is going to retain the right to argue
12 at sentencing, which means they can argue regarding the length of your sentence
13 and whether or not count one and count two run consecutive or concurrent. Do you
14 understand that?

15 DEFENDANT GERMAN: Yes.

16 THE COURT: Do you understand that for count one, which is the robbery
17 with use of a deadly weapon, there's a potential sentence of two to 15 years, as well
18 as a consecutive sentence of one to 15 years for the deadly weapon enhancement?
19 Do you understand that?

20 DEFENDANT GERMAN: Yes.

21 THE COURT: And on count two, there's a potential sentence of one to 6
22 years. Do you understand that?

23 DEFENDANT GERMAN: Yes.

24 THE COURT: And do you understand that on count one you will not -- is not
25 eligible for probation, which means at sentencing you will be going to prison?

1 DEFENDANT GERMAN: Yes.

2 THE COURT: And do you understand the Court's going to make the final
3 decision regarding the length of your sentences?

4 DEFENDANT GERMAN: Yes.

5 THE COURT: And do you understand the Court's going to make the final
6 decision whether or not count one and count two run consecutively or concurrently?

7 DEFENDANT GERMAN: Yes.

8 THE COURT: Sir, any other questions regarding the plea agreement?

9 DEFENDANT GERMAN: No.

10 THE COURT: Sir, how do you want to plead on count one, robbery with use
11 of a deadly weapon, a category B felony; and count two, a conspiracy to commit
12 robbery, a category B felony; guilty or not guilty?

13 DEFENDANT GERMAN: Guilty.

14 THE COURT: Sir, before I can accept your plea of guilty, I have to be
15 satisfied that's freely and voluntarily given. Is your plea freely and voluntarily given?

16 DEFENDANT GERMAN: Yes.

17 THE COURT: Did anyone make any threats or promises to get you to plead
18 guilty?

19 DEFENDANT GERMAN: No.

20 THE COURT: Do you understand that by pleading guilty today you give up
21 your right to a jury trial?

22 DEFENDANT GERMAN: Yes.

23 THE COURT: Do you understand that by pleading guilty today if later on
24 down the road you have doubts about this deal, the grounds on which you can file
25 an appeal are going to be limited?

1 DEFENDANT GERMAN: Yes.

2 THE COURT: Counsel, are the -- I believe the facts are the same for both.

3 MR. FISCHER: They are, Your Honor.

4 THE COURT: All right. Mr. German, did you hear the facts that the Court
5 read with respect to your Co-Defendant, Mr. Ivey?

6 DEFENDANT GERMAN: Yes, I did.

7 THE COURT: And do you agree that the facts that I read with respect to
8 Mr. Ivey are the same facts that are causing you to plead guilty today?

9 DEFENDANT GERMAN: Yes, they are.

10 THE COURT: All right. Is that enough? I think so.

11 All right, sir, the Court's going to accept your plea of guilty finding that
12 it's freely and voluntarily given. We'll give you a date for sentencing.

13 THE CLERK: May 6th, 9:30.

14 DEFENDANT GERMAN: Your Honor.

15 THE COURT: Yeah.

16 DEFENDANT GERMAN: I have a question I wanted to ask you.

17 THE COURT: Sure.

18 DEFENDANT GERMAN: My return court date, I have a medical condition I
19 was trying to get taken care of since June with my eyes. I'm legally blind and I've
20 been walking around the facility without glasses. And I have to go to the streets to
21 get that form to provide them the, you know, necessities, so I don't walk around like
22 crazy in jail. Is that possible that I can get that and come back? And if I don't, my
23 stipulation can change where I can get hit with a habitual.

24 THE COURT: Well, hold on. I want to go back first. Can you read these
25 documents? Do you mean -- these documents, I asked you whether or not you read

1 them and you said yes.

2 DEFENDANT GERMAN: Yes, I read them. But the way I can read them is
3 when I get back into my unit, I have to put them to my face to really read them.

4 THE COURT: Okay.

5 MR. FISCHER: Your Honor, we discussed that and I actually --

6 DEFENDANT GERMAN: He read them and pointed them out to me and I
7 followed them with him.

8 THE COURT: So you feel comfortable that you know and understand
9 everything that's contained in these documents?

10 DEFENDANT GERMAN: I know; yes. And then like I said, once I got back to
11 my unit and I was able to sit down and read them on my own, I really read them the
12 way I can read them without my contacts. So I did read them, but me going to
13 prison like that, I can't do it. Even the doctors up there know my situation.

14 MR. FISCHER: Your Honor, I previously filed a motion requesting that he be
15 given glasses. There was -- well, it was part of an O.R. motion. I made that
16 request. He's filed -- he's made multiple requests at the jail for eyeglasses. We did
17 talk about it. I read it out verbatim. He can read when he holds it really close to his
18 face. So there's definitely he understood everything, but it is a need that he has.
19 We have previously requested that.

20 THE COURT: What is it that he needs to file at the jail? I forgot what it's
21 called when he needs medical.

22 THE CORRECTIONAL OFFICER: A medical kite.

23 THE COURT: Did you fill out the kite?

24 DEFENDANT GERMAN: I've filled out so many medical kites, Your Honor,
25 and they tell me the same thing the prison doctor told me, that my prescription is off

1 the charts. I am -- I cannot see without my contacts.

2 THE COURT: Do you have any glasses from when you were out that your
3 family can bring you?

4 DEFENDANT GERMAN: No, I wear contacts. I don't wear glasses.

5 THE COURT: And you don't have any more contacts?

6 DEFENDANT GERMAN: No, the contacts that I did have were ripped and I
7 was not able to keep those in my eyes.

8 THE COURT: All right. I don't usually have much involvement with the jail
9 sending them out. Have you looked into it?

10 MR. FISCHER: Your Honor, nothing beyond --

11 THE COURT: I mean in the very least, I'm assuming, though, send him out to
12 get glasses.

13 MR. FISCHER: He's made the kite request. I don't know of any other way to
14 go about doing that. I can certainly contact the jail and ask them if there's anything I
15 can do to help facilitate it, so.

16 THE COURT: Yeah, because I don't really have any other power to order
17 them to do anything as far as sending him out to a doctor. I mean usually they at
18 least get their eyes checked and get glasses if they don't pay for contacts.

19 All right. Thank you. Your counsel is going to look into that further,
20 okay.

21 DEFENDANT GERMAN: Okay, so any way I -- how would I know about if
22 something's been done or taken care of?

23 MR. FISCHER: I'll come talk to you again. We'll talk about it.

24 THE COURT: Well, it won't be through me. Mr. Fischer is the one who will
25 be contacting you. You won't see me until sentencing.

1 DEFENDANT GERMAN: All right.

2 THE COURT: All right. Lastly, Mr. Roach, sir.

3 Mr. Roach, what's your full legal name?

4 DEFENDANT ROACH: Christopher Leroy Roach.

5 THE COURT: How old are you, sir?

6 DEFENDANT ROACH: Twenty-two.

7 THE COURT: What's your education?

8 DEFENDANT ROACH: Eleventh grade.

9 THE COURT: Do you read, write, understand the English language?

10 DEFENDANT ROACH: Yes.

11 THE COURT: Are you a U.S. citizen?

12 DEFENDANT ROACH: Yes.

13 THE COURT: Are you taking any drug or medication that would affect your

14 ability to understanding these proceedings?

15 DEFENDANT ROACH: No.

16 THE COURT: Sir, I have an Amended Information that charges you with the

17 crimes of robbery with the use of a deadly weapon which is a category B felony; and

18 conspiracy to commit robbery which is also a category B felony. Did you read the

19 Amended Information?

20 DEFENDANT ROACH: Yes.

21 THE COURT: Did you talk it over with your lawyer?

22 DEFENDANT ROACH: Yes.

23 THE COURT: Do you understand the charges against you?

24 DEFENDANT ROACH: Yes.

25 THE COURT: Sir, I also have a written guilty plea agreement. Before signing

1 the written guilty plea agreement, did you read every single page?

2 DEFENDANT ROACH: Yes.

3 THE COURT: Did you talk it over with your lawyer?

4 DEFENDANT ROACH: Yes.

5 THE COURT: Let's go over a few things. Do you understand that when we
6 come back for sentencing in a couple months, the State's going to have the right to
7 argue, which means they are going to argue regarding the length of your sentences
8 and whether or not count one and count two will run consecutively or concurrently to
9 each other. Do you understand that?

10 DEFENDANT ROACH: Yes.

11 THE COURT: Do you understand that for count one, robbery with use of a
12 deadly weapon, there's a potential sentence of two to 15 years, plus a consecutive
13 sentence of one to 15 years for the deadly weapon enhancement? Do you
14 understand that?

15 DEFENDANT ROACH: Yes.

16 THE COURT: And do you understand that on count two, the potential
17 sentence is one to 6 years in the Nevada Department of Corrections? Do you
18 understand that?

19 DEFENDANT ROACH: Yes.

20 THE COURT: And do you understand that count one is not probationable,
21 which means when you come back for sentencing you're going to prison? Do you
22 understand that?

23 DEFENDANT ROACH: Yes.

24 THE COURT: And do you understand the Court's going to makes the final
25 decision regarding the length of your sentences?

1 DEFENDANT ROACH: Yes.

2 THE COURT: And do you understand the Court's going to make the final
3 decision whether or not count one and count two run consecutively or concurrently?

4 DEFENDANT ROACH: Yes.

5 THE COURT: Do you have any additional questions regarding the plea
6 agreement?

7 DEFENDANT ROACH: No.

8 THE COURT: Sir, how do you want to plead on count one, robbery with use
9 of a deadly weapon, a category B felony; and count two, conspiracy to commit
10 robbery, a category B felony; guilty or not guilty?

11 DEFENDANT ROACH: Guilty.

12 THE COURT: Sir, before I can accept your pleas of guilty, I need to be
13 satisfied that they're freely and voluntarily given. Are your pleas freely and
14 voluntarily given?

15 DEFENDANT ROACH: Yes.

16 THE COURT: Did anyone make any threats or promises to get you to plead
17 guilty?

18 DEFENDANT ROACH: No.

19 THE COURT: Do you understand that by pleading guilty today you give up
20 your right to a jury trial?

21 DEFENDANT ROACH: Yes.

22 THE COURT: Do you understand that by pleading guilty today if later on
23 down the road you have second thoughts about the deal, the grounds on which you
24 can file an appeal are going to be limited?

25 DEFENDANT ROACH: Yes.

1 THE COURT: Did you hear the facts put on the record for Mr. Ivey, the first
2 Co-Defendant sentenced?

3 DEFENDANT ROACH: Yes.

4 THE COURT: And do you agree that those facts are the reason that you are
5 pleading guilty today?

6 DEFENDANT ROACH: Yes.

7 THE COURT: All right, anything to add by counsel?

8 MR. ALMASE: No, Judge.

9 THE COURT: All right. So, Mr. Roach, sir, the Court's going to accept your
10 plea of guilty finding that it's freely and voluntarily given. We'll give you a date for
11 sentencing.

12 THE CLERK: May 6th, 9:30.

13 THE COURT: Okay, I'll see everyone on that date.

14 PROCEEDINGS CONCLUDED AT 10:11 A.M.

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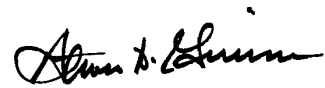
21

22 ATTEST: I do hereby certify that I have truly and correctly transcribed the
23 audio/video recording in the above-entitled case to the best of my ability.

24

25


MARIA L. GARIBAY
Court Recorder/Transcriber



CLERK OF THE COURT

1 **RTRAN**

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3
4
5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**
7

8
9 **THE STATE OF NEVADA**

10 **Plaintiff,**

11 **vs.**

12 **CHRISTOPHER LEROY ROACH, aka**
13 **Christopher Roach,**
14 **JEFFREY B. GERMAN, aka Jeffery**
15 **Bernard German,**
16 **JAMES CURTIS IVEY, JR.,**

17 **Defendants.**

CASE NO.: C300979-1
C300979-2
C300979-3

DEPT. XXIII

TRANSCRIPT OF PROCEEDINGS

18 **BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE**

19 **WEDNESDAY MAY 6, 2015**

20 ***SENTENCING COUNTS 1 & 2***

21 **APPEARANCES:**

22 **For the State:**

NICOLE J. CANNIZZARO, ESQ.
Deputy District Attorney

23
24
25 **APPEARANCES CONTINUED ON PAGE 2**

1	For Defendant Christopher Roach:	CAESAR V. ALMASE, ESQ.
2		
3	For Defendant Jeffrey German:	DAVID R. FISCHER, ESQ.
4		
5	For Defendant James Ivey, Jr.:	CARMINE JAMES COLUCCI, ESQ.
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25	RECORDED BY: MARIA GARIBAY, COURT RECORDER	

1 LAS VEGAS, NEVADA, WEDNESDAY, MAY 6, 2015 at 10:58 A.M.

2

3 THE MARSHAL: We're ready to call page 6, C300979-1, Roach; and
4 C300979-2, German; and the top of page 4, C300979-3, Ivey.

5 THE COURT: All right.

6 So, Counsel, any legal cause or reason why we should not go forward
7 with your case?

8 MR. ALMASE: No, Your Honor.

9 THE COURT: All right.

10 So, by the State it's the same. They were all together so I'm assuming
11 the State has the same argument?

12 MS. CANNIZZARO: Yes, Your Honor, we do.

13 THE COURT: So I'll just let you address your general argument and what
14 you believe is appropriate for each Defendant.

15 MS. CANNIZZARO: Thank you, Your Honor.

16 Today, the State is going to be asking that Your Honor, as to all three
17 Defendants and as to Count 1, the robbery with use of a deadly weapon, impose a
18 term of 2 to 15 -- excuse me, 5 to 15 years on the robbery and then the deadly
19 weapon enhancement a consecutive 5 to 15 years, and then also on the conspiracy
20 to commit robbery, the 28 to 72 months. And we would ask that that run
21 consecutive as well.

22 And, Your Honor, I understand that that is -- quite a substantial request
23 but in terms of cases and in terms of danger to the community and in terms of when
24 you read a police report or reading through a case and you feel as though this is
25 somebody who really does deserve to have that maximum sentence imposed, I

1 think that this is absolutely that case.

2 Your Honor, in this case the facts -- and I'm gonna just go through them
3 'cause I think that they're quite compelling, in this case, Your Honor, on June 30th of
4 2014, Baylie Kull was walking home from work down the street when she was
5 approached by the Defendants. Then -- she was on her cell phone at that point.
6 They asked her how she was doing and when she turned around to sort of give
7 them directions and respond to them they -- I believe it was Mr. German actually
8 grabbed her arm and grabbed her cell phone. The three males then walked her over
9 and -- over I guess beyond an overpass where there was a fence. They pushed her
10 up against that fence. They stole her fanny pack which contained all of her personal
11 items. They stole her cell phone. They forced her to give over her PIN numbers and
12 her pass codes for her cell phones and her credit cards, debit cards, while at the
13 same time I believe it was Mr. Ivey had a -- gun in his waistband. And I'll kind of get
14 to that part a little bit -- later, but at the time she observes a firearm of some sort in
15 Mr. Ivey's pants and she's told don't scream, don't fight with us, you're gonna give
16 us all of your stuff, you're gonna give over all of your pass codes, all of you PIN
17 numbers or we will shoot you. And that's a very real threat for her.

18 After taking all of her items, she's then searched under her clothes,
19 over her breasts for any remaining items that she could possibly turn over to them.
20 They then force her to walk away into an entryway of, I think it's like an apartment
21 complex or apartment building of some sort into an entryway, she's forced to walk in
22 there and not to say anything, not to turn around, not to observe them and she's left
23 there as they flee.

24 Not even 24 hours after that, Your Honor, Ms. Eola Robinson is also
25 walking home. She's walking down the street. And as she's walking down the

1 street, she observes Mr. Roach cross the street. And when she crosses -- when
2 she observes him across the street she initially thinks nothing of it and then she
3 notices that two other males, Mr. German and Mr. Ivey, join him. They then again
4 come up to her, and she's unable to get a great glimpse at Mr. German or Mr. Ivey,
5 but they put their hands -- someone puts their hands over her eyes and one arm
6 around her neck and threaten her to turn over all of her items. When she refuses to
7 give her -- then her purse she is again told that she does not want to get shot over a
8 purse, again, threatening with a firearm.

9 Your Honor, these two ladies were just walking home. They're
10 strangers to these Defendants. They were minding their own business. And in fact,
11 Ms. Kull was going to give them directions to an area off of Twain that they were
12 requesting directions to. These are two women who faced a very violent and very
13 scary situation. And attached to the PSI there was a letter from Ms. Robinson
14 where she talks about how this has affected her and how it affects her on a regular
15 basis.

16 But, Your Honor, not to -- stop there, on that same day just hours later
17 Donna Dimaria and Jesus Medina are sitting in a car. They're boyfriend and
18 girlfriend. They're talking. And as they're sitting in the car, Ms. Medina, Dee Medina
19 -- or excuse me, Dimaria -- I'm gonna get that all confused, Dimaria observes that
20 there are three males who are loitering around. She says goodbye to her boyfriend.
21 He gets out of the car and as she locks the doors and attempts to drive away, she
22 looks out the window and sees that Mr. Ivey has a firearm pointed directly at Mr.
23 Medina's head. These three Defendants then approach the vehicle. They force
24 their way inside. Ms. Dimaria is forced to keep her head down while they put a hand
25 on the back of her neck and squeeze, telling her to give over her items that she has

1 at that point. Mr. Medina is also forced into the back seat where he is held at
2 gunpoint and told to give over -- I believe it was some sort of cross necklace that he
3 was wearing at that point.

4 After taking all of their items, they then flee as well. And when they're
5 apprehended they're apprehended because of a Find My iPhone App or Find My
6 Cell Phone App that is able to be tracked by detectives or officers. When they
7 actually find them, they observe what appear to be two legitimate firearms. Later on
8 it's determined that they're I think BB guns which might be an argument that might
9 be proffered in mitigation of this, Your Honor, but to Ms. Kull, Ms. Robinson, Ms.
10 Dimaria, and Mr. Medina those were very -- real firearms. These are individuals
11 who -- all of them are strangers to these Defendants, all of them faced with what
12 they believed was deadly force and that doesn't change the danger of this crime.
13 Now to the extent that they're not gonna get shot with a real weapon, okay fine. But
14 when they decide to take what appeared to be real firearms, approach random
15 individuals in the community during this -- I think it's like a day -- two days and a half
16 or something like that, crime spree of these very violent robberies, that threat is very
17 real to these victims and I think that Ms. Robinson's letter really does indicate that.
18 She indicates that this is something that she does live with every day whenever
19 she's getting into her car. Remember, she's walking down the street -- whenever
20 she's out at night. This is something she has to live with for the rest of her life and
21 so too do these other victims. These are individuals who were just going about their
22 daily lives and were confronted in a very violent, very dangerous situation.

23 And so I think that the facts in this case, the fact that there are four
24 different victims, the fact that there are three different robberies that occur
25 throughout the course of this requires that they have this maximum sentence. This

1 isn't one random incident. It's not you know an accidental shoving in a grocery store
2 while they're trying to steal food or diapers or something like that. This is absolutely
3 -- when you talk about violent crimes and you talk about danger to the community
4 and you talk about individuals who deserve to have maximum penalties, this is it.
5 This is three different incidents, four different victims and so that's the -- a lot of the
6 reason for the State's request.

7 In addition, I would note that Mr. Roach has one prior felony. He was
8 actually on probation in that felony and that was revoked. He's actually, on that
9 case, was -- sort of find out from his juvenile history to district court as -- and treat it
10 as an adult in that case. And, Your Honor, he learned nothing from that if these
11 facts demonstrate anything at all. He learned nothing from that and instead
12 continued to engage in dangerous behavior.

13 As to Mr. Garman [sic], he has two prior felonies, Your Honor. And as
14 part of his negotiations, the State is not seeking habitual criminal treatment. But,
15 Your Honor, he is certainly somebody who definitely qualifies for that.

16 And -- finally I want to address Mr. Ivey because Parole and Probation
17 had recommended a lower sentence for him in their recommendations and I can
18 only speculate that that must be because he doesn't have any priors. But, Your
19 Honor, I don't think the fact that he doesn't have any priors mitigates any of the facts
20 or circumstances in this case whatsoever. His decision to engage in this violent and
21 dangerous conduct absolutely warrants a maximum sentence even though he
22 doesn't have the priors. I think even if you don't take their criminal history into
23 account, just this particular case warrants that. And so that's -- the State's request.

24 I think they -- all three have 309 days credit for time served. We are
25 asking for \$880.00 in restitution. That is for the items that were stolen from Ms.

1 Dimaria and Mr. Medina, \$100.00 to Jesus Medina and \$780.00 to Donna Dimaria,
2 and it's D-I-M-A-R-I-A. And I think I'll submit it on that, Your Honor.

3 THE COURT: Well, let's start with Mr. Colucci, go down the aisle. You
4 represent James Ivey.

5 MR. COLUCCI: Yes, I do.

6 Your Honor, as the State has acknowledged, Mr. Ivey has no prior
7 record. He comes from a very good family. He's a family man himself. He has a
8 wife and --

9 THE COURT: Are you Mr. Ivey?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay.

12 MR. COLUCCI: He has a wife and three children. He has job skills that
13 would enable him to secure a good job when he gets out. He doesn't need to
14 engage in this kind of activity. And in the past he has not engaged in any type of
15 activity like this.

16 I would ask the Court to consider -- you know based on his job skills,
17 his job skill ability, his lack of a prior record, the fact that he has a family of his own
18 and good family support through his own parents, that the Court consider giving him
19 24 to 60 on Count 1 with the 16 month enhancement. And on Count 2, 12 to 36
20 which is what Parole and Probation recommended, and run that concurrent which is
21 also what Probation recommended.

22 He's not a career criminal. This is a one-time -- I don't know, just a one
23 single time in his life that he acted stupidly and I know that he regrets it. He'll tell
24 you how he feels about it. He has used his time in the jail to try to better himself as
25 best he could under the circumstances. I'd ask the Court to take that into

1 consideration. At least it shows that he is motivated.

2 And so with that, I would ask -- you to give him the 24 to 60 with a 16
3 month enhancement, and on Count 2, 12 to 36 and run that concurrent with 309
4 days credit for time served.

5 THE COURT: Mr. Ivey, anything you'd like to say?

6 DEFENDANT IVEY: I just want to apologize for my actions. I don't normally
7 do this. It was just a one-time thing and it will never happen again.

8 THE COURT: All right, thank you, Mr. Ivey.

9 Mr. Almase.

10 MR. ALMASE: With regard to Mr. Roach, Judge, a few things that I think
11 must be addressed here.

12 The Pre-Sentence Investigation Report, the recommendation is for all
13 told 5 -- approximately 5 to 21 years. And that was a bit of a shock to me because
14 typically in these -- types of cases the writer for P&P will ask for a -- whole lot more
15 than that, sometimes upwards of 9, 10 years, but in these situations I think the Court
16 should really take notice in what they see in Mr. Roach and what they wrote about --
17 in Mr. Roach's case. He has the one prior felony and this was when he was still a
18 juvenile and was certified up unfortunately. He's 22 years of age and has significant
19 mental health issues, Judge. I spent the last few months before sentencing getting
20 paperwork from Nevada Department of Corrections, from CCDC, from private
21 providers to see what exactly he's been suffering with -- and I chose not to forward
22 those on to the Court because I think there was some sensitive information there
23 and a lot of it was handwritten, not very discernible. But what I was able to gather
24 there is that he has suffered from long-term chronic depression called Dysthymia
25 and actually had attempted suicide on a number of occasions and was a very

1 troubled youth and a troubled young man obviously. I don't use this as an excuse
2 for what he did here and certainly he's taking responsibility for his actions. But it
3 explains, in a way, how he came here, how he got to this point in his life. You know,
4 in speaking with him and in living with this case for almost a year and all the
5 numerous times I've spoken with him, he -- it's mind-boggling to me that he would
6 be charged with these kinds of crimes. He's never shown any sort of
7 aggressiveness, any kind of violent tendencies, and I think a lot of it -- and I hate to
8 put the blame on other individuals, but I think a lot of it is because he is a follower
9 and this certainly wasn't -- there was no indication that he was the one who
10 orchestrated or came up with this plan or these ideas.

11 But be that as it may, he stands before you, Judge, at 22 years of age.
12 I'm asking that he be given the -- with regard to Count 1 and Count 2, all told 4 years
13 on the bottom -- 4 to 10 years and I think that's what fits given the circumstances.
14 Yes, these are robberies. Yes, those are violent crimes by definition under the NRS.
15 However, these individuals were not actually injured. Mr. Roach was involved, and
16 again he's taken responsibility for his actions, and despite what the State feels this
17 is not worth 12 years on the bottom which is what the State is recommending. Those
18 kinds of sentences are reserved for people where there's a loss of life or there's a
19 sexual assault. This did not occur. This is not that type of case.

20 And I think it bears mentioning also, State spoke about Ms. Robinson
21 having hands over her breasts; there was never any allegation nor in her interview
22 did she say that there was any sexual overtones here so that is -- that's something
23 that doesn't fit here and I would ask the Court not to take -- any umbrage to that.

24 What occurred here is regrettable and the victims here should be made
25 whole for the \$880.00 restitution. I think given Mr. Roach's past, his young age, the

1 actual events that took place here, 4 to 10 years is entirely appropriate and that's
2 what I'm asking for.

3 THE COURT: All right, thank you.

4 And Mr. German, anything you'd like to say?

5 MR. ALMASE: Mr. Roach, Judge.

6 THE COURT: I'm sorry, Mr. Roach.

7 DEFENDANT ROACH: Yeah, I'd like to apologize to the victims, to the
8 Court, for being here, my actions for the cases that brought me here. I got -- I know
9 I got mental issues and everything but I'm not gonna use that as a excuse either you
10 know for what I did. I know right from wrong. I know I made a mistake and I just say
11 sorry for the three -- or the four victims that's not here right now.

12 THE COURT: Okay, thank you.

13 Mr. Fischer, on behalf of your client, Mr. German.

14 MR. FISCHER: It's about Mr. German, Your Honor.

15 Your Honor, he is probably the one that has the most serious record
16 and his record amounts to two prior felonies and I would highlight for the Court that
17 his last felony was in 2007. I -- my interactions with Mr. German has been positive.
18 He's always been respectful and in my opinion he very quickly accepted
19 responsibility for what did happen and expressed remorse for what happened.

20 And I would ask the Court to -- in his case to follow the PSI's
21 recommendations. I think those are appropriate. And I -- agree with the comments
22 of Mr. Almase with regard to the recommendation -- the -- PSI writer's -- obviously in
23 a very good position after interviewing and taking a look at the totality here in
24 making their recommendation and I would ask the Court to consider the acceptance
25 of responsibility. Also, Mr. German has family support. His mother's in the

1 courtroom here today. She has been in contact with my office in the last few months
2 to discuss him and his life.

3 Your Honor, I will submit it on that.

4 THE COURT: All right, Mr. German, anything you'd like to day?

5 DEFENDANT GERMAN: Yes. I would like to say I've never made any
6 excuses for anything that I've done in my past and I'm not making any excuses. I
7 will take full responsibilities for my actions in what occurred in the situation at hand
8 and ask that the sentence that they are imposing, the 12 -- or the 5 be a 4 to 10.
9 Like I say I've [indiscernible] everything that I've done. I've never made excuses for
10 any of my actions. I took full responsibility which I'm taking now for it. And not only
11 have I put the victims through a lot of thing, I put my family and those that love me
12 through a lot also. And with that said that was -- that's all I would like to say.

13 THE COURT: All right.

14 Let's start with Mr. Ivey, and this is C300979-3.

15 Mr. Ivey, sir, the Court finds you guilty on Count 1, robbery with use of a
16 deadly weapon, a felony. The Court finds you guilty on Count 2, conspiracy to
17 commit robbery, a felony.

18 In accordance with the laws of the State of Nevada, the Court assesses
19 a \$25.00 administrative fee, a \$150.00 DNA analysis and testing fee, and a \$3.00
20 DNA administrative assessment fee.

21 Count 1, robbery with use of a deadly weapon, you're sentenced to a
22 minimum term of 60 months, a maximum sentence of 180 months. There's also an
23 equal and consecutive minimum term of 60 months for use of a deadly weapon and
24 an equal and consecutive maximum term of 180 months for use of a deadly
25 weapon. There is restitution on this Count in the amount of \$880.00 which will be

1 paid jointly and severally with your co-Defendants.

2 Count 2, conspiracy to commit robbery, a felony. The Court sentences
3 you to a minimum term of 13 months, a maximum sentence of 60 months. Count 2
4 will run concurrent with Count -- I'm sorry consecutive with Count 1. You will receive
5 309 days credit for time served.

6 Thank you.

7 Mr. Roach, sir, the Court finds you guilty on Count 1, robbery with use
8 of a deadly weapon, a felony. The Court finds you guilty on Count 2, conspiracy to
9 commit robbery, a felony.

10 In accordance with the laws of the State of Nevada, the Court assesses
11 a \$25.00 administrative assessment fee. There's also -- DNA was previously taken
12 and will not be required again. There's also a \$3.00 DNA administrative
13 assessment fee.

14 Sir, Count 1, robbery with use of -- a deadly weapon, the Court
15 sentences you to a minimum term of 60 months, a maximum sentence of 180
16 months. There is also an equal and consecutive minimum term of 60 months for
17 use of a deadly weapon and an equal and consecutive maximum term of 180
18 months for use of a deadly weapon.

19 Count 2, conspiracy to commit robbery, you're sentenced to a minimum
20 term of 13 months, a maximum sentence of 60 months. Count 2 will run
21 consecutive with Count 1. On Count 1 there's also restitution in the amount of
22 \$880.00. That amount will be paid jointly and severally with your co-Defendants --
23 hold on. You're entitled to 309 days credit for time served.

24 Yes, sir?

25 DEFENDANT ROACH: For the restitution, its 700 or whatever you said the --

1 THE COURT: \$880.00 in restitution?

2 DEFENDANT ROACH: Right. Where's that from?

3 THE COURT: That is -- she gave -- what was the breakdown? I -- let me
4 see. I wrote it down over here.

5 MS. CANNIZZARO: Yes, Your Honor. It's \$780.00 to Donna Dimaria for
6 items that were stolen from her and then \$100.00 to Jesus Medina for the damaged
7 necklace.

8 THE COURT: All right, thank you.

9 And again, Mr. Roach will receive 309 days credit for time served.

10 DEFENDANT ROACH: My -- Judge?

11 THE COURT: Yeah?

12 DEFENDANT ROACH: Also that I shouldn't be able to pay that because
13 what we -- it was nothing really stolen. The car -- whatever, car keys or whatever
14 was supposed to be missing, whatever, when I -- when they checked us or whatever
15 in the car, it was nothing there so I don't know why we should be --

16 THE COURT: You know what, you can --

17 DEFENDANT ROACH: -- I should --

18 THE COURT: -- address it with your attorney after sentencing if he feels the
19 restitution is improperly ordered, an amount, then your attorney can file a motion for
20 that.

21 Mr. German, sir, the Court finds you guilty on Count 1, robbery with use
22 of a deadly weapon, a felony. The Court finds you guilty on Count 2, conspiracy to
23 commit robbery, a felony.

24 In accordance with the laws of the State of Nevada the Court assesses
25 a \$25.00 administrative assessment fee. DNA was previously taken and will not be

1 required again. There's a \$3.00 DNA administrative assessment fee.

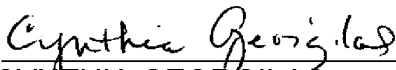
2 Count 1, robbery with use of a deadly weapon, you're sentenced to a
3 minimum of 60 months, a maximum sentence of 180 months. There's also an equal
4 and consecutive minimum term of 60 months for use of a deadly weapon and an
5 equal and consecutive maximum term of 180 months for use of a deadly weapon.
6 There's also restitution on this Count in the amount of \$880.00 that is joint and
7 several with your co-Defendants.

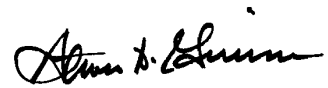
8 Count 2, conspiracy to commit robbery, a felony. The Court sentences
9 you to a minimum term of 13 months, a maximum sentence of 60 months. Count 2
10 will run consecutive with Count 1. You'll receive 800 -- I'm sorry, 309 days credit for
11 time served.

12 Thank you.

13 [Proceedings concluded at 11:20 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

23 
24 CYNTHIA GEORGILAS
25 Court Recorder/Transcriber
District Court Dept. XIII
702 671-4425



CLERK OF THE COURT

1 **RTRAN**

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6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

12
13 **CHRISTOPHER LEROY ROACH, aka**
14 **Christopher Roach,**
15 **JEFFREY B. GERMAN, aka**
16 **Jeffrey Bernard German,**
17 **JAMES CURTIS IVEY, JR.,**

18 **Defendants.**

19 **CASE NO. C300979-1**
20 **C300979-2**
21 **C300979-3**

22 **DEPT. NO. XXIII**

23 **TRANSCRIPT OF PROCEEDINGS**

24 **BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE**

25 **WEDNESDAY, NOVEMBER 19, 2014**

PETITION FOR WRIT OF HABEAS CORPUS

APPEARANCES:

For the State:

CAROLINE BATEMAN, ESQ.
Deputy District Attorney

APPEARANCES CONTINUED ON PAGE 2

1	For Defendant Christopher Roach:	CAESAR V. ALMASE, ESQ.
2	For Defendant Jeffrey German:	DAVID R. FISCHER, ESQ.
3	For Defendant James Ivey, Jr.:	CARMINE J. COLUCCI

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RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 WEDNESDAY, NOVEMBER 19, 2014, 10:40 A.M.

2

3 THE MARSHAL: Pages 14 and 15, C300979, Roach, German and Ivey.

4 THE COURT: Mr. Almase, it looks like you have a lot of cases on today.

5 MR. ALMASE: My last one, Judge.

6 THE COURT: Roach. Okay, so we have co-defendants here, Roach,

7 German and there's one more. Where is --

8 MR. COLUCCI: Ivey.

9 THE COURT: -- Ivey? So, okay, over here. You're mister --

10 DEFENDANT IVEY: Ivey.

11 THE COURT: And you're mister --

12 DEFENDANT GERMAN: German. I can see you're pointing at me, yes.

13 THE COURT: That's okay. Ivey, German and Mr. Roach, right?

14 Okay. So, sirs, your attorneys have filed motions on your behalf.

15 Motions are very similar, they are petitions for writ of habeas corpus. Who wants to
16 argue theirs first?

17 MR. COLUCCI: Court's indulgence one second.

18 THE COURT: Sure.

19 Yours is the thickest, Mr. Almase.

20 [Defense counsels confer]

21 MR. ALMASE: Judge, as to Mr. Roach, I'm not going to belabor the points
22 made in my pleading; however, I think it has to be said and reiterated that during
23 Ms. Robinson's testimony, she very honestly stated, "I cannot say that, yes, that's
24 him, Christopher Roach. I can't." And this was monumental at the time. I point the
25 Court to page 5 of my pleading. And I'm lifting it right from the preliminary hearing

1 transcript. My question, page -- or line 23: So it's fair to say your identification of
2 Mr. Roach this morning isn't close to 100 percent? That's fair.

3 I put it in those terms expecting that she was going to say give me a
4 percentage, 90, 70, 60, 40, 30, something below that. And the reason I did that is
5 because whenever a person is shown a six-pack lineup, the officer will ask them
6 circle the person and then put what percentage you're sure it's that person that
7 committed this crime. And that's why I worded it that way. She did one better. She
8 said, "I cannot say that's him. I can't." So from her own mouth, there was zero
9 percent really that she could affirmatively say that it was my client, Mr. Roach, at the
10 time of the robbery.

11 Before that, a six-pack lineup was done with her some 24 hours after
12 the alleged robbery and she couldn't pick out anyone, couldn't pick out any of the
13 co-defendants, couldn't pick out my client. She circled nobody. And so some
14 months later in court identification, that is negated by her own statement, Judge.
15 And so where does that leave us? The Court argued -- excuse me, the State
16 argues that by virtue of the fact that he may have been involved in some robbery
17 that occurred some -- a day before that's circumstantial evidence.

18 Well, granted there was some similarities between the two, but it still
19 goes back to what happened at that occasion. And her identification really blows up
20 what other circumstantial evidence may apply from the alleged instance from the
21 day before. The other thing the State argues is the fact that --

22 THE COURT: Hold on Caesar.

23 [The Court and Court Clerk confer]

24 THE COURT: All right. I'm sorry, Mr. Almase.

25 MR. ALMASE: That's fine.

1 THE COURT: It's a little bit quieter.

2 MR. ALMASE: The other thing that the State argues in its opposition is the
3 fact that these three individuals were found, were traveling in the vehicle where
4 some of this property from the alleged victims was located. However, there was no
5 testimony as to where in the vehicle it was located. It could've very well been in the
6 trunk. There was no testimony as to my client, Mr. Roach, even knowing that that
7 property was there, or that it was anywhere near his vicinity. I mean you have to
8 establish, and this is classic possession law, that there is more than mere presence,
9 that there was knowing that the property was within that persons reach or that they
10 exercised some dominion and control over it. They have nothing of that sort. They
11 have --

12 THE COURT: Wasn't the property in the vehicle they happened to be
13 occupying?

14 MR. ALMASE: Well, it was in the vehicle. The point is that there is no
15 testimony that my client even knew it was in the vehicle, where in the vehicle it was
16 located, whether it was hidden under some chairs or if it was in the trunk. There's
17 simply no testimony. There is no evidence before this Court to prevent it --

18 THE COURT: How many people in the vehicle? Weren't there just Mr.
19 Roach, Mr. German and Mr. Ivey?

20 MR. ALMASE: And a female.

21 THE COURT: And there's a female.

22 MR. ALMASE: There's a female and they were at a convenience store and
23 they were getting red box movies. And there is some question as to the location of
24 these individuals when the police came up, but that wasn't presented so I'm not
25 going there. But be that as it may, there was nothing from Mr. Roach or any of the

1 other individuals for that matter below during the preliminary hearing to indicate that
2 any of them had any knowledge that this property was there.

3 There was another female at the time in the vehicle who's uncharged.
4 And this occurred sometime after the incident having to do with Ms. Robinson. So it
5 wasn't contemporaneous. We might have a different situation if Mr. Roach was
6 found a few blocks away from where the alleged robbery occurred or had the
7 property on him. It's remote. I mean it's within a few hours, but it's remote enough
8 that I think the Court should take that into consideration as far as slight or marginal
9 evidence.

10 For all those reasons, Judge, I would ask that counts 4 and 5 be
11 dismissed as to my client.

12 THE COURT: Okay. And because all your motions are relatively the same,
13 so the State's full response is going to be the same, why don't we just have yours,
14 Mr. Colucci, sir, which is Mr. Ivey.

15 MR. COLUCCI: Yes. The only thing I would deviate from is that I raised an
16 issue as to count 8, in addition to counts 4 and 5. And that was based on my
17 research and understanding that you cannot be charged with robbery and
18 possession of stolen property out of the same event.

19 THE COURT: I think they concede that. I mean I think the State's position is
20 they can both go on the jury form. However, if they get convicted on both, obviously
21 it would be not both for sentencing purposes.

22 MR. COLUCCI: Okay. That's it.

23 THE COURT: They just want to make sure that everyone is on the same
24 page.

25 MR. COLUCCI: Yes.

1 THE COURT: Okay, that's fair.

2 And, Mr. Fischer.

3 MR. FISCHER: Your Honor, I'll join the partners. Nothing further. Submit it on
4 that.

5 THE COURT: Okay. So by the State, please.

6 MS. BATEMAN: And, Your Honor, Ms. Beverly did file a very detailed
7 response. I would note I started this preliminary hearing, so I remember the
8 testimony from the other victims. And the only reason I bring that up is this is a very
9 consistent pattern of conduct by the three co-defendants. These are robberies that
10 are committed by these three men. Every one of the robberies charged involved the
11 same three co-defendants.

12 Their conduct is very similar. One is very consistently the gunman.
13 One is very consistently the speaker who is ordering the victims to take certain
14 conduct. And based on just the testimony of Ms. Robinson, I believe that even
15 Judge Kephart, I could see down in Justice Court, had concerns based on her
16 inability to positively 100 percent identify the defendants. However, the fact that --

17 THE COURT: Did Kull make an ID?

18 MS. BATEMAN: I'm sorry.

19 THE COURT: I have in my notes that Kull made an ID of the three defendants,
20 K-u-l-l. I think it's victim one.

21 MS. BATEMAN: The other victims all identified the defendants, Your Honor.

22 THE COURT: And Robinson didn't, but Robinson's items were found in the
23 car --

24 MS. BATEMAN: Correct.

25 THE COURT: -- where the three defendants were occupied.

1 MS. BATEMAN: And I think that was the clincher for Judge Kephart. I don't
2 think he was inclined to see that PC at that point, but once they are all identified in
3 the vehicle having not only the identifying cards, the social security cards et cetera,
4 of Ms. Robinson, but all of the other victims all had at least one item of property that
5 was taken from them found in that car as well. So I know that it wasn't noted in our
6 response, but it's very significant in my opinion the fact that there would be four
7 robberies and the victims properties from all four robberies were found in the same
8 vehicle with these three defendants.

9 I understand it wasn't immediate, but at the same time, just the totality
10 of the circumstances, the fact that these robberies are very consistent, all involved
11 these three co-defendants. And then this particular victim who is the basis of the
12 three writs, her property was all found in the vehicle as well. I believe that is
13 sufficient to establish that slight or marginal evidence to proceed to trial on those
14 counts.

15 THE COURT: Okay.

16 MR. ALMASE: If I may reply briefly.

17 THE COURT: Yeah, of course.

18 MR. ALMASE: First, the fact that these three individuals are included in each
19 of these three incidents, and it's three incidents, not four incidents that are listed in
20 the criminal Information, I think has really limited significance. Of course they're
21 listed because that's what they're charged with. I mean I don't know that that really
22 enters into the equation or should be considered as proved positive that there was
23 slight or marginal evidence below.

24 Second this is actually as a point of clarification in the third incident
25 involving Donna Dimaria and Jesus Medina, they weren't consistent. They did not

1 name the same person as the person who had a firearm. They pointed to two
2 different co-defendants. And my recollection was that they attributed statements
3 made to two different individuals, one person making the statement throughout that
4 incident, but two different individuals. So it wasn't exactly 100 percent consistent.
5 There were some discrepancies here among the other people who testified.

6 But be that as it may, and I ask the Court to focus on the complete
7 negation of the identification by Eola Robinson. She very unequivocally stated
8 during cross-examination, "I can't say who this was. There was nothing that jumped
9 out at me. It was a black male." She herself being African-American. It wasn't a
10 race thing. It was just there wasn't really anything that stuck out to me when this
11 individual walked past me on the street.

12 THE COURT: Okay. Anything else?

13 MS. BATEMAN: No, Your Honor.

14 THE COURT: All right. I'm going to deny all three petitions for writ of habeas
15 corpus. I do find that there was slight or marginal evidence demonstrating --
16 presented at the lower court to demonstrate that a crime was committed and that the
17 defendants are the three individuals that committed this crime. The Court does note
18 that one of the victims did identify the three defendants. The other victim, Robinson,
19 there's a lot of similarities between that occurrence and the Kull occurrence.

20 Additionally, the Court notes that with respect to Robinson several of
21 the items that were reported to be taken from Robinson were found in a vehicle that
22 was occupied by the three defendants in this case. Also, with respect to Dimaria,
23 there is also circumstantial evidence that these are the individuals involved in that
24 case as well, and that the individuals had items that were also reported taken from
25 Dimaria. So given the low standards of bind over on these charges, I do think that

1 there is a slight or marginal evidence.

2 Counsel, I do see that you have trial in March and I'll see you then.

3 Thank you.

4 MR. COLUCCI: Thank you, Judge.

5 PROCEEDINGS CONCLUDED AT 10:52 A.M.

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

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MARIA L. GARIBAY
Court Recorder/Transcriber

MC
DA
PP
AOR

David
Fischer

Jeffrey German
Po Box 650 #92696
Indian Springs NV
89070

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Ann L. Blum
CLERK OF THE COURT

In the Eighth Judicial
District Court Clark County NV

Jeffrey German
Petitioner
vs.
State of Nevada et al
DAVID R Fischer R esq
Respondent

C-14-300979-2
Case No. C-14-300979(2)
Dept 23

Hearing Date: 10-28-2015

Time: 9:30AM

Motion to Withdraw Counsel
And Return of Records NRS 7.055

Comes now, Jeffrey German, In Pro Se, and respectfully
moves this Honorable Court for order to discharge DAVID R Fischer, esq AS
Counsel, at 321 So Casino CTR Blvd #100-A LV NV 89101
And return of all documents, such as (1) Booking sheet (LVMPD)
(2) Amended Information, (3) Communications, with District Attorney
(4) Presentence Report, (5) Police investigation records, (6) Any Computer
Records, (7) Court docket sheet, All Complete,

This motion is made and based upon the accompanying Memorandum of Points and Authorities, and
any Affidavit attached hereto. Document complies with NRS 239B.030

Dated this 29 day of Sept, 2015.

Jeffrey German
92696

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OCT 05 2015

CLERK OF THE COURT

AFFIDAVIT of Jeffrey German

Clark Co.
INDIAN SPRING NV

I Jeffrey German. In Pro se, being duly
Sentenced Request From David R Fischer as his Removal
From my Case, And Return of ALL Documents, As there is
No APPEAL Currently going on. but Request the documents
be returned as soon as possible for timely 28USC2254 to be
filed.

EFFECTIVE today he will also be sent a letter to his office.
Under Penalty of Perjury NRS 208.165 28USC1746

Date Sept 29, 2015

Jeffrey German
Jeffrey German
Po Box 650

CERTIFICATE OF SERVICE BY MAILING

I, Jeffrey German, hereby certify, pursuant to NRCP 5(b), that on this 29
day of Sept, 2015, I mailed a true and correct copy of the foregoing, "8th JUD District Court And David Fischer # 10348"
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

Eighth JUD Dist Court
Attn: Dist Court Clerk
Steven Grierson -
200 Lewis Ave
LV NV 89101

DAVID R Fischer #10348
321 So Casino CTR BLDG 700-A
LV NV
89101

CC: FILE

DATED: this 29 day of Sept, 2015.

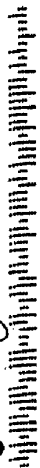
Jeffrey German
German # 92696
/In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

5977 German 92696
PO Box 650
Indian Springs NV 89070

Las Vegas NV 89101
09/30/2015
30 SEP 2015 PM 2:58
ZIP 89101
ID 12602493

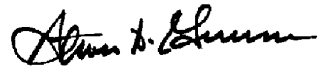
Legat mail
Eighth Jud Dist Court
ATT: Court Clerk Steven Grierson
200 Lewis Ave

LV NV 89101



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HIGH DESERT STATE PRISON
SEP 28 2015
UNIT 1 C/D



CLERK OF THE COURT

1 AJOC

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEFFREY B. GERMAN
aka Jeffery Bernard German
#1602073

Defendant.

CASE NO. C300979-2

DEPT. NO. XXIII

AMENDED JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; and COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; thereafter, on the 6th day of May, 2015, the Defendant was present in court for sentencing with counsel DAVID R. FISCHER, ESQ., and good cause appearing,

1 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offenses and, in
2 addition to the \$25.00 Administrative Assessment Fee and \$880.00 Restitution to be
3 paid jointly and severally with Co-Defendants plus \$3.00 DNA Collection Fee, the
4 Defendant is sentenced to the Nevada Department of Corrections as follows: as to
5 COUNT 1 – a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM
6 parole eligibility of SIXTY (60) MONTHS plus a CONSECUTIVE term of ONE
7 HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole eligibility of SIXTY (60)
8 MONTHS for the Use of a Deadly Weapon; and COUNT 2 - a MAXIMUM of SIXTY (60)
9 MONTHS with a MINIMUM parole eligibility of THIRTEEN (13) MONTHS;
10 CONSECUTIVE to COUNT 1; with THREE HUNDRED NINE (309) DAYS credit for time
11 served. As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously
12 imposed, the Fee and Testing in the current case are WAIVED.
13
14

15 THEREAFTER, on the 4th day of May, 2016, Pro Per Defendant was not present
16 in court, and pursuant to Status Check: NDOC Clarification hearing; COURT
17 ORDERED, AGGREGATE TOTAL sentence of FOUR HUNDRED TWENTY (420)
18 MONTHS MAXIMUM with a MINIMUM of ONE HUNDRED THIRTY-THREE (133)
19 MONTHS is REMOVED from this sentence.
20

21 DATED this 12th day of May, 2016
22
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26 
27 STEFANY MILEY
28 DISTRICT COURT JUDGE

mc
OA
PP

1 JEFFERY German ID NO: 92696

2 *Ann D. Blum*

CLERK OF THE COURT

3 Southern Desert Correctional Center
4 Post Office Box 208
5 Indian Springs, Nevada 89070-0208

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

8
9 Plaintiff, JEFFERY German Case No: C300979

10 V. Dept. No:

11 Defendant State of Nevada

12
13 NOTICE OF MOTION

9/7/16
@9:30am

14 MOTIONS FOR MODIFICATION OF SENTENCE

15
16 Comes now, Defendant, _____, pro per, and respectfully moves
17 this Honorable court for a modification of sentence.

18
19 This motion is based pursuant to the supporting Points and Authorities attached hereto, NRS
20 176.555, as well as all papers pleading, and documents on file herein.

21 POINTS AND AUTHORITIES

22 1. STANDARD OF REVIEW

23 The Nevada Supreme Court has long recognized that Court's have the power and Jurisdiction to
24 Modify a sentence, see, Staley v. State, 787 P.2d 396, 106 Nev. 75 (1990):

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

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CLERK OF THE COURT

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

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

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

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

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

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

II. STATEMENT OF FACTS

FACTS & AUTHORITY'S
PERTAINING TO THIS CASE
C 300979-2, for and in
behalf of Petitioner.
NUNPRO TUNC stabilizing
the issue of timeliness.

When it is practicable for the court
to declare whether a particular weapon
is deadly or not, the question is one
of law for the court and not of
fact for the jury; but in all
cases where the character of the
weapon in this respect is doubt-
ful, or where the question
depends upon the particular
manner in which it was used...
State v. Davis,
14 Nev. 407, 1879 Nev. LEXIS 52 (Nev. 1879)

Where Petitioner was charged
for - Robbery with use of A Deadly
Weapon - 193.165, 200.380 and
Conspiracy to Commit Robbery -
200.380, 199.480.

Both enumerate NRS 200.380
Enhancement rules and 199.480
and 193.165 are not res
gestae to each other by rule.

1 By I.A.L.R. 3d 571: Admissibility
2 of evidence is questionable
3 as to role played and
4 use of weapon by accused.
5 8 A.L.R., 4th 960,
6 establishes only a single
7 act.

8 That there is an 'institutional
9 bias' inherent.

10 It is closer to the truth.

11 When other characters are the
12 one's with a deadly weapon
13 and not in my possession.

14 A clear defining of the
15 role played can ascertain to
16 the real truth of the matter.

17 For in a plea-bargain
18 cutting habitual or enhancement
19 were not elements presented
20 at offer due to non-disclosure
21 of defense and induce promise
22 of lesser charge was present.

23 Blackledge v. Perry; SFE
24 Thigpen v. Roberts, 468 U.S. 27, 104 S.Ct.
25 2996, 82 L. Ed. 2d 23 (1984)

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CONCLUSION

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

Dated this Aug day of 3, 2016

By: Jeffery German #92696

Southern Desert Correctional Center

P.O. BOX 208

INDIAN SPRINGS, NEVADA 89070-208

I, _____, certify that the foregoing "Motion For Modification of Sentence", was served upon the Respondent pursuant to NRCP 5 (b), by placing same in the United States Postal Service, postage being fully pre-paid, and addressed as follows:

Clerk of Courts

District Attorney's Office

200 Lewis Ave
3rd floor

Las Vegas Nevada
89155

Dated this Aug day of 3, 2016

By:

Jeffery German # 92696

P.O. Box
Indian Springs, NV. 89070

Defendant, In Proper Person

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Modification

(Title of Document)

filed in District Court Case number _____

☒ Does not contain the social security number of any person.

-OR-

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

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

(State specific law)

-or-

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

Jeffery Coenen
Signature

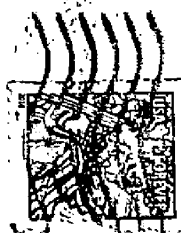
8-3-16
Date

Jeffery German
Print Name

Title

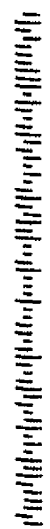
SETH Geiman 92696
PO BOX 208
Indian Springs NV 89070

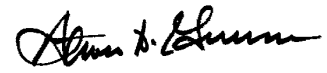
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Clerk of the Court
200 Lewis Avenue
See
CV NV 89155

89101-630000





CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
RYAN J. MACDONALD
Deputy District Attorney
Nevada Bar #012615
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEFFREY GERMAN,
aka Jeffrey B. German, #1602073

Defendant.

CASE NO: C-14-300979-2

DEPT NO: XXIII

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR
MODIFICATION OF SENTENCE

DATE OF HEARING: SEPTEMBER 7, 2016
TIME OF HEARING: 9:30 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through RYAN J. MACDONALD, Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Modification of Sentence.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On September 22, 2014, Jeffery German ("German") was charged by way of
4 Information as follows: Count 1 – Conspiracy to Commit Robbery (Category B Felony – NRS
5 200.380, 199.480), Count 2- Robbery With Use of a Deadly Weapon (Category B Felony –
6 NRS 100.380, 193.164 – NOC 50138), Count 4 – Conspiracy to Commit Robbery (Category
7 B Felony – NRS 200.380, 199.480), Count 6 – Conspiracy to Commit Robbery (Category B
8 Felony – NRS 200.380, 199.480), Count 7 – Robbery With Use of a Deadly Weapon (Category
9 B Felony – NRS 100.380, 193.164 – NOC 50138), Count 8 – Possession of Stolen Property
10 (Category C Felony – NRS 205.275 – NOC 56057), Count 9 – Possession of Credit or Debit
11 Card Without Cardholder's Consent (Category D Felony – NRS 205.690 – NOC 50790), and
12 Count 10 – Possession of Credit or Debit Card Without Cardholder's Consent (Category D
13 Felony – NRS 205.690 – NOC 50790).¹

14 The State filed an Amended Information on March 16, 2015, charging German as
15 follows: Count 1 – Robbery With Use of a Deadly Weapon (Category B Felony – NRS
16 100.380, 193.164 – NOC 50138), and Count 2 – Conspiracy to Commit Robbery (Category B
17 Felony – NRS 200.380, 199.480). Pursuant to a Guilty Plea Agreement, he pleaded guilty on
18 the same date. On May 6, 2015, German was sentenced on Count 1 to a maximum of 180
19 months with a minimum parole eligibility of 60 months, plus a consecutive term of a maximum
20 of 180 months with a minimum parole eligibility of 60 months for use of a deadly weapon;
21 and on Count 2 to a maximum of 60 months with a minimum parole eligibility of 13 months,
22 with Count 2 to run consecutive to Count 1. The Court announced the aggregate total sentence
23 to be 420 months maximum with a minimum of 133 months. German received credit for 309
24 days credit for time served. The court entered the Judgment of Conviction on May 12, 2015.

25 On May 4, 2016, German appeared in Court for a Status Check and the Court ordered
26 the aggregate total sentenced be removed. The Court filed an Amended Judgment of
27
28

¹ Counts 3 and 5, omitted, only charged co-defendants.

1 Conviction on May 12, 2016. German filed a Motion for Modification of Sentence on August
2 17, 2016. The State now responds in opposition.

3 ARGUMENT

4 **I. THE APPLICATION OF THE DEADLY WEAPON ENHANCEMENT WAS** 5 **NOT BASED ON MISTAKEN ASSUMPTION.**

6 German argues in his motion that the Court's application of the deadly weapon
7 enhancement in sentencing was based upon untrue assumptions found in the Pre-Sentence
8 Investigation (PSI) Report, which he claims contains numerous errors. Motion at 2. He claims
9 that the decision to apply the deadly weapon enhancement should not have been the Court's
10 at all because "in all cases where the character of the weapon in that respect is doubtful, or
11 where the question depends upon the particular manner in which it has been used, the question
12 should be submitted to the jury." Motion at 3 (citing State v. Davis, 14 Nev. 407, 413 (1879)).

13 In general, a district court lacks jurisdiction to modify a sentence once the defendant
14 has started serving it. Passanisi v. State, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992),
15 overruled on other grounds by Harris v. State, 130 Nev. Adv. Op. 47 (2014). However, a
16 district court does have inherent authority to correct, vacate, or modify a sentence where the
17 defendant can demonstrate the sentence violates Due Process because it is based on a
18 materially untrue assumption or mistake of fact that has worked to the defendant's extreme
19 detriment. Edwards v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996); see also Passanisi,
20 108 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to
21 a Due Process violation. State v. District Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984).
22 The Nevada Supreme Court has emphasized that a "motion to modify a sentence is limited in
23 scope to sentences based on mistaken assumptions about a defendant's criminal record which
24 work to the extreme detriment of the defendant." Edwards, 112 Nev. at 708, 918 P.2d at 325.

25 Here, German has alleged no materially untrue assumption or mistake of fact about his
26 criminal record that has worked to his detriment. Instead, he alleges that a factual finding was
27 based upon untrue information about the offense contained in the PSI. That kind of claim does
28 not fall within the narrow scope defined by the Nevada Supreme Court. Further, even if the

1 information in the PSI was incorrect and German could challenge that in a motion to modify,
2 the application of the deadly weapon enhancement would have also been warranted by his
3 pleading guilty to an offense for which an element of the crime was use of a deadly weapon.

4 As German has failed to demonstrate a materially untrue assumption or mistake of fact
5 about his criminal record was taken into consideration by the Court in determining whether or
6 not to apply the enhancement, he is not entitled to have his sentence modified.

7 **CONCLUSION**


8 For the foregoing reasons, the State respectfully requests that this Court deny German's
9 Motion for Modification of Sentence.

10 DATED this 30th day of August, 2016.

11 Respectfully submitted,

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

15 BY


16 RYAN J. MACDONALD
17 Deputy District Attorney
18 Nevada Bar #012615
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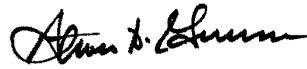
CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 30th day of August, 2015, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

JEFFREY GERMAN #92696
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NEVADA 89070-0208

BY: CC
C. Cintola
Employee of the District Attorney's Office

RJM/AR/cc/L3



CLERK OF THE COURT

1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 CHARLES THOMAN
6 Deputy District Attorney
7 Nevada Bar #012649
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

CASE NO: C-14-300979-2

DEPT NO: XXIII

13 JEFFREY GERMAN,
14 aka Jeffrey B. German, #1602073

15 Defendant.

16 ORDER DENYING DEFENDANT'S MOTION FOR
17 MODIFICATION OF SENTENCE

18 DATE OF HEARING: SEPTEMBER 7, 2016
19 TIME OF HEARING: 9:30 A.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 7th day of September, 2016, the Defendant not being present, IN PRO PER PERSON, the
22 Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through
23 CHARLES THOMAN, Deputy District Attorney, and the Court without argument, based on
24 the pleadings and good cause appearing therefor,

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26 ///

27 ///

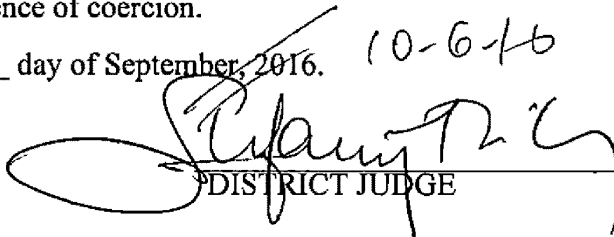
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1 COURT ORDERED, motion DENIED as Defendant provided no information as to
2 what was an extreme deterrent to Defendant.

3 Court FINDS Defendant's claim of ineffectiveness of counsel and untrue evidence
4 should have been addressed in a writ of habeas corpus, which should have been filed no later
5 than May 12, 2016.

6 Court FURTHER FINDS enhancement issue should have been addressed in appeal
7 and stated there is no evidence of coercion.


8 DATED this _____ day of September, 2016. 10-6-16

9
10 
DISTRICT JUDGE

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

JUDGE STEFANY A. MILEY

13
14 BY


15 CHARLES THOMAN
16 Deputy District Attorney
17 Nevada Bar #012649
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28 cc/L3

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CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 12th day of
October, 2016, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

JEFFREY GERMAN #92696
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NEVADA 89070-0208



C. Cintola
Employee of the District Attorney's Office

Steven D. Grierson

1 Jeffery German # 92696
2 Defendant/ In Propria Person
3 Post Office Box 253
4 Indian Springs, Nevada 89070

5 IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE
6 OF NEVADA IN AND FOR THE COUNTY OF Clark

7
8 The State of Nevada
9 Plaintiff,

10 VS

C-14-300979-1

Case No. _____

11 Jeffery German,
12 Defendant,

Dept NO. XVIII

13 # 92696

6/22/20
3:30 PM

14
15 MOTION TO MODIFY AND/OR CORRECT
16 ILLEGAL SENTENCE

17 Date of hearing :

18 Time of hearing :

19
20 COMES NOW, DEFENDENT, Jeffery German proceeding
21 in proper person, hereby motion this Honorable Court
22 pursuant to N.R.S 176.555 and Edwards v. state.

23 This motion is made in based upon all papers and pleadings
24 on file, the points and authorities and exhibits attached
25 here to.

26
27 Dated; this 22nd day of March
28 2020

CLERK OF THE COURT

Jeffery German
92696
DEFENDENT/

POINTS AND AUTHORITIES

"Motion to modify sentence" is limited in scope to sentences based on mistaken assumptions about defendant's criminal record which work to defendant's extreme detriment, while "Motion to correct illegal sentence" addresses only facial legality of sentence. State v. District Court, 100 Nev. 90, 97, 677 p.2d 1044 1048 (1984), and Edwards v. State, 918 p.2d 321 (Nev. 1996).

Further N.R.S 176.555 Motion to Modify and/or Correct a sentence, may be filed at any time.

Defendant herein alleges that his sentence should be modified and/or corrected pursuant to the following facts.

Petitioner Jeffrey Bernard German
Signed a Plea Deal for Robbery
with the use of a Deadly Weapon
IN which he received a sentence
5yrs to 15yrs with a consecutive
sentence for a enhancement of 5yrs
to 15yrs and a conspiracy to commit
Robbery with a sentence of 13 months
to 60 months IN Case No C-14-300979-1
the Plea Deal was entered 3-11-15
Under Petitioner's Knowledge
Charge of Robbery with the use
of a Deadly Weapon was to run
concurrent to the conspiracy to

1 Commit Robbery and the Enhancement
2 Was to run Consecutive to the
3 First to Charges as this Court
4 Well knows any errors or mistaken
5 Alleged errors can be corrected at
6 any time because the Conspiracy
7 runs Consecutive to the other two
8 Charges it is Detriment to Petitioner
9 Causing Petitioner to do 3 extra years
10 Petitioner Asks Court to Review and
11 or modify or correct an Illegal
12 Sentence and this sentence on its face
13 is Illegal and asks the Court to
14 modify its Judgement of Conviction in
15 where the Conspiracy runs
16 Concurrent to the Initial Charge
17 Robbery with the Use of a
18 Deadly Weapon
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Defendant/ In _____

Thereby, pursuant to the facts and the law stated herein,
Defendant, request that his sentence be modified/corrected as
follows: ASKS this Court to Ron the

Charge of Conspiracy to Commit
Robbery with the original Charge
Robbery with the Use of a deadly
Weapon

Dated; this _____ DAY OF February 2020.

Jeffery German
#92696
Defendant/propria person

CERTIFICATE OF SERVICE BY MAILING

I, Jeffery German, hereby certify, pursuant to NRCP 5(b), that on this ____ day of February, 2020 I mailed a true and correct copy of the foregoing, "Motion to correct Illegal Sentence" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

Jeffery German ^{FF} 92696
Southern Desert
Correctional Center
P.O. Box 208
Indian Springs NV 89070

CC:FILE

DATED: this ____ day of February 2020

Jeffery German ^{FF} 92696

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

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion
to Correct Illegal Sentence
(Title of Document)

C-14-
filed in District Court Case number 300979-1

☒ Does not contain the social security number of any person.

-OR-

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

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

(State specific law)

-OR-

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

Jeffery German
Signature

3-19-2020
Date

Jeffery German
Print Name

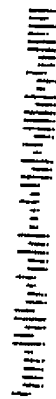
Petitioner
Title

89 NV 89070



Las Vegas P&DC 89199
FRI 24 APR 2020 PM

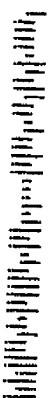
STEVEN D GRIERSON
Clerk of Court
200 Lewis Avenue 3rd floor
Las Vegas NV 89155



Jeffery Lerman # 926916
5 Dec
P.O. Box 208
Indian Springs NV 89676

STEVEN D GRIERSON
Clerk of Court
200 Lewis Avenue 3rd floor
Las Vegas NV 89155

Las Vegas P&DC 89199
FRI 24 APR 2020 PM



State of New York
County of ...
In SENATE
January 1, 1935

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1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 YU MENG
6 Deputy District Attorney
7 Nevada Bar #14741
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 JEFFREY B. GERMAN, aka,
14 Jeffery Bernard German, #1602073

15 Defendant.

CASE NO: C-14-300979-2

DEPT NO: XXIII

16 **ORDER DENYING DEFENDANT'S MOTION TO MODIFY AND/OR CORRECT**
17 **ILLEGAL SENTENCE**

18 DATE OF HEARING: June 22, 2020
19 TIME OF HEARING: 3:30 P.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the 22nd
21 day of June, 2020, the Defendant not being present, represented by In Pro Per Person, the
22 Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through YU MENG,
23 Deputy District Attorney, and the Court without argument, based on the pleadings and good
24 cause appearing therefor,

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\\CLARKCOUNTYDA.NET\CRM\CASE2\2014\346\64\201434664C-ORDR-(GERMAN, JEFFREY)-001.DOCX


1 IT IS HEREBY ORDERED that the Defendant's Motion to Modify and/or Correct Illegal
2 Sentence, shall be, and it is DENIED; as nothing new had been presented and there being no
3 basis given for modification.

4 DATED this 7th day of July, 2020.

5
6 
DISTRICT JUDGE Stefany Miley

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

9
10 BY


YU MENG
11 Deputy District Attorney
12 Nevada Bar #14741

13
14
15 CERTIFICATE OF MAILING

16 I hereby certify that service of the above and foregoing was made this _____ day
17 of July, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

18 JEFFREY B. GERMAN #92696
19 S.D.C.C.
P.O. BOX 208
20 INDIAN SPRINGS, NV, 89070-0208

21 BY _____
22 Secretary for the District Attorney's Office

23
24
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28 cmj/L3

1 JEFF GERMAN

2 NDOC No. 92696

FILED

MAR 16 2021

CLERK OF COURT

3
4 In proper person

5
6 IN THE 8th JUDICIAL DISTRICT COURT OF THE
7 STATE OF NEVADA IN AND FOR THE
8 COUNTY OF CLARK

9
10 JEFF GERMAN)

April 7, 2021
8:30 AM

11)
12 Petitioner,)

13 v.)

14) Case No. C-14-3009794

15)
16 State of NEVADA)

Dept. No. XXIII

17 Respondent.)
18)
19)

20 MOTION AND ORDER FOR TRANSPORTATION
21 OF INMATE FOR COURT APPEARANCE
22 OR, IN THE ALTERNATIVE,
23 FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE
24

25 Petitioner, JEFF GERMAN, proceeding pro se, requests
26 that this Honorable Court order transportation for his personal appearance or, in the
27 alternative, that he be made available to appear by telephone or by video conference
28 at the hearing in the instant case that is scheduled for April 5 - 2021
29 at 8:30am

1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at S.D.C.C.

3 My mandatory release date is 3-11-2029

4
5 2. The Department of Corrections is required to transport offenders to and
6
7 from Court if an inmate is required or requests to appear before a Court in this state.
8

9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is
11 required or requested to appear before a Court in this state, the
12 Department shall transport the offender to and from Court on the day
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the
15 Department shall transport the offender to Court on the date scheduled
16 for his appearance if it is possible to transport the offender in the usual
17 manner for the transportation of offenders by the Department. If it is
18 not possible for the Department to transport the offender in the usual
19 manner:

20 (a) The Department shall make the offender available on the date scheduled
21 for his appearance to provide testimony by telephone or by video conference,
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to
24 and from the Court, if the Court so orders. If the Court orders special
25 transportation, it shall order the county in which the Court is located to
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

1 ☐ I AM NEEDED AS A WITNESS.

2 My petition raises substantial issues of fact concerning events in which I
3 participated and about which only I can testify. *See U.S. v. Hayman*, 342 U.S.
4 205 (1952) (District Court erred when it made findings of fact concerning
5 Hayman's knowledge and consent to his counsel's representation of a witness
6 against Hayman without notice to Hayman or Hayman's presence at the
7 evidentiary hearing).

8 ☐ THE HEARING WILL BE AN EVIDENTIARY HEARING.

9 My petition raises material issues of fact that can be determined only in my
10 presence. *See Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention
11 that allegations are improbable and unbelievable cannot serve to deny the
12 petitioner an opportunity to support them by evidence). The Nevada
13 Supreme Court has held that the presence of the petitioner for habeas corpus
14 relief is required at any evidentiary hearing conducted on the merits of the
15 claim asserted in the petition. *See Gebers v. Nevada*, 118 Nev. 500 (2002).

16 4. The prohibition against ex parte communication requires that I be present
17 at any hearing at which the state is present and at which issues concerning the claims
18 raised in my petition are addressed. U.S. Const. amends. V, VI.

19 5. If a person incarcerated in a state prison is required or is requested to
20 appear as a witness in any action, the Department of Corrections must be notified in
21 writing not less than 7 business days before the date scheduled for his appearance in
22 Court if the inmate is incarcerated in a prison located not more than 40 miles from
23 Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or
24 more from Las Vegas, the Department of Corrections must be notified in writing not
25 less than 14 business days before the date scheduled for the person's appearance in
26 Court.

27 6. S.D.C.C. is located approximately
28 25 miles from Las Vegas, Nevada.

1 7. If there is insufficient time to provide the required notice to the Department
2 of Corrections for me to be transported to the hearing, I respectfully request that this
3 Honorable Court order the Warden to make me available on the date of the
4 scheduled appearance, by telephone, or video conference, pursuant to NRS
5 209.274(2)(a), so that I may provide relevant testimony and/or be present for the
6 evidentiary hearing.

7 8. The rules of the institution prohibit me from placing telephone calls from
8 the institution, except for collect calls, unless special arrangements are made with
9 prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my
10 telephone appearance can be made by contacting the following staff member at my
11 institution: Warden Hutchinson
12 whose telephone number is (725) 216-6500

13
14 Dated this 07 day of March, 2021.

15
16 Jeff German

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19 JEFF German
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CERTIFICATE OF SERVICE BY MAILING

I, Jeff German, hereby certify, pursuant to NRCP 5(b), that on this 7
day of March, 2021 I mailed a true and correct copy of the foregoing, "Motion and
Order for Transportation of inmate"
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Clark County
District Court
200 Lewis Ave
3rd Floor Las Vegas
NV 89155-1160

Clark Distict 944
200 Lewis Ave
CAS VEGAS NV 89155-
2212

CC:FILE

DATED: this 7 day of March, 2021

Jeff German
Jeff German # 92696
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

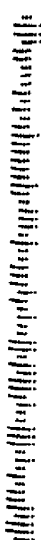
3477 German 92696
PO Box 208
Indian Springs NV 89070

LAS VEGAS
9 MAR 2021



Clark County District Court
Office of the Clerk
200 Lewis Ave 3rd Floor
Las Vegas NV 89155-1160

89101-630000



Heather L. Smith
CLERK OF THE COURT

1 **OPI**
2 **STEVEN B. WOLFSON**
3 Clark County District Attorney
4 Nevada Bar #001565
5 **DAVID STANTON**
6 Chief Deputy District Attorney
7 Nevada Bar #03202
8 200 Lewis Avenue
9 Las Vegas, Nevada, 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 **JEFFREY B. GERMAN, aka**
13 Jeffery Bernard German, #1602073
14 Defendant.

A-21-829136-W and
CASE NO. C-14-300979-2
DEPT NO. XXIV

15 **ORDER FOR PRODUCTION OF INMATE**
16 **JEFFREY B. GERMAN, aka**
17 **Jeffery Bernard German, BAC #92696**

18 DATE OF HEARING: May 24, 2021
19 TIME OF HEARING: 8:30 AM

20 TO: NEVADA DEPARTMENT OF CORRECTIONS; and
21 TO: JOSEPH LOMBARDO, Sheriff of Clark County, Nevada:

22 Upon the ex parte application of THE STATE OF NEVADA, Plaintiff, by STEVEN
23 B. WOLFSON, District Attorney, through DAVID STANTON, Chief Deputy District
24 Attorney, and good cause appearing therefor,

25 IT IS HEREBY ORDERED that NEVADA DEPARTMENT OF CORRECTIONS
26 shall be, and is, hereby directed to produce JEFFREY B. GERMAN, aka Jeffery Bernard
27 German, Defendant in Case Number C-14-300979-2, wherein THE STATE OF NEVADA is
28 the Plaintiff, inasmuch as the said JEFFREY B. GERMAN, aka Jeffery Bernard German is
currently incarcerated in the NEVADA DEPARTMENT OF CORRECTIONS located in

1 Clark County, Nevada, and his presence will be required in Las Vegas, Nevada, commencing
2 on May 24, 2021, at the hour of 8:30 o'clock AM and continuing until completion of the
3 prosecution's case against the said Defendant.

4 IT IS FURTHER ORDERED that JOSEPH LOMBARDO, Sheriff of Clark County,
5 Nevada, shall accept and retain custody of the said JEFFREY B. GERMAN, aka Jeffery
6 Bernard German in the Clark County Detention Center, Las Vegas, Nevada, pending
7 completion of said matter in Clark County, or until the further Order of this Court; or in the
8 alternative shall make all arrangements for the transportation of the said JEFFREY B.
9 GERMAN, aka Jeffery Bernard German to and from the Nevada Department of Corrections
10 facility which are necessary to insure the JEFFREY B. GERMAN, aka Jeffery Bernard
11 German's appearance in Clark County pending completion of said matter, or until further
12 Order of this Court.

13 DATED this _____ day of April, 2021.

Dated this 9th day of April, 2021

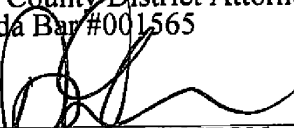


14
15 DISTRICT JUDGE

999 7A3 ECD5 E4CF
Erika Ballou
District Court Judge

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

19
20 BY



DAVID STANTON
Chief Deputy District Attorney
21 Nevada Bar #03202

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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 State of Nevada

CASE NO: C-14-300979-2

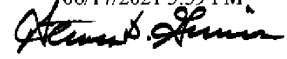
7 vs

DEPT. NO. Department 24

8 Jeffrey German
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.
14
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23
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27
28


CLERK OF THE COURT

1 **FCL**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Respondent

DISTRICT COURT
CLARK COUNTY, NEVADA

9 JEFFREY GERMAN,
10 Aka Jeffrey B. German #1602073,

Petitioner,

CASE NO: A-21-829136-W

-vs-

C-14-300979-2

12 THE STATE OF NEVADA,

DEPT NO: XXIV

13 Respondent.
14

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 DATE OF HEARING: MAY 24, 2021
18 TIME OF HEARING: 8:30AM

18 THIS CAUSE having come on for hearing before the Honorable ERIKA BALLOU,
19 District Judge, on the 24th day of Month, 2021, the Petitioner being present, PROCEEDING
20 IN PROPER PERSON, the Respondent being represented by STEVEN B. WOLFSON, Clark
21 County District Attorney, by and through SARAH OVERLY, Deputy District Attorney, and
22 the Court having considered the matter, including briefs, transcripts, arguments of counsel,
23 and documents on file herein, now therefore, the Court makes the following findings of fact
24 and conclusions of law:

25 //

26 //

27 //

28 //

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

2 **STATEMENT OF THE CASE**

3 On September 22, 2014, the State charged Jeffrey German (hereinafter "Petitioner") by
4 way of Information with the following: Count 1 – Conspiracy to Commit Robbery (Category
5 B Felony – NRS 200.380, 199.480); Count 2 – Robbery with Use of a Deadly Weapon
6 (Category B Felony – NRS 100.380, 193.164); Count 4 – Conspiracy to Commit Robbery
7 (Category B Felony – NRS 200.380, 199.480); Count 6 – Conspiracy to Commit Robbery
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9 Weapon (Category B Felony – NRS 100.380, 193.164); Count 8 – Possession of Stolen
10 Property (Category C Felony – NRS 205.275); Count 9 – Possession of Credit or Debit Card
11 Without Cardholder's Consent (Category D Felony – NRS 205.690); and Count 10 –
12 Possession of Credit or Debit Card Without Cardholder's Consent (Category D Felony – NRS
13 205.690).¹

14 On March 16, 2015, the State filed an Amended Information charging Petitioner as
15 follows: Count 1 – Robbery with Use of a Deadly Weapon (Category B Felony – NRS 100.380,
16 193.164); and Count 2 – Conspiracy to Commit Robbery (Category B Felony – NRS 200.380,
17 199.480). The same day, Petitioner pleaded guilty to the two counts and signed a Guilty Plea
18 Agreement.

19 On May 6, 2015, the district court sentenced Petitioner as follows: Count 1 – a
20 maximum of one hundred eighty (180) months with a minimum parole eligibility of sixty (60)
21 months, plus a consecutive term of a maximum of one hundred eighty (180) months with a
22 minimum parole eligibility of sixty (60) months for the Use of a Deadly Weapon; and Count
23 2 – a maximum of sixty (60) months with a minimum parole eligibility of thirteen (13) months,
24 consecutive with Count 1. The total aggregate sentence was a maximum of four hundred
25 twenty (420) months and a minimum of one hundred thirty-three (133) months. Petitioner
26 received three hundred nine (309) days credit for time served. The Judgment of Conviction
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28 ¹ Counts 3 and 5, omitted, only charged co-defendants.

1 was filed on May 12, 2015. On May 12, 2016, the district court filed an Amended Judgment
2 of Conviction, removing the total aggregate sentence from the Judgment.

3 On August 17, 2016, Petitioner filed a Motion for Modification of Sentence. The State
4 filed its Opposition on August 30, 2016. On August 7, 2016, the district court denied
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6 Petitioner filed a second Motion to Modify/Correct Illegal Sentence on June 1, 2020.
7 The district court denied Petitioner's Motion on June 22, 2020. The Order was filed on July 7,
8 2020.

9 On February 9, 2021, Petitioner filed the instant Petition for Writ of Habeas Corpus
10 (Post-Conviction) (hereinafter "Second Petition") and Motion for Appointment of Attorney.
11 The State filed its Response on March 23, 2021. Following a hearing on May 24, 2021, this
12 Court finds and concludes as follows:

13 **AUTHORITY**

14 **I. THIS PETITION IS TIME-BARRED**

15 Petitioner's instant Petition for Writ of Habeas Corpus was not filed within one year of
16 the filing of the Judgment of Conviction. Thus, the Petition is time-barred. Pursuant to NRS
17 34.726(1):

18 Unless there is good cause shown for delay, a petition that
19 challenges the validity of a judgment or sentence must be filed
20 within 1 year of the entry of the judgment of conviction or, if an
21 appeal has been taken from the judgment, within 1 year after the
Supreme Court issues its remittitur. For the purposes of this
subsection, good cause for delay exists if the petitioner
demonstrates to the satisfaction of the court:

- 22 (a) That the delay is not the fault of the petitioner; and
- 23 (b) That dismissal of the petition as untimely will
unduly prejudice the petitioner.

24 The Nevada Supreme Court has held that NRS 34.726 should be construed by its plain
25 meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). As per the
26 language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from
27 the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed.
28 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

1 The one-year time limit for preparing petitions for post-conviction relief under NRS
2 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
3 the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite
4 evidence presented by the defendant that he purchased postage through the prison and mailed
5 the petition within the one-year time limit.

6 In the instant case, Petitioner's Judgment of Conviction was filed on May 12, 2015.
7 Petitioner's Amended Judgment of Conviction was filed on May 12, 2016. Petitioner filed the
8 instant Petition on February 9, 2021 – five years since the Amended Judgment of Conviction.
9 Thus, the instant Petition is time-barred. Absent a showing of good cause to excuse this delay,
10 the instant Petition is dismissed.

11 II. APPLICATION OF THE PROCEDURAL BARS IS MANDATORY

12 The Nevada Supreme Court has held that the district court has a *duty* to consider
13 whether a defendant's post-conviction petition claims are procedurally barred. State v. Eighth
14 Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The Riker Court
15 found that “[a]pplication of the statutory procedural default rules to post-conviction habeas
16 petitions is mandatory,” noting:

17 Habeas corpus petitions that are filed many years after conviction
18 are an unreasonable burden on the criminal justice system. The
19 necessity for a workable system dictates that there must exist a
time when a criminal conviction is final.

20 Id. Additionally, the Court noted that procedural bars “cannot be ignored [by the district court]
21 when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court
22 has granted no discretion to the district courts regarding whether to apply the statutory
23 procedural bars; the rules *must* be applied.

24 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).
25 There the Court ruled that the defendant's petition was “untimely, successive, and an abuse of
26 the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324, 307
27 P.3d at 326. Accordingly, the Court reversed the district court and ordered the defendant's
28 petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–23.

1 The procedural bars are so fundamental to the post-conviction process that they must be
2 applied by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at
3 1074. Therefore, application of the procedural bars is mandatory.

4 III. PETITIONER CANNOT ESTABLISH GOOD CAUSE

5 A showing of good cause and prejudice may overcome procedural bars. However,
6 Petitioner cannot demonstrate good cause to explain why his Petition was untimely.

7 “To establish good cause, appellants must show that an impediment external to the
8 defense prevented their compliance with the applicable procedural rule. A qualifying
9 impediment might be shown where the factual or legal basis for a claim *was not reasonably*
10 *available at the time of default.*” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
11 (emphasis added). The Court continued, “appellants cannot attempt to manufacture good
12 cause[.]” Id. at 621, 81 P.3d at 526. Rather, to find good cause, there must be a “substantial
13 reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503,
14 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Any
15 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

16 A petitioner raising good cause to excuse procedural bars must do so within a
17 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34
18 P.3d at 525–26 (holding that the time bar in NRS 34.726 applies to successive petitions); see
19 generally Hathaway, 119 Nev. at 252–53, 71 P.3d at 506–07 (stating that a claim reasonably
20 available to the petitioner during the statutory time period did not constitute good cause to
21 excuse a delay in filing). A claim that is itself procedurally barred cannot constitute good
22 cause. Riker, 121 Nev. at 235, 112 P.3d at 1077; see also Edwards v. Carpenter, 529 U.S. 446,
23 453 120 S. Ct. 1587, 1592 (2000).

24 Further, to establish prejudice, the defendant must show “not merely that the errors of
25 [the proceedings] created possibility of prejudice, but that they worked to his actual and
26 substantial disadvantage, in affecting the state proceedings with error of constitutional
27
28

1 dimensions.” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
2 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)).

3 In the instant case, Petitioner cannot demonstrate good cause to overcome the
4 mandatory procedural bars because he cannot demonstrate that this claim was not reasonably
5 available at the time of default. Clem, 119 Nev. at 621, 81 P.3d at 525. Petitioner fails to
6 address good cause and does not explain why he is now raising these issues five years later.
7 Because Petitioner cannot establish good cause to explain why his Petition was untimely, the
8 Petition is denied as time barred.

9 **IV. PETITIONER’S CLAIMS ARE WAIVED AND OUTSIDE THE SCOPE**
10 **OF A HABEAS PETITION BECAUSE PETITIONER PLED GUILTY**

11 Petitioner’s claims are waived because he failed to raise them on direct appeal. Petition,
12 at 7-9; NRS 34.724(2)(a); NRS 34.810(1)(a); Evans v. State, 117 Nev. 609, 646-47, 29 P.3d
13 498, 523 (2001); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994),
14 disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999). Further,
15 these claims are outside the scope of habeas because Petitioner pleaded guilty. NRS
16 34.810(1)(a). His claims are limited to ineffective assistance of counsel at plea, or that his plea
17 was not knowingly and voluntarily entered. NRS 34.810(1)(a). Thus, these claims are outside
18 the scope of a Petition.

19 The Nevada Supreme Court has held that “challenges to the validity of a guilty plea and
20 claims of ineffective assistance of trial and appellate counsel must first be pursued in post-
21 conviction proceedings.... [A]ll other claims that are appropriate for a direct appeal must be
22 pursued on direct appeal, or they will be *considered waived in subsequent proceedings*.”
23 Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added)
24 (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)).

25 “A court must dismiss a habeas petition if it presents claims that either were or could
26 have been presented in an earlier proceeding, unless the court finds both cause for failing to
27 present the claims earlier or for raising them again and actual prejudice to the petitioner.”
28 Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001).

1 **A. Deadly Weapon Enhancement**

2 Petitioner claims his deadly weapon enhancement is invalid. Petition, at 7-7a. In a
3 misguided attempt to support this claim, Petitioner cites United States v. Davis, 588 U.S. ___,
4 139 S. Ct. 2319 (2019). In Davis, the United States Supreme Court reviewed federal statute 18
5 U.S.C. § 924(c) and found it overly vague as to the wording “crime of violence.” 139 S. Ct. at
6 2324. This holding is inapplicable to the instant case. Petitioner cites to no other authority to
7 show his Deadly Weapon enhancement is invalid. Thus, this claim is entirely without support
8 and is dismissed.

9 **B. 14th Amendment Rights**

10 Petitioner claims his 14th and 9th amendment rights are being violated. Petition, at 8.
11 In addition to these claims being waived, Petitioner fails to provide any cogent argument or
12 specific facts to support this claim. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225
13 (1984). “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled by
14 the record. Id. NRS 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts
15 supporting the claims in the petition[.] . . . Failure to allege specific facts rather than just
16 conclusions may cause your petition to be dismissed.” (emphasis added). Because Petitioner
17 has failed to put forth more than a bare and naked claim, this claim is dismissed.

18 **C. Deadly Weapon Enhancement**

19 Lastly, Petitioner claims that his Deadly Weapon enhancement was unconstitutional.
20 Petition, at 9. In addition to being waived, this claim is meritless. The Nevada Supreme Court
21 has repeatedly ruled that the deadly weapon enhancement does not violate double jeopardy.
22 Woofert v. O'Donnell, 91 Nev. 756, 761–62, 542 P.2d 1396, 1399–400 (1975); Nevada Dep't
23 Prisons v. Bowen, 103 Nev. 477, 479–81, 745 P.2d 697, 698–99 (1987). Further, Petitioner
24 agreed to the imposition of the deadly weapon enhancement in his guilty plea agreement.
25 Therefore, this claim is also without merit, and the instant Petition is dismissed.

26 //

27 //

28 //

ORDER

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

DATED this 17 day of June, 2021.

Dated this 17th day of June, 2021




DISTRICT JUDGE

69B B94 E0F5 7E61
Erika Ballou
District Court Judge

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

BY



KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

for #14741

CERTIFICATE OF SERVICE

I certify that on the 17th day of June, 2021, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

Jeffrey German, 92696
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

BY



Secretary for the District Attorney's Office

bs/clh/L3

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Jeffrey German, Plaintiff(s)

CASE NO: A-21-829136-W

7 vs.

DEPT. NO. Department 24

8 William Hutchings, Warden,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

15 Service Date: 6/17/2021

16 D A

motions@clarkcountyda.com

17 Dept 24 Law Clerk

dept24lc@clarkcountycourts.us

18 AG 1

rgarate@ag.nv.gov

19 AG 2

aherr@ag.nv.gov



1 NEO

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 JEFFREY GERMAN,

6 Petitioner,

Case No: C-14-300979-2

Dept No: XXIV

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 June 17, 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 June 25, 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 25 day of June 2021, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

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

23
24 ☒ The United States mail addressed as follows:

25 Jeffrey German # 92696
P.O. Box 208
Indain Springs, NV 89070

26
27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk

Heather Shinn
CLERK OF THE COURT

1 **FCL**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Respondent

DISTRICT COURT
CLARK COUNTY, NEVADA

9 JEFFREY GERMAN,
10 Aka Jeffrey B. German #1602073,

Petitioner,

CASE NO: A-21-829136-W

-vs-

C-14-300979-2

12 THE STATE OF NEVADA,

DEPT NO: XXIV

13 Respondent.
14

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 DATE OF HEARING: MAY 24, 2021
18 TIME OF HEARING: 8:30AM

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21 County District Attorney, by and through SARAH OVERLY, Deputy District Attorney, and
22 the Court having considered the matter, including briefs, transcripts, arguments of counsel,
23 and documents on file herein, now therefore, the Court makes the following findings of fact
24 and conclusions of law:

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

2 **STATEMENT OF THE CASE**

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9 Thus, the instant Petition is time-barred. Absent a showing of good cause to excuse this delay,
10 the instant Petition is dismissed.

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28 petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–23.

1 The procedural bars are so fundamental to the post-conviction process that they must be
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14 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Any
15 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

16 A petitioner raising good cause to excuse procedural bars must do so within a
17 reasonable time after the alleged good cause arises. See Pellegrini, 117 Nev. at 869–70, 34
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23 453 120 S. Ct. 1587, 1592 (2000).

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2 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)).

3 In the instant case, Petitioner cannot demonstrate good cause to overcome the
4 mandatory procedural bars because he cannot demonstrate that this claim was not reasonably
5 available at the time of default. Clem, 119 Nev. at 621, 81 P.3d at 525. Petitioner fails to
6 address good cause and does not explain why he is now raising these issues five years later.
7 Because Petitioner cannot establish good cause to explain why his Petition was untimely, the
8 Petition is denied as time barred.

9 **IV. PETITIONER’S CLAIMS ARE WAIVED AND OUTSIDE THE SCOPE**
10 **OF A HABEAS PETITION BECAUSE PETITIONER PLED GUILTY**

11 Petitioner’s claims are waived because he failed to raise them on direct appeal. Petition,
12 at 7-9; NRS 34.724(2)(a); NRS 34.810(1)(a); Evans v. State, 117 Nev. 609, 646-47, 29 P.3d
13 498, 523 (2001); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994),
14 disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999). Further,
15 these claims are outside the scope of habeas because Petitioner pleaded guilty. NRS
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18 the scope of a Petition.

19 The Nevada Supreme Court has held that “challenges to the validity of a guilty plea and
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24 (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)).

25 “A court must dismiss a habeas petition if it presents claims that either were or could
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28 Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001).

1 **A. Deadly Weapon Enhancement**

2 Petitioner claims his deadly weapon enhancement is invalid. Petition, at 7-7a. In a
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4 139 S. Ct. 2319 (2019). In Davis, the United States Supreme Court reviewed federal statute 18
5 U.S.C. § 924(c) and found it overly vague as to the wording “crime of violence.” 139 S. Ct. at
6 2324. This holding is inapplicable to the instant case. Petitioner cites to no other authority to
7 show his Deadly Weapon enhancement is invalid. Thus, this claim is entirely without support
8 and is dismissed.

9 **B. 14th Amendment Rights**

10 Petitioner claims his 14th and 9th amendment rights are being violated. Petition, at 8.
11 In addition to these claims being waived, Petitioner fails to provide any cogent argument or
12 specific facts to support this claim. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225
13 (1984). “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled by
14 the record. Id. NRS 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts
15 supporting the claims in the petition[.] . . . Failure to allege specific facts rather than just
16 conclusions may cause your petition to be dismissed.” (emphasis added). Because Petitioner
17 has failed to put forth more than a bare and naked claim, this claim is dismissed.

18 **C. Deadly Weapon Enhancement**

19 Lastly, Petitioner claims that his Deadly Weapon enhancement was unconstitutional.
20 Petition, at 9. In addition to being waived, this claim is meritless. The Nevada Supreme Court
21 has repeatedly ruled that the deadly weapon enhancement does not violate double jeopardy.
22 Woofert v. O'Donnell, 91 Nev. 756, 761–62, 542 P.2d 1396, 1399–400 (1975); Nevada Dep't
23 Prisons v. Bowen, 103 Nev. 477, 479–81, 745 P.2d 697, 698–99 (1987). Further, Petitioner
24 agreed to the imposition of the deadly weapon enhancement in his guilty plea agreement.
25 Therefore, this claim is also without merit, and the instant Petition is dismissed.

26 //

27 //

28 //

ORDER

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

DATED this 17 day of June, 2021.

Dated this 17th day of June, 2021




DISTRICT JUDGE

69B B94 E0F5 7E61
Erika Ballou
District Court Judge

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

BY



for #14741
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

CERTIFICATE OF SERVICE

I certify that on the 17th day of June, 2021, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

Jeffrey German, 92696
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

BY



Secretary for the District Attorney's Office

bs/clh/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Jeffrey German, Plaintiff(s)

CASE NO: A-21-829136-W

7 vs.

DEPT. NO. Department 24

8 William Hutchings, Warden,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

15 Service Date: 6/17/2021

16 D A

motions@clarkcountyda.com

17 Dept 24 Law Clerk

dept24lc@clarkcountycourts.us

18 AG 1

rgarate@ag.nv.gov

19 AG 2

aherr@ag.nv.gov



1 NEO

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 JEFFREY GERMAN,

6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: C-14-300979-2

Dept No: XXIV

Amended

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

11 **PLEASE TAKE NOTICE** that on June 17, 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 July 2, 2021.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

18
19
20 CERTIFICATE OF E-SERVICE / MAILING

21 I hereby certify that on this 2 day of July 2021, I served a copy of this Notice of Entry on the 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 Jeffrey German # 92696
26 P.O. Box 208
Indain Springs, NV 89070

27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk

Heather J. Smith
CLERK OF THE COURT

1 **FCL**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Respondent

DISTRICT COURT
CLARK COUNTY, NEVADA

9 JEFFREY GERMAN,
10 Aka Jeffrey B. German #1602073,

Petitioner,

CASE NO: A-21-829136-W

-vs-

C-14-300979-2

12 THE STATE OF NEVADA,

DEPT NO: XXIV

13 Respondent.
14

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 DATE OF HEARING: MAY 24, 2021
18 TIME OF HEARING: 8:30AM

18 THIS CAUSE having come on for hearing before the Honorable ERIKA BALLOU,
19 District Judge, on the 24th day of Month, 2021, the Petitioner being present, PROCEEDING
20 IN PROPER PERSON, the Respondent being represented by STEVEN B. WOLFSON, Clark
21 County District Attorney, by and through SARAH OVERLY, Deputy District Attorney, and
22 the Court having considered the matter, including briefs, transcripts, arguments of counsel,
23 and documents on file herein, now therefore, the Court makes the following findings of fact
24 and conclusions of law:

25 //

26 //

27 //

28 //

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

2 **STATEMENT OF THE CASE**

3 On September 22, 2014, the State charged Jeffrey German (hereinafter "Petitioner") by
4 way of Information with the following: Count 1 – Conspiracy to Commit Robbery (Category
5 B Felony – NRS 200.380, 199.480); Count 2 – Robbery with Use of a Deadly Weapon
6 (Category B Felony – NRS 100.380, 193.164); Count 4 – Conspiracy to Commit Robbery
7 (Category B Felony – NRS 200.380, 199.480); Count 6 – Conspiracy to Commit Robbery
8 (Category B Felony – NRS 200.380, 199.480); Count 7 – Robbery with Use of a Deadly
9 Weapon (Category B Felony – NRS 100.380, 193.164); Count 8 – Possession of Stolen
10 Property (Category C Felony – NRS 205.275); Count 9 – Possession of Credit or Debit Card
11 Without Cardholder's Consent (Category D Felony – NRS 205.690); and Count 10 –
12 Possession of Credit or Debit Card Without Cardholder's Consent (Category D Felony – NRS
13 205.690).¹

14 On March 16, 2015, the State filed an Amended Information charging Petitioner as
15 follows: Count 1 – Robbery with Use of a Deadly Weapon (Category B Felony – NRS 100.380,
16 193.164); and Count 2 – Conspiracy to Commit Robbery (Category B Felony – NRS 200.380,
17 199.480). The same day, Petitioner pleaded guilty to the two counts and signed a Guilty Plea
18 Agreement.

19 On May 6, 2015, the district court sentenced Petitioner as follows: Count 1 – a
20 maximum of one hundred eighty (180) months with a minimum parole eligibility of sixty (60)
21 months, plus a consecutive term of a maximum of one hundred eighty (180) months with a
22 minimum parole eligibility of sixty (60) months for the Use of a Deadly Weapon; and Count
23 2 – a maximum of sixty (60) months with a minimum parole eligibility of thirteen (13) months,
24 consecutive with Count 1. The total aggregate sentence was a maximum of four hundred
25 twenty (420) months and a minimum of one hundred thirty-three (133) months. Petitioner
26 received three hundred nine (309) days credit for time served. The Judgment of Conviction
27

28 ¹ Counts 3 and 5, omitted, only charged co-defendants.

1 was filed on May 12, 2015. On May 12, 2016, the district court filed an Amended Judgment
2 of Conviction, removing the total aggregate sentence from the Judgment.

3 On August 17, 2016, Petitioner filed a Motion for Modification of Sentence. The State
4 filed its Opposition on August 30, 2016. On August 7, 2016, the district court denied
5 Petitioner's Motion. The Order was filed on October 12, 2016.

6 Petitioner filed a second Motion to Modify/Correct Illegal Sentence on June 1, 2020.
7 The district court denied Petitioner's Motion on June 22, 2020. The Order was filed on July 7,
8 2020.

9 On February 9, 2021, Petitioner filed the instant Petition for Writ of Habeas Corpus
10 (Post-Conviction) (hereinafter "Second Petition") and Motion for Appointment of Attorney.
11 The State filed its Response on March 23, 2021. Following a hearing on May 24, 2021, this
12 Court finds and concludes as follows:

13 **AUTHORITY**

14 **I. THIS PETITION IS TIME-BARRED**

15 Petitioner's instant Petition for Writ of Habeas Corpus was not filed within one year of
16 the filing of the Judgment of Conviction. Thus, the Petition is time-barred. Pursuant to NRS
17 34.726(1):

18 Unless there is good cause shown for delay, a petition that
19 challenges the validity of a judgment or sentence must be filed
20 within 1 year of the entry of the judgment of conviction or, if an
21 appeal has been taken from the judgment, within 1 year after the
Supreme Court issues its remittitur. For the purposes of this
subsection, good cause for delay exists if the petitioner
demonstrates to the satisfaction of the court:

- 22 (a) That the delay is not the fault of the petitioner; and
23 (b) That dismissal of the petition as untimely will
unduly prejudice the petitioner.

24 The Nevada Supreme Court has held that NRS 34.726 should be construed by its plain
25 meaning. Pellegrini v. State, 117 Nev. 860, 873-74, 34 P.3d 519, 528 (2001). As per the
26 language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from
27 the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed.
28 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

1 The one-year time limit for preparing petitions for post-conviction relief under NRS
2 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
3 the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite
4 evidence presented by the defendant that he purchased postage through the prison and mailed
5 the petition within the one-year time limit.

6 In the instant case, Petitioner's Judgment of Conviction was filed on May 12, 2015.
7 Petitioner's Amended Judgment of Conviction was filed on May 12, 2016. Petitioner filed the
8 instant Petition on February 9, 2021 – five years since the Amended Judgment of Conviction.
9 Thus, the instant Petition is time-barred. Absent a showing of good cause to excuse this delay,
10 the instant Petition is dismissed.

11 II. APPLICATION OF THE PROCEDURAL BARS IS MANDATORY

12 The Nevada Supreme Court has held that the district court has a *duty* to consider
13 whether a defendant's post-conviction petition claims are procedurally barred. State v. Eighth
14 Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The Riker Court
15 found that “[a]pplication of the statutory procedural default rules to post-conviction habeas
16 petitions is mandatory,” noting:

17 Habeas corpus petitions that are filed many years after conviction
18 are an unreasonable burden on the criminal justice system. The
19 necessity for a workable system dictates that there must exist a
time when a criminal conviction is final.

20 Id. Additionally, the Court noted that procedural bars “cannot be ignored [by the district court]
21 when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court
22 has granted no discretion to the district courts regarding whether to apply the statutory
23 procedural bars; the rules *must* be applied.

24 This position was reaffirmed in State v. Greene, 129 Nev. 559, 307 P.3d 322 (2013).
25 There the Court ruled that the defendant's petition was “untimely, successive, and an abuse of
26 the writ” and that the defendant failed to show good cause and actual prejudice. Id. at 324, 307
27 P.3d at 326. Accordingly, the Court reversed the district court and ordered the defendant's
28 petition dismissed pursuant to the procedural bars. Id. at 324, 307 P.3d at 322–23.

1 The procedural bars are so fundamental to the post-conviction process that they must be
2 applied by this Court even if not raised by the State. See Riker, 121 Nev. at 231, 112 P.3d at
3 1074. Therefore, application of the procedural bars is mandatory.

4 III. PETITIONER CANNOT ESTABLISH GOOD CAUSE

5 A showing of good cause and prejudice may overcome procedural bars. However,
6 Petitioner cannot demonstrate good cause to explain why his Petition was untimely.

7 “To establish good cause, appellants must show that an impediment external to the
8 defense prevented their compliance with the applicable procedural rule. A qualifying
9 impediment might be shown where the factual or legal basis for a claim *was not reasonably*
10 *available at the time of default.*” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
11 (emphasis added). The Court continued, “appellants cannot attempt to manufacture good
12 cause[.]” Id. at 621, 81 P.3d at 526. Rather, to find good cause, there must be a “substantial
13 reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503,
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2 Petitioner claims his deadly weapon enhancement is invalid. Petition, at 7-7a. In a
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10 Petitioner claims his 14th and 9th amendment rights are being violated. Petition, at 8.
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16 conclusions may cause your petition to be dismissed.” (emphasis added). Because Petitioner
17 has failed to put forth more than a bare and naked claim, this claim is dismissed.

18 **C. Deadly Weapon Enhancement**

19 Lastly, Petitioner claims that his Deadly Weapon enhancement was unconstitutional.
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24 agreed to the imposition of the deadly weapon enhancement in his guilty plea agreement.
25 Therefore, this claim is also without merit, and the instant Petition is dismissed.

26 //

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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 17 day of June, 2021.

Dated this 17th day of June, 2021

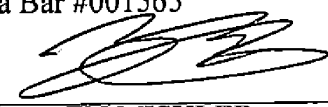


DISTRICT JUDGE

69B B94 E0F5 7E61
Erika Ballou
District Court Judge

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

BY



KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

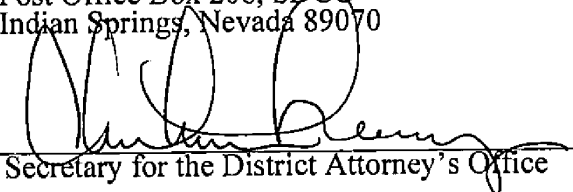
for #14741

CERTIFICATE OF SERVICE

I certify that on the 17th day of June, 2021, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

Jeffrey German, 92696
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

BY



Secretary for the District Attorney's Office

bs/clh/L3

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Jeffrey German, Plaintiff(s)

CASE NO: A-21-829136-W

7 vs.

DEPT. NO. Department 24

8 William Hutchings, Warden,
9 Defendant(s)

10
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16 D A

motions@clarkcountyda.com

17 Dept 24 Law Clerk

dept24lc@clarkcountycourts.us

18 AG 1

rgarate@ag.nv.gov

19 AG 2

aherr@ag.nv.gov

Steven D. Grierson

Jefferey German #92696

Southern Desert Correctional center

P.O. Box 208

Indian Springs, NV 89070

District Court
Clark County, NEVADA

Jefferey German

Petitioner

Case No: C-14-300979-2

Dept No: XLIV

✓

State of NEVADA

Respondent

Notice of Appeal

Comes now, Petitioner, Jefferey German, herein above respectfully moves this Honorable Court for an notice of appeal to the Supreme Court of the State of NEVADA from the denial of petition for writ of Habeas Corpus (post-Conviction) which was denied by Honorable Judge Erika Ballou on June 17, 2021

This motion is made and based upon the accompanying Memorandum of points and Authorities

Dated: this notice July 19, 2021

CLERK OF THE COURT

JUL 26 2021

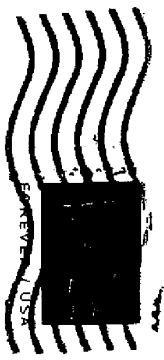
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By Jefferey German
#92696

Defendant in proper personam

Jefferey German # 92696
S.D.C.C
P.O. Box 208
Indian Springs NV 89070

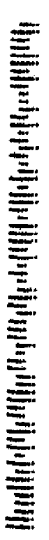
LAS VEGAS NV 890
21 JUL 2021 PM 4 L



Clerk of the Court
206 Lewis Ave, 3rd Floor
Las Vegas NV 89155

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CLERK OF THE COURT

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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.

JEFFREY B. GERMAN
aka JEFFREY BERNARD GERMAN,

Defendant(s),

Case No: C-14-300979-2

Dept No: XXIV

CASE APPEAL STATEMENT

1. Appellant(s): Jefferey German

2. Judge: Erika Bailou

3. Appellant(s): Jefferey German

Counsel:

Jefferey German #92696
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: September 18, 2014

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 28 day of July 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: Jefferey German

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 23, 2014

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

September 23, 2014 1:00 PM Initial Arraignment

HEARD BY: De La Garza, Melisa **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Roshonda Mayfield

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	DiGiacomo, Sandra	Attorney
	German, Jeffrey B	Defendant
	State of Nevada	Plaintiff
	Thomas, Byron E.	Attorney

JOURNAL ENTRIES

- DEFT. GERMAN ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, counsel has 21 days from the filing of the preliminary transcript to file any writs.

CUSTODY

3/11/15 9:30 A.M. CALENDAR CALL (DEPT. 23)

3/16/15 1:00 P.M. JURY TRIAL (DEPT. 23)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 19, 2014

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

**November 19, 2014 11:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bateman, Caroline	Attorney
	Fischer, David R, ESQ	Attorney
	German, Jeffrey B	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Counsel joined in argument and submitted on the petition. Court finds slight or marginal evidence, noted all three Defts. were identified, pointed out items were located in the vehicle and ORDERED, petition DENIED. Trial date STANDS.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 08, 2014

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

**December 08, 2014 9:30 AM Motion for Own
 Recognizance
 Release/Setting Reasonable
 Bail**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Bateman, Samuel G.	Attorney
	Fischer, David R, ESQ	Attorney
	German, Jeffrey B	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted bail currently set at \$60,000.00. Argument by counsel. State submitted on their response. Court stated its findings and ORDERED, motion DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 11, 2015

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

March 11, 2015 9:30 AM Calendar Call

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Fischer, David R, ESQ	Attorney
	German, Jeffrey B	Defendant
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

JOURNAL ENTRIES

- Amended Information FILED IN OPEN COURT. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. GERMAN ARRAIGNED AND PLED GUILTY to COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing. Colloquy regarding eyeglasses for Deft. while in custody.

CUSTODY

05-06-15 9:30 AM SENTENCING COUNTS 1 & 2

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 06, 2015

C-14-300979-2 State of Nevada
vs
Jeffrey German

May 06, 2015

9:30 AM

Sentencing

Sentencing Counts 1
& 2

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Cannizzaro, Nicole J.	Attorney
	Fischer, David R, ESQ	Attorney
	German, Jeffrey B	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Argument by the State. Argument by counsel. Statement by Deft. DEFT. GERMAN ADJUDGED GUILTY of COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$3.00 DNA Collection fee and \$880.00 Restitution to be paid Jointly and Severally, Deft. SENTENCED as to COUNT 1 -to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE sentence of MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of SIXTY (60) MONTHS for the use of Deadly Weapon and COUNT 2 - to a MAXIMUM of SIXTY (60) MONTHS and MINIMUM of THIRTEEN (13) MONTHS in the Nevada Department of Correction (NDC) to run CONSECUTIVE to COUNT 1, with THREE HUNDRED NINE (309) DAYS credit for time served. The AGGREGATE TOTAL sentence is FOUR HUNDRED TWENTY (420) MONTHS with a MINIMUM of ONE HUNDRED THIRTY-THREE (133) MONTHS. FURTHER, \$150.00 DNA fee and testing are WAIVED. BOND, if any, EXONERATED.

PRINT DATE: 08/25/2021

Page 5 of 11

Minutes Date: September 23, 2014

C-14-300979-2

NDC

CLERK'S NOTE: The above minute order has been amended to reflect the aggregate sentence.
05/07/15 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 28, 2015

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

**October 28, 2015 9:30 AM Motion Defendant's Motion
to Withdraw Counsel
and Return of
Records NRS 7.055**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Fischer, David R, ESQ Attorney
 State of Nevada Plaintiff
 Zadrowski, Bernard B. Attorney

JOURNAL ENTRIES

- Mr. Fischer advised a copy of discovery had been provided in February and noted entire file had been sent. COURT ORDERED, motion GRANTED.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Jeffrey B. German #92696 c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV 89018. 11/2/15 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 04, 2016

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

May 04, 2016

9:30 AM

Status Check

**STATUS CHECK:
NDOC
CLARIFICATION**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Cannizzaro, Nicole J. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Pursuant to Letter of Discrepancy from Nevada Department of Corrections noting case did not meet aggregate standards, COURT ORDERED, aggregate sentence REMOVED. FURTHER, previously imposed sentence STANDS. Clerk's Office to prepare Amended Judgment of Conviction.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 07, 2016

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

September 07, 2016	9:30 AM	Motion	Defendant's Notice of Motion Motions for Modification of Sentence
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HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	State of Nevada	Plaintiff
	Thoman, Charles W.	Attorney

JOURNAL ENTRIES

- Court noted Deft. was not transported as no oral argument was needed. COURT ORDERED, motion DENIED as Deft. provided no information as to what was an extreme deterrent to Deft. Court FINDS Deft's claim of ineffectiveness of counsel and untrue evidence should have been addressed in a writ of habeas corpus, which should have been filed no later than May 12, 2016. Court FURTHER FINDS enhancement issue should have been addressed in appeal and stated there is no evidence of coercion. State to prepare the Order.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Jeffrey B. German #92696 c/o Southern Desert Correctional Center, P.O. Box 208, Indian Springs, NV 89070. 09/28/16 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 22, 2020

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

**June 22, 2020 3:30 PM Motion to Modify Sentence Motion to Modify
and/or Correct Illegal
Sentence**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Meng, Yu Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Deft. was not transported as no oral argument is needed. COURT ORDERED, motion DENIED as nothing new had been presented and there being no basis given for modification. State to prepare an order.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Jeffrey B. German #92696 c/o Southern Desert Correctional Center, P.O. Box 208, Indian Springs, NV 89070. 07/01/20 kls

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 07, 2021

C-14-300979-2 State of Nevada
 vs
 Jeffrey German

April 07, 2021 8:30 AM Motion for Order

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Stanton, David L. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- David Stanton, Esq. present via Bluejeans video conference. Deft. not present.

COURT ORDERED, instant Motion GRANTED; advised Mr. Stanton to prepare the Order.

NDC

CLERK'S NOTE: This Minute Order was mailed to: Jeffrey German #92696, P.O.Box 208 S.D.C.C., Indian Springs, Nevada, 89018.//rh04.08.2021

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated August 17, 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 two volumes with pages numbered 1 through 405.

STATE OF NEVADA,

Plaintiff(s),

vs.

JEFFREY B. GERMAN
aka JEFFREY BERNARD GERMAN,

Defendant(s),

Case No: C-14-300979-2

Dept. No: XXIV

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 25 day of August 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk